

National Security Act of 1947 (amended)

Page 48 - interesting

85th Congress }
3d Session }

COMMITTEE PRINT

(Supersedes Committee Print Published in 1956)

NATIONAL SECURITY ACT OF 1947

(Public Law 253, 80th Congress, July 26, 1947)

(61 Stat. 495)

AS AMENDED THROUGH DECEMBER 31, 1958, AND INCLUDING THE NATIONAL SECURITY ACT AMENDMENTS OF 1949, PUBLIC LAW 216, 81ST CONGRESS, AUGUST 10, 1949 (63 STAT. 578); PUBLIC LAW 416, 82D CONGRESS, JUNE 28, 1952, REORGANIZATION PLAN 3 OF 1952; REORGANIZATION PLAN 6 OF 1953; AND AS IN PART REPEALED AND CODIFIED IN TITLE 10 OF THE UNITED STATES CODE, BY PUBLIC LAW 1028, 84TH CONGRESS, AUGUST 10, 1956 (70A STAT. 1), AND DEPARTMENT OF DEFENSE REORGANIZATION ACT OF 1953, PUBLIC LAW 85-699, AUGUST 6, 1958 (72 STAT. 514)



DECEMBER 31, 1958

Printed for the use of the Senate Committee on Armed Services

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1959

2978

COMMITTEE ON ARMED SERVICES

RICHARD B. RUSSELL, Georgia, Chairman

HARRY FLOOD BYRD, Virginia
LYNDON B. JOHNSON, Texas
ESTES KEFAUVER, Tennessee
JOHN STENNIS, Mississippi
STUART SYMINGTON, Missouri
FERRY M. JACKSON, Washington
SAM J. ERVIN, Jr., North Carolina

LEVERETT SALTONSTALL, Massachusetts
STYLES BRIDGES, New Hampshire
RALPH E. FLANDERS, Vermont
MARGARET CHASE SMITH, Maine
FRANCIS CASE, South Dakota
JAMES M. DUFF, Pennsylvania
HERMAN WILKIN, Idaho

HARRY F. WINDOGE, Jr., Clerk

NATIONAL SECURITY ACT OF 1947

(Public Law 253, Eightieth Congress, July 23, 1947) (61 Stat. 495)

(With amendments through December 31, 1953)

SHORT TITLE

That this Act may be cited as the "National Security Act of 1947."

TABLE OF CONTENTS

	Page
Sec. 2. Declaration of Policy.....	1
TITLE I—COORDINATION FOR NATIONAL SECURITY	
Sec. 101. National Security Council.....	1
Sec. 102. Central Intelligence Agency.....	3
Sec. 103. Office of Civil and Defense Mobilization.....	7
TITLE II—THE DEPARTMENT OF DEFENSE	
Sec. 201. Department of Defense.....	8
Sec. 202. Secretary of Defense.....	9
Sec. 203. Deputy Secretary of Defense; Assistant Secretaries of Defense; General Counsel; Military Assistants.....	16
Sec. 204. Civilian Personnel.....	18
Sec. 205. Department of the Army (repealed in part).....	18
Sec. 206. Department of the Navy (repealed in part).....	19
Sec. 207. Department of the Air Force (repealed in part).....	22
Sec. 208. United States Air Force (repealed in part).....	23
Sec. 209. Effective date of transfers (repealed).....	24
Sec. 210. Armed Forces Policy Council (repealed).....	24
Sec. 211. Joint Chiefs of Staff (repealed).....	25
Sec. 212. Joint Staff (repealed; see appendix).....	27
Sec. 213. [Munitions Board] Abolished functions transferred to Secretary of Defense (see appendix).....	28
Sec. 214. [Research and Development Board] Abolished functions trans- ferred to Secretary of Defense (see appendix).....	28
TITLE III—MISCELLANEOUS	
Sec. 301. Compensation of Secretaries and Deputy Secretary (repealed in part).....	29
Sec. 302. Under Secretaries and Assistant Secretaries (repealed in part).....	29
Sec. 303. Advisory committees and personnel (repealed in part).....	30
Sec. 304. Status of transferred civilian personnel.....	31
Sec. 305. Saving provisions.....	31
Sec. 306. Transfer of funds.....	32
Sec. 307. Authorization for appropriations.....	33
Sec. 308. Definitions.....	33
Sec. 309. Separability.....	33
Sec. 310. Effective date.....	33
Sec. 311. Succession to the Presidency.....	33

IV

CONTENTS

TITLE IV—PROMOTION OF ECONOMY AND EFFICIENCY THROUGH
ESTABLISHMENT OF UNIFORM BUDGETARY AND FISCAL PROCEDURE
S AND ORGANIZATIONS

	Page
Sec. 401. Comptroller of Department of Defense.....	35
Sec. 402. Military Department Budget and Fiscal Organization—Departmental Comptrollers (repealed and codified).....	35
Sec. 403. Performance Budget.....	36
Sec. 404. Obligation of Appropriations.....	37
Sec. 405. Working-Capital Funds.....	37
Sec. 406. Management Funds.....	39
Sec. 407. Adjustment of Accounts.....	40
Sec. 408. Availability of Reimbursements.....	41
Sec. 409. Common Use of Disbursing Facilities.....	41
Sec. 410. Reports of Property (repealed and codified).....	42
Sec. 411. Repeating and Saving Provisions.....	42

APPENDIXES

I. Reorganization Plan 1 of 1959.....	43
II. Reorganization Plan 6 of 1953.....	45
III. Legal opinion on the power and authority of the Secretary of Defense.....	46
IV. National Security Act of 1947, Public Law 253, 80th Congress, July 26, 1947 (61 Stat. 495).....	52
V. National Security Act Amendments of 1949, Public Law 216, 81st Congress, August 10, 1949 (63 Stat. 578).....	69
VI. Department of Defense Reorganization Act of 1953, August 6, 1953.....	81

The matter within heavy brackets in this publication are portions of the text of Reorganization Plans Nos. 6 of 1953, and 1 of 1958, printed in their entirety as appendixes II and III.

DECLARATION OF POLICY

SEC. 2. In enacting this legislation, it is the intent of Congress to provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security; to provide a Department of Defense, including the three military Departments of the Army, the Navy (including naval aviation and the United States Marine Corps), and the Air Force under the direction, authority, and control of the Secretary of Defense; to provide that each military department shall be separately organized under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense; to provide for their unified direction under civilian control of the Secretary of Defense but not to merge these departments or services; to provide for the establishment of unified or specified combatant commands, and a clear and direct line of command to such commands; to eliminate unnecessary duplication in the Department of Defense, and particularly in the field of research and engineering by vesting its overall direction and control in the Secretary of Defense; to provide more effective, efficient, and economical administration in the Department of Defense; to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces but not to establish a single Chief of Staff over the armed forces nor an overall armed forces general staff.¹

Intent of
Congress.

TITLE I—COORDINATION FOR NATIONAL SECURITY

NATIONAL SECURITY COUNCIL

SEC. 101. (a) There is hereby established a council to be known as the National Security Council (hereinafter in this section referred to as the "Council").

National Security Council
Establishment

¹ Amended by section 2, Public Law 216, 81st Congress, August 10, 1950 (63 Stat. 578), further amended to read as indicated by section 2 of Department of Defense Reorganization Act of 1958, August 6, 1958 (72 Stat. 514); 50 U. S. C. 401.

2

NATIONAL SECURITY ACT OF 1947

President to
preside.

The President of the United States shall preside over meeting of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

Function.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of—

- (1) the President;
- (2) the Vice President;
- (3) the Secretary of State;
- (4) the Secretary of Defense;
- (5) "

(6) the Director of the Office of Civil and Defense Mobilization;

(7) the Secretaries and Under Secretaries of other executive departments and of the military departments, when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.

Duties.

(b) In addition to performing such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security, it shall, subject to the direction of the President, be the duty of the Council—

(1) to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; and

* Reorganization Plan 7 of 1953, effective August 6, 1953, abolished the Mutual Security Administration and established the Foreign Operations Administration.

"SEC. 2. TRANSFER OF FUNCTIONS TO THE DIRECTOR.—There are hereby transferred to the Director:

"(a) All functions vested by the Mutual Security Act of 1951, as amended, or by any other statute in the Director for Mutual Security provided for in section 501 of that Act, or in the Mutual Security Agency, created by that Act, or in any official or office of that Agency, including the functions of the Director for Mutual Security as a member of the National Security Council." Pursuant to the provisions of sections 521 and 522 of the Mutual Security Act of 1951, Public Law 665, 83d Congress (64 Stat. 855, 856), and Executive Order 10610 of June 30, 1953, all functions (with certain specified exceptions) of the Director of the Foreign Operations Administration, and the Foreign Operations Administration, were transferred to the International Cooperation Administration in the State Department, to be headed by a Director. Pursuant to section 503 (a) and (b) of the Executive Order, the office of the Director of the Foreign Operations Administration and the membership of the Director of the Foreign Operations Administration together with the functions of the Director in his capacity as a member of the National Security Council were abolished.

* Reorganization Plan 3 (sec. 6) abolished the National Security Resources Board. Section 2 transferred to the Director of the Office of Defense Mobilization all functions of the Chairman of the National Security Resources Board (excluding those retained by sec. 5), including his functions as a member of the National Security Council. Section 4 of Reorganization Plan 1 of 1953, effective July 1, 1953 (see Appendix I), as amended by Public Law 83-763, transferred the functions with respect to being a member of the National Security Council to the Director of the Office of Civil Defense and Defense Mobilization.

* Reference to Chairman of Munitions Board, and Chairman of Research and Development Board deleted by Reorganization Plan 6, 1953 (sec. 2 (b)) which abolished the offices of the Chairman of the Munitions Board and Chairman of the Research and Development Board (see appendix IV) and transferred their functions to the Secretary of Defense.

NATIONAL SECURITY ACT OF 1947

3

(2) to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith.

(c) The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President, and who shall receive compensation at the rate of [\$10,000] [\$15,000] \$20,000 a year.⁵ The executive secretary, subject to the direction of the Council, is hereby authorized, subject to the civil-service laws and the Classification Act of 1923, as amended, to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

Staff and
Executive
Secretary.

(d) The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require.

Recommendations
and
Reports.

CENTRAL INTELLIGENCE AGENCY⁶

Sec. 102. (a) There is hereby established under the National Security Council a Central Intelligence Agency with a Director of Central Intelligence who shall be the head thereof, and with a Deputy Director of Central Intelligence who shall act for, and exercise the powers of, the Director during his absence or disability. The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate, from among the commissioned officers of the armed services, whether in an active or retired status, or from among individuals in civilian life: *Provided, however,* That at no time shall the two positions of the Director and Deputy Director be occupied simultaneously by commissioned officers of the armed services, whether in an active or retired status.

National Security
Act of
1947, amend-
ment.
Central Intelli-
gence Agency
Director and
Deputy
Director.
67 Stat. 19.
67 Stat. 20.

(b) (1) If a commissioned officer of the armed services is appointed as Director, or Deputy Director, then—

Commissioned
officer as Di-
rector or De-
puty Director.

(A) in the performance of his duties as Director, or Deputy Director, he shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were a civilian in no way connected with the Department of the Army, the Department of the Navy, the Department of the Air

⁵ Sub-section (a) amended by section 3, Public Law 216, August 10, 1949 (63 Stat. 679), as amended by section 501 (e), Public Law 163, 82d Congress, October 10, 1951; sub-section (c) supplemented by section 2 (a), Public Law 359, 81st Congress, October 18, 1949 (63 Stat. 650), under which authority the President fixed the salary of the Executive Secretary at \$15,000 per annum; subsections (b) and (d) from section 101, Public Law 253, July 20, 1947 (61 Stat. 405). Pursuant to section 102, Public Law 254, 81st Congress, the President fixed the salary of the Executive Secretary at \$20,000 per annum effective July 1, 1950.

⁶ Section 102 (a) and (b) amended by Public Law 15, 83d Congress (67 Stat. 19, 20).

4

NATIONAL SECURITY ACT OF 1947

Force, or the armed services or any component thereof; and

(1) he shall not possess or exercise any supervision, control, powers, or functions (other than such as he possesses, or is authorized or directed to exercise, as Director, or Deputy Director) with respect to the armed services or any component thereof, the Department of the Army, the Department of the Navy, or the Department of the Air Force, or any branch, bureau, unit, or division thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

Military
employment.

(2) Except as provided in paragraph (1), the appointment to the office of Director, or Deputy Director, of a commissioned officer of the armed services, and his acceptance of and service in such office, shall in no way affect any status, office, rank, or grade he may occupy or hold in the armed services, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. Any such commissioned officer shall, while serving in the office of Director, or Deputy Director, continue to hold rank and grade not lower than that in which serving at the time of his appointment and to receive the military pay and allowances (active or retired, as the case may be, including personal money allowance) payable to a commissioned officer of his grade and length of service for which the appropriate department shall be reimbursed from any such status, office, rank, or grade. Any such central Intelligence Agency. He also shall be paid by the Central Intelligence Agency from such funds an annual compensation at a rate equal to the amount by which the compensation established for such position exceeds the amount of his annual military pay and allowances.¹

(3) The rank or grade of any such commissioned officer shall, during the period in which such commissioned officer occupies the office of Director of Central Intelligence, or Deputy Director of Central Intelligence, be in addition to the numbers and percentages otherwise authorized and appropriated for the armed service of which he is a member.²

Termination of
employment.

(c) Notwithstanding the provisions of section 6 of the Act of August 21, 1912 (37 Stat. 555), or the provisions of any other law, the Director of Central Intelligence may, in his discretion, terminate the employment of any officer or employee of the Agency whenever he shall deem such termination necessary or advisable in the interests

¹ *Officer Compensation.*—Subsections (a) and (b) supplemented by section 4, Public Law 259, 81st Congress, October 11, 1949 (63 Stat. 850). Increased annual compensation to \$16,000 and \$11,000, for the Director and Deputy Director, respectively, per annum; subsections (c), (d), (e), and (f) from section 102, Public Law 233, 80th Congress, July 28, 1947 (61 Stat. 495). Sections 101 (a) (2) and 105 (26), Public Law 451, 84th Congress, July 31, 1956, increased the annual compensation to \$21,000 and \$20,500 respectively, for the Director and Deputy Director.

² As amended by Public Law 11, 85th Congress (67 Stat. 20).

NATIONAL SECURITY ACT OF 1917

5

of the United States, but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the United States Civil Service Commission.

(d) For the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security, it shall be the duty of the Agency, under the direction of the National Security Council—

(1) to advise the National Security Council in matters concerning such intelligence activities of the Government departments and agencies as relate to national security;

(2) to make recommendations to the National Security Council for the coordination of such intelligence activities of the departments and agencies of the Government as relate to the national security;

(3) to correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government using where appropriate, existing agencies and facilities: *Provided*, That the Agency shall have no police, subpoena, law-enforcement powers, or internal security functions: *Provided further*, That the departments and other agencies of the Government shall continue to collect, evaluate, correlate, and disseminate departmental intelligence: *And provided further*, That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure;

(4) to perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security Council determines can be more efficiently accomplished centrally;

(5) to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

(e) To the extent recommended by the National Security Council and approved by the President, such intelligence of the departments and agencies of the Government, except as hereinafter provided, relating to the national security shall be open to the inspection of the Director of Central Intelligence, and such intelligence as relates to the national security and is possessed by such departments and other agencies of the Government, except as hereinafter provided, shall be made available to the Director of Central Intelligence for correlation, evaluation, and dissemination: *Provided, however*, That upon the written request of the Director of Central Intelligence, the Director of the Federal Bureau of Investigation shall make available to the Director of Central

Intelligence of
other Departments
and
Agencies of
Government.

6

NATIONAL SECURITY ACT OF 1947

Intelligence such information for correlation, evaluation, and dissemination as may be essential to the national security.

National Intelligence Authority, Federal Intelligence

(f) Effective when the Director first appointed under subsection (c) has taken office—

(1) the National Intelligence Authority (11 Fed. Reg. 1937, 1939, February 5, 1916) shall cease to exist; and

Central Intelligence Group, Transfer of

(2) The personnel, property, and records of the Central Intelligence Group are transferred to the Central Intelligence Agency, and such group shall cease to exist. Any unexpended balances of appropriations, allocations, or other funds available or authorized to be made available for such Group shall be available and shall be authorized to be made available in like manner for expenditure by the Agency.

OFFICE OF CIVIL AND DEFENSE MOBILIZATION

[SECTION 1. *Transfer of functions to the President.*—(a) There are hereby transferred to the President of the United States all functions vested by law (including reorganization plan) in the following: The Office of Defense Mobilization, the Director of the Office of Defense Mobilization, the Federal Civil Defense Administration, and the Federal Civil Defense Administrator.

(b) The President may from time to time delegate any of the functions transferred to him by subsection (a) of this section to any officer, agency, or employee of the executive branch of the Government, and may authorize such officer, agency, or employee to redelegate any of such functions delegated to him.

SEC. 2. *Office of Defense and Civilian Mobilization.*—(a) Subject to the provisions of this reorganization plan, the Office of Defense Mobilization and the Federal Civil Defense Administration are hereby consolidated to form a new agency in the Executive Office of the President which shall be known as the Office of Defense and Civilian Mobilization, hereinafter referred to as the "Office".

(b) There shall be at the head of the Office a Director of the Office of Defense and Civilian Mobilization, who shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate now or hereafter prescribed by law for the heads of executive departments.

(c) There shall be in the Office a Deputy Director of the Office of Defense and Civilian Mobilization, who shall be appointed by the President by and with the advice and consent of the Senate, shall receive compensation at the rate now or hereafter prescribed by law for the under secretaries referred to in section 101 of the Federal Executive Pay Act of 1973 (5 U. S. C. 2203),* shall perform such functions as shall be delegated or assigned to him pursuant to the provisions of this reorganization plan, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

(d) There shall be in the Office three Assistant Directors of the Office of Defense and Civilian Mobilization, each of whom shall be appointed by the President by and with the advice and consent of the Senate, shall receive compensation at the rate now or hereafter prescribed by law for assistant secretaries of execu-

*Section 101, Public Law 851, 81st Congress, increased the annual compensation of the Deputy Director to \$20,500.

NATIONAL SECURITY ACT OF 1947

7

tive departments, and shall perform such functions as shall be delegated or assigned to him pursuant to the provisions of this reorganization plan.

(e) The Office and the Director thereof shall perform such functions as the President may from time to time delegate or assign thereto. The said Director may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, or by any agency or employee, of the Office of any function delegated or assigned to the Office or to the Director.

SEC. 103.

(The functions of the Director of the Office of Defense Mobilization provided for in this section were transferred to the President by Reorganization Plan No. 1 of 1958, and the Office of Defense Mobilization was changed to the Office of Civil and Defense Mobilization.)

(a) The Director of the Office of Defense Mobilization, subject to the direction of the President, is authorized, subject to the civil-service laws and the Classification Act of 1949, to appoint and fix the compensation of such personnel as may be necessary to assist the Director in carrying out his functions.

(b) It shall be the function of the Director of the Office of Defense Mobilization to advise the President concerning the coordination of military, industrial, and civilian mobilization, including—

(1) policies concerning industrial and civilian mobilization in order to assure the most effective mobilization and maximum utilization of the Nation's manpower in the event of war;

(2) programs for the effective use in time of war of the Nation's natural and industrial resources for military and civilian needs, for the maintenance and stabilization of the civilian economy in time of war, and for the adjustment of such economy to war needs and conditions;

(3) policies for unifying, in time of war, the activities of Federal agencies and departments engaged in or concerned with production, procurement, distribution, or transportation of military or civilian supplies, materials, and products;

(4) the relationship between potential supplies of, and potential requirements for, manpower, resources, and productive facilities in time of war;

(5) policies for establishing adequate reserves of strategic and critical material, and for the conservation of these reserves;

(6) the strategic relocation of industries, services, government, and economic activities, the continuous operation of which is essential to the Nation's security;

(c) In performing his functions, the Director of the Office of Defense Mobilization shall utilize to the maxi-

main extent the facilities and resources of the departments and agencies of the Government.⁹

TITLE II—THE DEPARTMENT OF DEFENSE

Department of
Defense
Military
Department

SEC. 201. (a) There is hereby established, as an Executive Department of the Government, the Department of Defense, and the Secretary of Defense shall be the head thereof.

Army, Navy,
Air Force—
Military De-
partments

(b) There shall be within the Department of Defense (1) the Department of the Army, the Department of the Navy, and the Department of the Air Force, and each such department shall on and after the date of enactment of the National Security Act Amendments of 1949 be military departments in lieu of their prior status as Executive Departments, and (2) all other agencies created under title II of this Act.

Other Agencies

Department of
Defense
Executive De-
partment

(c) Section 158 of the Revised Statutes, as amended, is amended to read as follows:

SEC. 158. The provisions of this title shall apply to the following Executive Departments:

First. The Department of State.

Second. The Department of Defense.

Third. The Department of the Treasury.

Fourth. The Department of Justice.

Fifth. The Post Office Department.

Sixth. The Department of the Interior.

Seventh. The Department of Agriculture.

Eighth. The Department of Commerce.

Ninth. The Department of Labor.

Applicability
of title IV.

(d) Except to the extent inconsistent with the provisions of this Act, the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense.¹⁰

⁹ Reorganization Plan No. 3, effective June 12, 1953, established the National Security Resources Board, created the Office of Defense Mobilization and transferred all functions of the Chairman of the National Security Resources Board to the Director of Defense Mobilization (excluding certain functions abolished by sec. 51, as well as certain additional functions including those vested by any statute in the Director of Defense Mobilization or in the Office of Defense Mobilization provided for in Executive Order 10197 of December 16, 1950, as superseded by Executive Order 10150 of August 11, 1953, as amended. Section 53 of Public Law 719, 83d Congress, approved September 3, 1951, was enacted to conform this section with Reorganization Plan No. 3. It amends former section 107 by striking out subsection (a) and by redesignating subsection (b), (c), and (d) as (a), (b), and (c), respectively, and by striking out in subsection (a) as so redesignated "Chairman of the Board" and in lieu thereof inserting "Director of the Office of Defense Mobilization," and making certain other technical changes, so as to amend the entire section to read as indicated. Pursuant to Reorganization Plan No. 1, 1958, effective July 1, 1958, 23 P. L. 4931 (72 Stat. 1), as amended by Public Law 85 761, August 26, 1958 (72 Stat. 571), and Executive Order 10773 July 3, 1958, 23 P. L. 5051 as amended by Executive Order 10792, September 10, 1958, 23 P. L. 5071, the Director of the Office of Defense Mobilization is to be abolished and all functions vested in him by law or reorganization plan were transferred to the President (see sec. 1 of the Plan). Section 2 (a) of the Plan consolidated the Office of Defense Mobilization and the Federal Civil Defense Administration to form a new agency in the Executive Office of the President to be known as the "Office of Defense and Civilian Mobilization". Public Law 85 761 amended the title to "Office of Defense and Civilian Mobilization". Section 2 (b) of the Plan established a "Director of the Office of Defense and Civilian Mobilization". Section 2 of Executive Order 10773 delegated to the Director all functions transferred to the President by the provisions of Reorganization Plan No. 1.

¹⁰ Subsections (a) and (b) amended by section 4, Public Law 216 81st Congress, August 10, 1929 (45 Stat. 675); subsections (c) and (d) added by section 4 above.

NATIONAL SECURITY ACT OF 1947

9

THE SECRETARY OF DEFENSE

Sec. 202. (a) There shall be a Secretary of Defense, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate: *Provided*, That a person who has within ten years been on active duty as a commissioned officer in a Regular component of the armed services shall not be eligible for appointment as Secretary of Defense.

Secretary of
Defense,
Appointment
Eligibility.

(b) The Secretary of Defense shall be the principal assistant to the President in all matters relating to the Department of Defense. Under the direction of the President, and subject to the provisions of this Act, he shall have direction, authority, and control over the Department of Defense.¹¹

Principal As-
sistant to
President on
Defense.

(c) (1) Within the policy enunciated in section 2, the Secretary of Defense shall take appropriate steps (including the transfer, reassignment, abolition, and consolidation of functions) to provide in the Department of Defense for more effective, efficient, and economical administration and operation and to eliminate duplication. However, except as otherwise provided in this subsection, no function which has been established by law to be performed by the Department of Defense, or any officer or agency thereof, shall be substantially transferred, reassigned, abolished, or consolidated until the expiration of the first period of thirty calendar days of continuous session of the Congress following the date on which the Secretary of Defense reports the pertinent details of the action to be taken to the Armed Services Committees of the Senate and of the House of Representatives. If during such period a resolution is reported by either of the said committees stating that the proposed action with respect to the transfer, reassignment, abolition, or consolidation of any function should be rejected by the resolving House because (1) it contemplates the transfer, reassignment, abolition, or consolidation of a major combatant function now or hereafter assigned to the military services by section 3062 (b), 5012, 5013, or 8062 (c) of title 10 of the United States Code, and (2) if carried out it would in the judgment of the said resolving House tend to impair the defense of the United States, such transfer, reassignment, abolition, or consolidation shall take effect after the expiration of the first period of forty calendar days of continuous session of the Congress following the date on which such resolution is reported; but only if, between the date of such reporting in either House and the expiration of such forty-day period such resolution has not been passed by such House.

Transfer of
functions, etc.

Combatant
function.

70A Stat. 166,
277, 278, 403.

Effective date.

¹¹ Reorganization Plan 3 of 1953, effective June 12, 1953, abolished the National Security Resources Board and also:

Sec. 5 "The functions of the Secretary of Defense under section 202 (b) of the National Security Act of 1947, as amended, as consists of direction, authority, and control over functions transferred by this reorganization plan is hereby abolished."

NATIONAL SECURITY ACT OF 1947

(2) For the purposes of paragraph (1)—

(A) continuity of session shall be considered as broken only by an adjournment of the Congress sine die; but

(B) in the computation of the thirty-day period or the forty-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

(3) (A) The provisions of this paragraph are enacted by the Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(ii) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(B) For the purposes of this paragraph, any resolution reported to either House pursuant to the provisions of paragraph (1) hereof, shall for the purpose of the consideration of such resolution by either House be treated in the same manner as a resolution with respect to a reorganization plan reported by a committee within the meaning of the Reorganization Act of 1949 as in effect on July 1, 1958 (5 U. S. C. 1332 et seq.) and shall be governed by the provisions applicable to the consideration of any such resolution by either House of the Congress as provided by sections 205 and 206 of such Act.

(4) Notwithstanding the provisions of paragraph (1) hereof, the Secretary of Defense has the authority to assign, or reassign, to one or more departments or services, the development and operational use of new weapons or weapons systems.

(5) Notwithstanding other provisions of this subsection, if the President determines that it is necessary because of hostilities or imminent threat of hostilities, any function, including those assigned to the military services by sections 3032 (b), 5012, 5013, and 5062 (c) of title 10 of the United States Code, may be transferred, reassigned, or consolidated and subject to the determination of the President shall remain so transferred, reassigned, or consolidated until the termination of such hostilities or threat of hostilities.

(6) Whenever the Secretary of Defense determines it will be advantageous to the Government in terms of effectiveness, economy, or efficiency, he shall provide for the carrying out of any supply or service activity common to more than one military department by a single

53 Stat. 203.

Weapons and
weapons
systems.Supply and
service activity.

agency or such other organizational entities as he deems appropriate. For the purposes of this paragraph, any supply or service activity common to more than one military department shall not be considered a 'major combatant function' within the meaning of paragraph (1) hereof.

"Major combatant function".

(7) Each military department (the Department of the Navy to include naval aviation and the United States Marine Corps) shall be separately organized under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense. The Secretary of a military department shall be responsible to the Secretary of Defense for the operation of such department as well as its efficiency. Except as otherwise specifically provided by law, no Assistant Secretary of Defense shall have authority to issue orders to a military department unless (1) the Secretary of Defense has specifically delegated in writing to such an Assistant Secretary the authority to issue such orders with respect to a specific subject area, and (2) such orders are issued through the Secretary of such military department or his designee. In the implementation of this paragraph it shall be the duty of each such Secretary, his civilian assistants, and the military personnel in such department to cooperate fully with personnel of the Office of the Secretary of Defense in a continuous effort to achieve efficient administration of the Department of Defense and effectively to carry out the direction, authority, and control of the Secretary of Defense.

Military Department organization.

Exceptions.

(8) No provision of this Act shall be so construed as to prevent a Secretary of a military department or a member of the Joint Chiefs of Staff from presenting to the Congress, on his own initiative, after first so informing the Secretary of Defense, any recommendations relating to the Department of Defense that he may deem proper.¹²

Recommendations to Congress.

(d) The Secretary of Defense shall annually submit a written report to the President and the Congress covering expenditures, work, and accomplishments of the Department of Defense, accompanied by (1) such recommendations as he shall deem appropriate, (2) separate reports from the military departments covering their expenditures, work, and accomplishments, and (3) itemized statements showing the savings of public funds and the eliminations of unnecessary duplications and overlappings that have been accomplished pursuant to the provisions of this Act.¹³

Reports to President and Congress.

(e) The Secretary of Defense shall cause a seal of office to be made for the Department of Defense, of such design as the President shall approve, and judicial notice shall be taken thereof.

Seal

¹² This subsection was amended by section 5 of Public Law 216 of the 81st Congress, August 10, 1949 (61 Stat. 578); further amended by section 2 (a) of the Department of Defense Reorganization Act of 1958 (72 Stat. 511, 516; 15 U. S. C. 171a (c)).

¹³ This subsection was amended by section 5 of Public Law 216 of the 81st Congress, August 10, 1949 (61 Stat. 578); further amended by section 3 (b) of the Department of Defense Reorganization Act of 1958 (72 Stat. 516; 15 U. S. C. 171a (d)).

Exclusion by
Secretary of
Defense.

(f) The Secretary of Defense may, without being relieved of his responsibility therefor, and unless prohibited by some specific provision of this Act or other specific provision of law, perform any function vested in him through or with the aid of such officials or organizational entities of the Department of Defense as he may designate.

Inter-service
transfer of
medical or
medical service
officers.

(g) Under such regulations as he shall prescribe, the Secretary of Defense with the approval of the President is authorized to transfer between the armed services, within the authorized commissioned strength of the respective services, officers holding commissions in the medical services or corps including the reserve components thereof. No officer shall be so transferred without (1) his consent, (2) the consent of the service from which the transfer is to be made, and (3) the consent of the service to which the transfer is to be made.

Appointment
to grade by
President.

(h) Officers transferred hereunder shall be appointed by the President alone to such commissioned grade, permanent and temporary, in the armed service to which transferred and be given such place on the applicable promotion list of such service as he shall determine. Federal service previously rendered by any such officer shall be credited for promotion, seniority, and retirement purposes as if served in the armed service to which transferred according to the provisions of law governing promotion, seniority, and retirement therein. No officer upon a transfer to any service from which previously transferred shall be given a higher grade, or place on the applicable promotion list, than that which he could have attained had he remained continuously in the service to which retransferred.

Place on pro-
motion list.

Credit for
unused leave.

(i) Any officer transferred hereunder shall be credited with the unused leave to which he was entitled at the time of transfer.¹⁴

Combatant
commands.

(j) With the advice and assistance of the Joint Chiefs of Staff the President, through the Secretary of Defense, shall establish unified or specified combatant commands for the performance of military missions, and shall determine the force structure of such combatant commands to be composed of forces of the Department of the Army, the Department of the Navy, the Department of the Air Force, which shall then be assigned to such combatant commands by the departments concerned for the performance of such military missions. Such combatant commands are responsible to the President and the Secretary of Defense for such military missions as may be assigned to them by the Secretary of Defense, with the approval of the President. Forces assigned to such unified combatant commands or specified combatant commands

Responsibility.

¹⁴ Subsections (e) and (f) added by section 5 of Public Law 216 of the 81st Congress, August 10, 1910 (61 Stat. 574); subsections (g), (h), and (i) added by section 3, Public Law 779, 81st Congress, September 9, 1950 (64 Stat. 828). The latter subsections (g), (h), and (i) were extended by various provisions including the latest, Public Law 87-62. Subsection 8 thereof extends (g), (h), and (i) to June 30, 1959.

shall be under the full operational command of the commander of the unified combatant command or the commander of the specified combatant command. All forces not so assigned remain for all purposes in their respective departments. Under the direction, authority, and control of the Secretary of Defense each military department shall be responsible for the administration of the forces assigned from its department to such combatant commands. The responsibility for the support of forces assigned to combatant commands shall be vested in one or more of the military departments as may be directed by the Secretary of Defense. Forces assigned to such unified or specified combatant commands shall be transferred therefrom only by authority of and under procedures established by the Secretary of Defense, with the approval of the President.¹⁵

[Performance of functions.]—The Secretary of Defense may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Defense of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan. (This language is from sec. 5 of Reorganization Plan No. 6, effective June 30, 1953 (67 Stat. 659).) 2

[CERTAIN ADDITIONAL FUNCTIONS OF THE SECRETARY OF DEFENSE]

Pursuant to section 1 of Reorganization Plan No. 6, effective June 30, 1953 (Appendix II), all functions of the Munitions Board, the Research and Development Board, the Defense Supply Management Agency, and the Director of Installations were transferred to the Secretary of Defense. As transferred and codified in sections 2201 and 2351 of Title 10, United States Code, the functions relating to the Munitions Board and Research and Development Board were repealed by section 3c and d of the "Department of Defense Reorganization Act 1953", approved August 6, 1953. (See appendix VI.) Section 2 (a) of Reorganization Plan No. 6, abolished the Munitions Board, the Research and Development Board, and the offices of Chairman of the Munitions Board, Chairman of the Research and Development Board, Director of the Defense Supply Management Agency, Deputy Director of Defense Supply Management Agency, and Director of Installations. The language of these sections represents the functions transferred from the Defense Supply Management Agency and the functions of the Director of Installations, to the Secretary of Defense by Reorganization Plan No. 6. The text of the language of the respective sections is that contained in Public Law 1028, 84th Congress, approved August 10, 1956, an Act to revise and codify certain laws relating to the Armed Forces. Inasmuch as Public Law 1028 is but a restatement of existing law it is considered appropriate to insert in this compilation the pertinent sections of the law codifying those functions transferred to the Secretary of Defense by Reorganization Plan No. 6.

¹⁵ Subsection (j) was added by section 5 (b) of the Department of Defense Reorganization Act of 1953 (72 Stat. 518) (5 U. S. C. 171a).

The following sections are codified in title 10, United States Code, Public Law 1028, 81st Congress:

CATALOGING AND STANDARDIZATION

Sec. 2451. Defense supply management:

(a) The Secretary of Defense shall develop a single catalog system and related program of standardizing supplies for the Department of Defense.

(b) In cataloging, the Secretary shall name, describe, classify, and number each item recurrently used, bought, stocked, or distributed by the Department of Defense, so that only one distinctive combination of letters or numerals, or both, identifies the same item throughout the Department of Defense. Only one identification may be used for each item for all supply functions from purchase to final disposal in the field or other area. The catalog may consist of a number of volumes, sections, or supplements. It shall include all items of supply and, for each item, information needed for supply operations, such as descriptive and performance data, size, weight, cubage, packaging and packing data, a standard quantitative unit of measurement, and other related data that the Secretary determines to be desirable.

(c) In standardizing supplies the Secretary shall, to the highest degree practicable—

(1) standardize items used throughout the Department of Defense by developing and using single specifications, eliminating overlapping and duplicate specifications, and reducing the number of sizes and kinds of items that are generally similar;

(2) standardize the methods of packing, packaging, and preserving standardized items; and

(3) make efficient use of the services and facilities for inspecting, testing and accepting those items.

Sec. 2452. Duties of Secretary of Defense

The Secretary of Defense shall—

(1) develop and maintain the supply catalog, and the standardization program, described in section 2451 of this title;

(2) direct and coordinate progressive use of the supply catalog in all supply functions within the Department of Defense from the determination of requirements through final disposal;

(3) direct, review, and approve—

(A) the naming, description, and pattern of description of all items;

(B) the screening, consolidation, classification, and numbering of descriptions of all items; and

(C) the publication and distribution of the supply catalog;

(4) maintain liaison with industry advisory groups to coordinate the development of the supply catalog and the standardization program with the best practices of industry and to obtain the fullest practicable cooperation and participation of industry in developing the supply catalog and the standardization program;

(5) establish, publish, review, and revise, within the Department of Defense, military specifications, standards, and lists of qualified products, and resolve differences between the military departments, bureaus, and services with respect to them;

*Prior to Reorganization Plan No. 6, June 30, 1957 (67 Stat. 538) these functions were contained in the Act of July 1, 1952, Public Law 438, 82d Congress (66 Stat. 313) which established the Defense Supply Management Agency within the Department of Defense for the purpose of developing a single catalog system and related supply standardization program. Section 2 (a) of Reorganization Plan No. 6 abolished the Defense Management Supply Agency and section 1 transferred all functions to the Secretary of Defense. This section codified in Public Law 1028, 81st Congress.

NATIONAL SECURITY ACT OF 1947

15

(6) assign responsibility for parts of the cataloging and the standardization programs to the military departments, bureaus, and services within the Department of Defense, when practical and consistent with their capacity and interest in those supplies;

(7) establish time schedules for assignments made under clause (6); and

(8) make final decisions in all matters concerned with the cataloging and standardization programs.

Sec. 2453. Supply catalog distribution and use

The Secretary of Defense shall distribute the parts of the supply catalog described in section 2451 of this title as they are completed. Existing catalogs shall be replaced according to schedules established by the Secretary. After replacement no other supply catalog may be used within the Department of Defense with respect to the kinds of items covered by that part. All property reports and records shall use the nomenclature, item numbers, and descriptive data of the supply catalog.

Sec. 2454. Supply catalog: new or obsolete items

(a) After any part of the supply catalog described in section 2451 of this title is distributed, and with respect to the kinds of items covered by that part, only the items listed in it may be procured for recurrent use in the Department of Defense. However, a military department may acquire any new item that is necessary to carry out its mission. As soon as such an item is acquired, it shall be submitted to the Secretary for inclusion in the catalog and the standardization program.

(b) Obsolete items may be deleted from the catalog at any time.

Sec. 2455. Reports to Congress

(a) The Secretary of Defense shall send to the Committees on Armed Services of the Senate and the House of Representatives, on January 31 and July 31 of each year, a progress report on cataloging under this chapter from each military department. Each report shall cover the six-month period ending with the preceding June 30 or December 31, whichever was later. The report shall contain—

(1) the number of sections or parts of the supply catalog that have been published, and their titles;

(2) the number of item identification numbers in the catalog that have replaced, for all supply purposes, former item identifications or stock or catalog numbers;

(3) the reduction in the number of separate item identifications; and

(4) any other information that the Secretary considers will best inform Congress of the status of the cataloging program.

(b) The Secretary shall report to the Committees on Armed Services of the Senate and the House of Representatives, on January 31 and July 31 of each year, on the progress of the standardization program within the military departments. Each report shall cover the six-month period ending with the preceding June 30 or December 31, whichever was later. The report shall contain—

(1) the number of separate specifications that have been consolidated into single specifications for use throughout the Department of Defense;

(2) the reduction in the number of sizes or kinds of items that are generally similar;

(3) the duplications eliminated in services, space, and facilities; and

(4) any other information that the Secretary considers will best inform Congress of the progress of the standardization program.

(c) The Secretary may combine the reports required by subsections (a) and (b).

Sec. 192b. Coordination with General Services Administration

To avoid unnecessary duplication, the Administrator of General Services and the Secretary of Defense shall coordinate the cataloging and standardization activities of the General Services Administration and the Department of Defense.

REAL PROPERTY***Sec. 2031. Planning and construction of public works projects by military departments**

The Secretary of Defense shall maintain direct surveillance over the planning and construction of public works projects by the military departments. The Secretary shall keep currently and fully informed of the status, progress, and cost of, and other pertinent matters concerning, those projects.

DEPUTY SECRETARY OF DEFENSE; ASSISTANT SECRETARIES OF DEFENSE; MILITARY ASSISTANTS

Sec. 203. (a) There shall be a Deputy Secretary of Defense, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate: *Provided*, That a person who has within ten years been on active duty as a commissioned officer in a Regular component of the armed services shall not be eligible for appointment as Deputy Secretary of Defense. The Deputy Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe and shall take precedence in the Department of Defense next after the Secretary of Defense. The Deputy Secretary shall act for, and exercise the powers of, the Secretary of Defense during his absence or disability.

(b) (1) There shall be a Director of Defense Research and Engineering who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, who shall take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force. The Director performs such duties with respect to research and engineering as the Secretary of Defense may prescribe, including, but not limited to, the following: (i) to be the principal adviser to the Secretary of Defense on scientific and technical matters; (ii) to supervise all research and engineering activities in the Department of Defense; and (iii) to direct and control (including their assignment or reassignment) research and engineering activities that the Secretary of Defense deems to require centralized management. The com-

*Prior to Reorganization Plan No. 6, June 30, 1953 (67 Stat. 678), these functions were contained in section 405 of Public Law 531 82d Congress (59 Stat. 627), which provided that the Secretary of Defense maintain direct surveillance over the planning and construction by the military departments of all public works projects through a civilian official of the Department of Defense to be known as the Director of Installations. Section 2 (a) of Reorganization Plan No. 6 abolished the Office of Director of Installations, and section 1 transferred all functions to the Secretary of Defense. This section codified in Public Law 1023 85th Congress.

compensation of the Director is that prescribed by law for the Secretaries of the military departments.

(2) The Secretary of Defense or his designee, subject to the approval of the President, is authorized to engage in basic and applied research projects essential to the responsibilities of the Department of Defense in the field of basic and applied research and development which pertain to weapons systems and other military requirements. The Secretary or his designee, subject to the approval of the President, is authorized to perform assigned research and development projects: by contract with private business entities, educational or research institutions, or other agencies of the Government, through one or more of the military departments, or by utilizing employees and consultants of the Department of Defense.

(3) There is authorized to be appropriated such sums as may be necessary for the purposes of paragraph (2) of this subsection.

(c) There shall be seven Assistant Secretaries of Defense, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. The Assistant Secretaries shall perform such duties and exercise such powers as the Secretaries of Defense may prescribe and shall take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, and the Director of Defense Research and Engineering.

(d) Officers of the armed services may be detailed to duty as assistants and personal aides to the Secretary of Defense, but he shall not establish a military staff other than that provided for by section 211 (a) of this act.¹⁶

GENERAL COUNSEL

[The President may appoint from civilian life, by and with the advice and consent of the Senate, a General Counsel of the Department of Defense, who shall be the chief legal officer of the

¹⁶ Sub-section (1) is former section 202 (d), Public Law 253, 80th Congress, July 26, 1947 (61 Stat. 555), as added by section 1, Public Law 38, 81st Congress, April 2, 1949 (63 Stat. 301), amended by section 6 (a), Public Law 216, 81st Congress, August 10, 1949 (63 Stat. 575); sub-section (b) was added by section 9 (a) of the Department of Defense Reorganization Act of 1958, Public Law 85-599, August 6, 1958 (72 Stat. 520); sub-section (c) is former section 201 (a) of Public Law 253 of the 80th Congress, July 26, 1947 (61 Stat. 495), as amended by section 6 (a), Public Law 216, 81st Congress, August 10, 1949 (63 Stat. 575), further amended by sections 9 (a) and 10 (a) of the Department of Defense Reorganization Act of 1958, Public Law 85-599, August 6, 1958, by redesignating the section from "(b)" to "(c)" and by changing "three" to "seven" Assistant Secretaries of Defense, and adding "and the Director of Defense Research and Engineering", establishing 14 ranks above the Assistant Secretaries of Defense, but below the Secretaries of the military departments; sub-section (d) is former section 203 (c), Public Law 253, 80th Congress, July 26, 1947 (61 Stat. 495), as amended by section 6 (a), Public Law 216, 81st Congress, August 10, 1949 (63 Stat. 575), redesignated "(d)" by section 9 (a) of Department of Defense Reorganization Act of 1958, Public Law 85-599.

Section 13 of the Department of Defense Reorganization Act of 1958, August 6, 1958, provides that the provisions of sub-section (c) shall become effective six months after the date of the enactment of this law.

Department, and who shall perform such functions as the Secretary of Defense may from time to time prescribe. He shall receive compensation at the rate prescribed by law for assistant secretaries of executive departments.¹⁰ (This language is from section 1 of Reorganization Plan No. 6 (see appendix II), effective June 30, 1953 (67 Stat. 639); while not a specific amendment, it supplements this section.)

CIVILIAN PERSONNEL

Sec. 204. The Secretary of Defense is authorized, subject to the civil-service laws and the Classification Act of 1923, as amended, to appoint and fix the compensation of such civilian personnel as may be necessary for the performance of the functions of the Department of Defense other than those of the Departments of the Army, Navy, and Air Force.¹¹

DEPARTMENT OF THE ARMY*

Sec. 205. (a)¹² [Repealed. Codified in section 3012 (a) of title 10, United States Code, as follows:

§ 3012. (a) There is a Secretary of the Army, who is head of the Department of the Army.¹³]

ADDITIONAL PROVISIONS CONTAINED IN SECTION 3012 ARE AS FOLLOWS:

(b) The Secretary is responsible for and has the authority necessary to conduct all affairs of the Department of the Army, including—

(1) functions necessary or appropriate for the training, operations, administration, logistical support and maintenance, welfare, preparedness, and effectiveness of the Army, including research and development; and

(2) such other activities as may be prescribed by the President or the Secretary of Defense as authorized by law.

He shall perform such other duties relating to Army affairs, and conduct the business of the Department in such manner, as the President or the Secretary of Defense may prescribe.

(c) The Secretary may assign such of his duties as he considers appropriate to the Under Secretary of the Army and to the Assistant Secretaries of the Army. Officers of the Army shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or an Assistant Secretary.

(d) The Secretary or, as he may prescribe, the Under Secretary or an Assistant Secretary shall supervise all matters relating to—

(1) the procurement activities of the Department of the Army; and

*Section 6 (a) of Department of Defense Reorganization Act of 1953 (see Appendix VI) authorizes the delegation of duties by the military service chiefs.

¹⁰ In this connection see Sec. 311, Public Law 55-170.

¹¹ Former section 104 (b), Public Law 253, 80th Congress, July 26, 1947 (61 Stat. 493), as amended by section 6 (b), Public Law 216, 81st Congress, August 10, 1949 (63 Stat. 673).

¹² Repealed by section 53 of the Act of August 10, 1953 (70A Stat. 676).

¹³ By section 5 (a) of the Department of Defense Reorganization Act of 1953 (72 Stat. 512), section 3013 (a) of title 10, U. S. C., relating to the Under Secretary and Assistant Secretaries was amended by reducing the number of Assistant Secretaries from four to three and eliminating the requirement for designating one of them as an Assistant Secretary for Financial Management.

NATIONAL SECURITY ACT OF 1947

19

(2) planning for the mobilization of materials and industrial organizations essential to the wartime needs of the Army.

(c) The Secretary, as he considers appropriate, may assign, detail, and prescribe the duties of members of the Army and civilian personnel of the Department of the Army.

(f) The Secretary may change the title of any other officer, or of any activity, of the Department of the Army.

(g) The Secretary may prescribe regulations to carry out his functions, powers, and duties under this title.

(h) The compensation of the Secretary is \$22,000²⁰ a year.

(b) All laws, orders, regulations, and other actions relating to the Department of War or to any officer or activity whose title is changed under this section shall, insofar as they are not inconsistent with the provisions of this Act, be deemed to relate to the Department of the Army within the Department of Defense or to such officer or activity designated by his or its new title.²¹

Applicability of laws, orders, regulations and other actions of Department of War.

(c) The term "Department of the Army" as used in this Act shall be construed to mean the Department of the Army at the seat of government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Army.²¹

Definition.

(d)²² [Repealed. Codified in section 3011 of title 10, United States Code, as follows:

Seal.

"§ 3011. The Secretary of the Army shall have a seal for the Department of the Army. The design of the seal must be approved by the President. Judicial notice shall be taken of the seal."]

(e)²² [Repealed. Codified in section 3062 (b) of title 10, United States Code, as follows:

"§ 3062. (b) In general, the Army, within the Department of the Army, includes land combat and service forces and such aviation and water transport as may be organic therein. It shall be organized, trained, and equipped primarily for prompt and sustained combat incident to operations on land. It is responsible for the preparation of land forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Army to meet the needs of war."]

DEPARTMENT OF THE NAVY

SEC. 203. (a) The term "Department of the Navy" as used in this Act shall be construed to mean the De-

Department of the Navy
Definition.

²⁰ The amount was changed from "\$18,000" to "\$22,000" by section 57 of Public Law 85-861.

²¹ Subsection (b) amended by section 12 (a), Public Law 216, 81st Congress, August 10, 1949 (63 Stat. 571); subsection (c) from section 245, Public Law 253, 80th Congress, July 26, 1947 (61 Stat. 495). Subsections (d) and (e) repealed by section 53 of the Act of August 10, 1956 (70A Stat. 676).

partment of the Navy at the seat of government; the headquarters, United States Marine Corps; the entire operating forces of the United States Navy, including naval aviation, and of the United States Marine Corps, including the reserve components of such forces; all field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Department of the Navy; and the United States Coast Guard when operating as a part of the Navy pursuant to law.²²

**SECTION 5031 OF TITLE 10, UNITED STATES CODE,
PROVIDES AS FOLLOWS:**

§ 5031. Secretary of the Navy: responsibilities; compensation.

(a) There is a Secretary of the Navy, who is the head of the Department of the Navy. He shall administer the Department of the Navy under the direction, authority, and control of the Secretary of Defense.

(b) The Secretary of the Navy shall execute such orders as he receives from the President relative to—

- (1) the procurement of naval stores and material;
- (2) the construction, armament, equipment, and employment of naval vessels; and
- (3) all matters connected with the Department of the Navy.

(c) The Secretary of the Navy has custody and charge of all books, records and other property of the Department.

(d) The compensation of the Secretary of the Navy is \$22,000²³ a year.

(h).²⁴ [Repealed. Codified in section 5012 of title 10, United States Code, as follows:

§ 5012. (a) The Navy, within the Department of the Navy, includes, in general, naval combat and service forces and such aviation as may be organic therein. The Navy shall be organized, trained, and equipped primarily for prompt and sustained combat incident to operations at sea. It is responsible for the preparation of naval forces necessary for the effective prosecution of war except as otherwise assigned and is generally responsible for naval reconnaissance, antisubmarine warfare, and protection of shipping.

(b) All naval aviation shall be integrated with the naval service as part thereof within the Department of the Navy. Naval aviation consists of combat and service and training forces, and includes land-based naval aviation, air transport essential for naval operations, all air weapons and air techniques involved in the operations and activities of the Navy, and the entire remainder of the aeronautical organization of the Navy, together with the personnel necessary therefor.

United States
Navy.
Compensation
and organiza-
tion.

²² By section 8 (b) (1) Department of Defense Reorganization Act of 1958, August 6, 1958 (72 Stat. 519), section 5031 (a) and (b) of Title 10, U. S. C., relating to Assistant Secretaries, was amended by reducing the number of Assistant Secretaries from four to three and eliminating the requirement for designating one as an Assistant Secretary for Financial Management.

²³ Section 8 (b) (2) repeals section 5035 of Title 10, U. S. C., relating to the establishment of an Assistant Secretary for Air and his duties.

²⁴ The figure "\$11,000" was changed to "\$22,000" by section 107 of Public Law 85-561.

(c) The Navy shall develop aircraft, weapons, tactics, technique, organization, and equipment of naval combat and service elements. Matters of joint concern as to these functions shall be coordinated between the Army, the Air Force, and the Navy.

(d) The Navy is responsible, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Navy to meet the needs of war."

(e)¹ [Repealed. Codified in sections 5013 (a), (b), and (c) and 5102 (a) and (b) of title 10, United States Code, as follows:

United States
Marine Corps
mobilization
and organiza-
tion.

"§ 5013. (a) The Marine Corps, within the Department of the Navy, shall be so organized as to include not less than three combat divisions and three air wings, and such other land combat, aviation, and other services as may be organic therein. The Marine Corps shall be organized, trained, and equipped to provide fleet marine forces of combined arms, together with supporting air components, for service with the fleet in the seizure or defense of advanced naval bases and for the conduct of such land operations as may be essential to the prosecution of a naval campaign. In addition, the Marine Corps shall provide detachments and organizations for service on armed vessels of the Navy shall provide security detachments for the protection of naval property at naval stations and bases, and shall perform such other duties as the President may direct. However, these additional duties may not detract from or interfere with the operations for which the Marine Corps is primarily organized.

(b) The Marine Corps shall develop, in coordination with the Army and the Air Force, those phases of amphibious operations that pertain to the tactics, technique, and equipment used by landing forces.

(c) The Marine Corps is responsible, in accordance with integrated joint mobilization plans, for the expansion of peacetime components of the Marine Corps to meet the needs of war."

"§ 5102. (a) Except in time of war or national emergency declared by Congress after June 28, 1952, the authorized strength of the Regular Marine Corps, excluding retired members, is 400,000. However, this strength may be temporarily exceeded at any time in a fiscal year if the daily average number in that year does not exceed it.

(b) Except in time of war or national emergency declared by Congress after June 28, 1952, the authorized strength of the Regular Marine Corps in enlisted members, excluding retired enlisted members, is 400,000 less the actual strength of the Marine Corps in permanent regular officers other than retired regular officers. However, this strength may be temporarily exceeded at any

¹ Repealed by section 27 of the Act of August 10, 1953 (70 Stat. 676).

time in a fiscal year if the daily average number in that year does not exceed it."]

DEPARTMENT OF THE AIR FORCE

Department of
the Air Force,
Secretary, ap-
pointment of.

SEC. 207. (a).²⁷ [Repealed. Codified in section 8012 (a) of title 10, United States Code, as follows:

"§ 8012. (a) There is a Secretary of the Air Force appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Air Force."]

ADDITIONAL PROVISIONS CONTAINED IN SECTION 8012 ARE AS FOLLOWS:

(b) The Secretary is responsible for and has the authority necessary to conduct all affairs of the Department of the Air Force, including—

(1) functions necessary or appropriate for the training, operations, administration, logistical support and maintenance, welfare, preparedness, and effectiveness of the Air Force, including research and development; and

(2) such other activities as may be prescribed by the President or the Secretary of Defense as authorized by law.

He shall perform such other duties relating to Air Force affairs, and conduct the business of the Department in such manner, as the President or the Secretary of Defense may prescribe.

(c) The Secretary may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Air Force and to the Assistant Secretaries of the Air Force. Officers of the Air Force shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or an Assistant Secretary.

(d) The Secretary or, as he may prescribe, the Under Secretary or an Assistant Secretary shall supervise all matters relating to—

(1) the procurement activities of the Department of the Air Force;

(2) planning for the mobilization of materials and industrial organizations essential to the wartime needs of the Air Force; and

(3) activities of the reserve components of the Air Force.

(e) The Secretary, as he considers appropriate, may assign, detail, and prescribe the duties of the members of the Air Force and civilian personnel of the Department of the Air Force.

(f) The Secretary may prescribe regulations to carry out his functions, powers, and duties under this title.

(g) The compensation of the Secretary is \$22,600²⁸ a year.

(b) Repealed.²⁹

(c) The term "Department of the Air Force" as used in this Act shall be construed to mean the Department of

²⁷ Repealed by section 53 of the Act of August 10, 1952 (70A Stat. 676).

²⁸ The amount was changed from "\$15,000" to "\$22,000" by section 152 of Public Law 87-831.

²⁹ Repealed by section 12 (c), Public Law 216, 81st Congress, August 10, 1949 (63 Stat. 579).

the Air Force at the seat of government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Air Force.

(d).²³ [Repealed. Codified in sections 8013 (a) and (b) of title 10, United States Code, as follows:

"§ 8013. (a) There are an Under Secretary of the Air Force and three Assistant Secretaries of the Air Force in the department of the Air Force. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The compensation of the Under Secretary and of the Assistant Secretaries is that prescribed by law for assistant secretaries of executive departments." (Sec. 302, and its footnotes, of this print, p. 29.)

(e).²³ [Repealed. Codified in section 8012 (c) of title 10, United States Code, as follows:

"§ 8012. (c) The Secretary, as he considers appropriate, may assign, detail, and prescribe the duties of the members of the Air Force and civilian personnel of the Department of the Air Force."

(f).²³ [Repealed. Codified in section 8033 (g) of title 10, United States Code, as follows:

"§ 8033. (g) In addition to the functions and duties performed by it for the Department of the Army, the National Guard Bureau shall perform similar functions and duties for the Department of the Air Force, and shall be the channel of communication between the Department of the Air Force and the States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia on all matters affecting the Air National Guard."

(g).²³ [Repealed]. Codified in section 8011 of title 10, United States Code, as follows:

"§ 8011. The Secretary of the Air Force shall have a seal for the Department of the Air Force. The design of the seal must be approved by the President. Judicial notice shall be taken of the seal."

UNITED STATES AIR FORCE

Sec. 203. (a).²³ [Repealed. Codified in section 8062 (b) of title 10, United States Code, as follows:

"§ 8062. (b) There is a United States Air Force within the Department of the Air Force."

(b).²³ [Repealed. Codified in section 743 of title 10, United States Code, as follows:

"§ 743. The Chief of Staff of the Army, the Chief of Naval Operations, and the Chief of Staff of the Air Force rank among themselves according to dates of ap-

²³ Repealed by section 53 of the Act of August 10, 1958 (70A Stat. 676); further amended to read as indicated by section 8 (c) of Department of Defense Reorganization Act of 1958, August 6, 1958 (72 Stat. 520). The amendment reduces the number of Assistant Secretaries from four to three and eliminates the requirement of designating one of them as an Assistant Secretary for Financial Management.

Transfer of
military
personnel.

pointment to those offices, and rank above all other officers on the active list of the Army, Navy, Air Force, and Marine Corps, except the Chairman of the Joint Chiefs of Staff."]

(c) All commissioned officers, warrant officers, and enlisted men, commissioned, holding warrants, or enlisted, in the Air Corps, United States Army, or the Army Air Forces, shall be transferred in branch to the United States Air Force. All other commissioned officers, warrant officers, and enlisted men, who are commissioned, hold warrants, or are enlisted, in any component of the Army of the United States and who are under the authority or command of the Commanding General, Army Air Forces, shall be continued under the authority or command of the Chief of Staff, United States Air Force, and under the jurisdiction of the Department of the Air Force. Personnel whose status is affected by this subsection shall retain their existing commissions, warrants, or enlisted status in existing components of the armed forces unless otherwise altered or terminated in accordance with existing law; and they shall not be deemed to have been appointed to a new or different office or grade, or to have vacated their permanent or temporary appointments in an existing component of the armed forces, solely by virtue of any change in status under this subsection. No such change in status shall alter or prejudice the status of any individual so assigned, so as to deprive him of any right, benefit, or privilege to which he may be entitled under existing law.

(d).²⁰ [Repealed.]

(e).²⁰ [Repealed.]

(f).²⁰ [Repealed. Codified in section 8062 (c) of title 10, United States Code, as follows:

"§ 8062. (c) In general, the Air Force includes aviation forces both combat and service not otherwise assigned. It shall be organized, trained, and equipped primarily for prompt and sustained offensive and defensive air operations. It is responsible for the preparation of the air forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Air Force to meet the needs of war."]

EFFECTIVE DATE OF TRANSFERS

SEC. 209.²⁰ [Repealed.]

ARMED FORCES POLICY COUNCIL

SEC. 210.²⁰ [Repealed. Codified in section 171 (a) and (b) of title 10, United States Code, as follows:

²⁰ Repealed by section 53 of the Act of August 10, 1956 (70A Stat. 676). Section 210 as repealed and codified was further amended by section 9 (c) of Department of Defense Reorganization Act of 1958, by adding the Director of Defense Research and Engineering, and redesignating "(6), (7), (8), (9)," as "(7), (8), (9), (10)."

"§ 171. (a) There is in the Department of Defense an Armed Forces Policy Council consisting of—

- (1) the Secretary of Defense, as Chairman, with the power of decision;
- (2) the Deputy Secretary of Defense;
- (3) The Secretary of the Army;
- (4) The Secretary of the Navy;
- (5) the Secretary of the Air Force;
- (6) the Director of Defense Research and Engineering;
- (7) the Chairman of the Joint Chiefs of Staff;
- (8) the Chief of Staff of the Army;
- (9) the Chief of Naval Operations; and
- (10) the Chief of Staff of the Air Force.

"(b) The Armed Forces Policy Council shall advise the Secretary of Defense on matters of broad policy relating to the armed forces and shall consider and report on such other matters as the Secretary of Defense may direct."

JOINT CHIEFS OF STAFF

Sec. 211 (a).³⁰ [Repealed. Codified in sections 141 (a), (b), and (c) of title 10, United States Code, as follows:

Joint Chiefs of Staff.

"§ 141. (a) There are in the Department of Defense the Joint Chiefs of Staff consisting of—

- * (1) a Chairman;
- (2) the Chief of Staff of the Army;
- (3) the Chief of Naval Operations; and
- (4) the Chief of Staff of the Air Force.

"(b) The Joint Chiefs of Staff are the principal military advisers to the President, the National Security Council, and the Secretary of Defense.

"(c) The Commandant of the Marine Corps shall indicate to the Chairman any matter scheduled for consideration by the Joint Chiefs that directly concerns the Marine Corps. Unless, upon request of the Chairman for a determination, the Secretary of Defense determines that such a matter does not concern the Marine Corps, the Commandant shall meet with the Joint Chiefs of Staff when that matter is under consideration. While the matter is under consideration and with respect to it, the Commandant has co-equal status with the members of the Joint Chiefs of Staff."*

Establishment. Composition.

(b).³⁰ [Repealed. Codified in section 141 (d) of title

*It might be noted that under Reorganization Plan 6, June 30, 1953, section 1 (d), 67 Stat. 633, the functions of the Joint Chiefs of Staff with respect to managing the Joint Staff, and the Director thereof, were transferred to the Chairman of the Joint Chiefs of Staff. (See appendix II.) Under section 7 of Department of Defense Reorganization Act of 1958, (a) (1) of this section was amended by striking out the words "who has no vote."

³⁰ Repealed by section 53 of the Act of August 10, 1956 (70A Stat. 676).

NATIONAL SECURITY ACT OF 1947

10, United States Code, as follows:

§ 141. (d) Subject to the authority and direction of the President and the Secretary of Defense, the Joint Chiefs of Staff shall—

(1) prepare strategic plans and provide for the strategic direction of the armed forces;

(2) prepare joint logistic plans and assign logistic responsibilities to the armed forces in accordance with those plans;

(3) establish unified commands in strategic areas;

(4) review the major material and personnel requirements of the armed forces in accordance with strategic and logistic plans;

(5) formulate policies for the joint training of the armed forces;

(6) formulate policies for coordinating the military education of members of the armed forces;

(7) provide for representation of the United States on the Military Staff Committee of the United Nations in accordance with the Charter of the United Nations; and

(8) perform such other duties as the President or the Secretary of Defense may prescribe.”]

(c).²¹ [Repealed. Codified in sections 142 (a) and 142 (d) of title 10, United States Code, as follows:

“§ 142. (a) The Chairman of the Joint Chiefs of Staff shall be appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. He serves at the pleasure of the President for a term of two years, and may be reappointed in the same manner for one additional term. However, in time of war declared by Congress there is no limit on the number of reappointments.

“(d) The Chairman is entitled to the pay and allowances provided by law for the Chief of Staff of the Army.”]

(d).²¹ [Repealed. Codified in section 142 (c) of title 10, United States Code, as follows:

“§ 142. (c) While holding office, the Chairman outranks all other officers of the armed forces. However, he may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.”]

(e).²¹ [Repealed. Codified in section 142 (b) of title 10, United States Code, as follows:

“§ 142. (b) In addition to his other duties as a member of the Joint Chiefs of Staff, the Chairman shall, subject to the authority and direction of the President and the Secretary of Defense—

(1) preside over the Joint Chiefs of Staff;

(2) provide agenda for the meetings of the Joint Chiefs of Staff and assist them in carrying on their business as promptly as practicable; and

²¹ Repealed by section 53 of the Act of August 10, 1956 (70A Stat. 878).

NATIONAL SECURITY ACT OF 1947

27

(3) inform the Secretary of Defense, and, when the President or the Secretary of Defense considers it appropriate, the President, of those issues upon which the Joint Chiefs of Staff have not agreed."]

JOINT STAFF

SEC. 212.²² [Repealed. Codified in section 143 (a), (b), (c), and (d) of title 10, United States Code, as follows:

Joint Staff.
Composition.

"§ 143. Joint Staff

"(a) There is under the Joint Chiefs of Staff a Joint Staff consisting of not more than 400 officers selected by the Joint Chiefs of Staff with the approval of the Chairman. The Joint Staff shall be selected in approximately equal numbers from—

"(1) the Army;

"(2) the Navy and the Marine Corps; and

"(3) the Air Force.

The tenure of the members of the Joint Staff is subject to the approval of the Chairman of the Joint Chiefs of Staff, and except in time of war, no such tenure of duty may be more than three years. Except in time of war, officers completing a tour of duty with the Joint Staff may not be reassigned to the Joint Staff for a period of not less than three years following their previous tour of duty on the Joint Staff, except that selected officers may be recalled to Joint Staff duty in less than three years with the approval of the Secretary of Defense in each case. The number of such officers recalled to Joint Staff duty in less than three years shall not exceed 30 serving on the Joint Staff at any one time.

Tenure.

"(b) The Chairman of the Joint Chiefs of Staff in consultation with the Joint Chiefs of Staff, and with the approval of the Secretary of Defense, shall select the Director of the Joint Staff. Except in time of war, the tour of duty of the Director may not exceed three years. Upon the completion of a tour of duty as Director of the Joint Staff, the Director, except in time of war, may not be reassigned to the Joint Staff. The Director must be an officer junior in grade to each member of the Joint Chiefs of Staff.

Director of the
Joint Staff.

"(c) The Joint Staff shall perform such duties as the Joint Chiefs of Staff or the Chairman prescribes. The Chairman of the Joint Chiefs of Staff manages the Joint Staff and its Director, on behalf of the Joint Chiefs of Staff.

De ...

²² Repealed by section 53 of the Act of August 10, 1956 (70A 676).

Organization.

"(d) The Joint Staff shall not operate or be organized as an overall Armed Forces General Staff and shall have no executive authority. The Joint Staff may be organized and may operate along conventional staff lines to support the Joint Chiefs of Staff in discharging their assigned responsibilities."²³

MUNITIONS BOARD [REPEALED]

Sec. 213. (See appendix IV.)

This section is initially enacted in Public Law 253, 80th Congress, provided for the establishment of a Munitions Board in the Department of Defense. Section 2 (a) and (b) of Reorganization Plan 6, effective June 30, 1953 (67 Stat. 638), (see appendix II), abolished the Munitions Board and the Office of the Chairman of the Munitions Board, section 1 of Plan 6 transferred all functions of the Munitions Board to the Secretary of Defense. This section was repealed by section 53 of the Act of August 10, 1956 (70A Stat. 676), and codified in section 2201 of title 10, United States Code, as codified in section 2201 of title 10, United States Code. It was repealed by section 3 (c) of the Department of Defense Reorganization Act of 1958 (Public Law 85-599) (72 Stat. 516).

RESEARCH AND DEVELOPMENT BOARD [REPEALED]

Sec. 214. (See appendix IV.)

This section as initially enacted in Public Law 253, 80th Congress, provided for the establishment of a Research and Development Board in the Department of Defense. Section 2 (a) and (b) of Reorganization Plan 6, effective June 30, 1953 (67 Stat. 638) (see appendix II), abolished the Research and Development Board and the Office of Chairman of the Research and Development Board, section 1 of Plan 6 transferred all functions to the Secretary of Defense. This section was repealed by section 53 of the Act of August 10, 1956 (70A Stat. 676), and codified in section 2351 of title 10, United States Code, as codified in section 2201 of title 10, United States Code. It was repealed by section 3 (d) of the Department of Defense Reorganization Act of 1958 (Public Law 85-599) (72 Stat. 516).

²³The language of section 212 as originally enacted in the National Security Act of 1947 (Public Law 253, 80th Congress) is set forth in appendix IV at the end of this print. Pursuant to section 1 (b), (c), and (d) of Reorganization Plan No. 6, effective June 30, 1953 (see appendix II), the following changes were effected with respect to this section as originally enacted in the National Security Act and as amended by section 7 (c) of Public Law 216, 81st Congress (63 Stat. 578). Section 1 (b) of the plan provided for the selection of the Director of the Joint Staff and his tenure to be subject to the approval of the Secretary of Defense. By section 1 (c) the selection of members of the Joint Staff and their tenure is made subject to the approval of the Chairman of the Joint Chiefs of Staff. By section 1 (d) the function of managing the Joint Staff and Director was transferred to the Chairman of the Joint Chiefs of Staff. Section 212 as amended was repealed and, together with the changes contained in Reorganization Plan No. 6, was codified in Title 10, United States Code. Section 5 (a) of Department of Defense Reorganization Act of 1958 further amended this section to read as indicated.

NATIONAL SECURITY ACT OF 1947

29

TITLE III—MISCELLANEOUS

COMPENSATION OF SECRETARIES AND DEPUTY SECRETARY

Sec. 301. (a) The Secretary of Defense shall receive the compensation prescribed by law for heads of executive departments.³¹

Secretary of
Defense, Com-
pensation of.

(b) The Deputy Secretary of Defense shall receive compensation at the rate of [\$14,500] [\$20,000] \$22,500³² a year, or such other compensation plus \$500 a year as may hereafter be provided by law for under secretaries of executive departments. (This section was amended by section 53 of the Act of August 10, 1956 (70A Stat. 676), by deleting the second sentence relating to compensation of the Secretaries of the Military Departments, and is codified in title 10 of the United States Code for the Secretaries of the Army, Navy, and Air Force as follows:

Deputy Secre-
tary of Defense
and Secretaries
of Army, Navy,
and Air Force,
Compensation
of.

(Army)

"§ 3012 (h). The compensation of the Secretary is [\$18,000] \$22,000³³ a year."

(Navy)

"§ 5031 (d). The compensation of the Secretary is [\$18,000] \$22,000³³ a year."

(Air Force)

"§ 8012 (g). The compensation of the Secretary is [\$18,000] \$22,000³³ a year."

Sec. 302. The compensation of the Assistant Secretaries of Defense is that prescribed by law for assistant secretaries of executive departments.³⁴ The Assistant Secretaries shall perform such duties as the Secretary of Defense may prescribe.³⁵

Assistant
Secretaries of
Defense and
Under and
Assistant
Secretaries
of Army, Navy,
and Air Force,
Compensation
of.

(This section was amended by section 21 of the Act of August 10, 1956 (70A Stat. 629). References therein to compensation of the Under Secretaries and Assistant Secretaries of the military departments are codified in title 10 of the United States Code for the Army, Navy, and Air Force as follows:

(Army)

"§ 3013 (b). Compensation of the Under Secretary and of the Assistant Secretaries is that prescribed by law for assistant secretaries of executive departments."³⁶

³¹ Subsection (a) amended by section 2, Public Law 36, 81st Congress, April 2, 1949 (63 Stat. 30), further amended by section 10 (a), Public Law 216, 81st Congress, August 10, 1949 (63 Stat. 578), and supplemented by section 102 (3), Public Law 854, 84th Congress, July 31, 1956 (70 Stat. 736), which provided for a salary of \$25,000 per annum; subsection (b) amended by section 10 (a), Public Law 216, 81st Congress, August 10, 1949 (63 Stat. 578), and supplemented by Public Law 373, 81st Congress, which provided for a salary of \$20,000 per annum, and further supplemented by section 103 (a) (5), Public Law 854, 84th Congress, July 31, 1956 (70 Stat. 736), which increased basic compensation per annum to \$22,500 for Deputy Secretaries.

³² Fixed by section 102 (b), Public Law 854, 84th Congress, July 31, 1956 (70 Stat. 738), at \$22,000 per annum.

³³ Fixed by section 103 (a), (13) Public Law 854, 84th Congress, July 31, 1956 (70 Stat. 738), at \$20,000 per annum.

³⁴ Amended by section 21 of the Act of August 10, 1956 (70A Stat. 629).

³⁵ Compensation for Under Secretaries fixed by section 103 (a) (12) (13) (44), Public Law 854, 84th Congress, July 31, 1956 (70 Stat. 738), at \$20,000 per annum. Compensation for Assistant Secretaries of the military departments fixed by section 103 (a) (19), (20), and (21), Public Law 854, 84th Congress, July 31, 1956 (70 Stat. 735), at \$20,000 per annum.

(Navy)

"§ 5033 (c). Compensation of the Under Secretary is that prescribed by law for assistant secretaries of executive departments."²⁵

"§ 5034 (d). Compensation of the Assistant Secretaries is that prescribed by law for assistant secretaries of executive departments."²⁵

(Air Force)

"§ 8013 (b). Compensation of the Under Secretary and of the Assistant Secretaries is that prescribed by law for assistant secretaries of executive departments."²⁵

*SEC. 303. (a) The Director of the Office of Civil, and Defense Mobilization,²⁶ the Director of Central Intelligence, and the National Security Council, acting through its Executive Secretary, are authorized to appoint such advisory committees and to employ, consistent with other provisions of this Act, such part-time advisory personnel as they may deem necessary in carrying out their respective functions and the functions of agencies under their control. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Other members of such committees and other part-time advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed \$50 for each day of service, as determined by the appointing authority.

Definition of service.

(b) Service of an individual as a member of any such advisory committee, or in any other part-time capacity for a department or agency hereunder, shall not be considered as service bringing such individual within the provisions of section 281, 283, or 284 of Title 18, United States Code, unless the act of such individual, which by such section is made unlawful when performed by an individual referred to in such section, is with respect to any particular matter which directly involves a department or agency which such person is advising or in which such department or agency is directly interested.

²⁵Sub-section (a) amended by section 10 (c), Public Law 216, 81st Congress, August 16, 1949 (63 Stat. 578) and section 53 of the act of August 10, 1956 (70A Stat. 676), sub-section (b) from section 303 (b), Public Law 273, 80th Congress, July 26, 1947 (61 Stat. 495). Reorganization Plan No. 3, effective June 12, 1953, abolished the National Security Resources Board, created the office of Defense Mobilization and transferred all functions of the Chairman of the National Security Resources Board to the Director of Defense Mobilization (excluding certain functions abolished by sec. 51, as well as certain abolition functions including those vested by any statute in the Director of Defense Mobilization or in the Office of Defense Mobilization provided for in Executive Order 10180 of December 18, 1950, as superseded by Executive Order 10180 of August 14, 1953, as amended. Section 8 of Public Law 779, 83rd Congress, approved September 3, 1954, was enacted to conform this section with Reorganization Plan No. 3 substituting "the Director of the Office of Defense Mobilization" for "the Chairman of the National Security Resources Board." It further amended sub-section (b) by inserting the correct reference to Title 18 of the United States Code.

²⁶The name "The Director of the Office of Defense Mobilization" was changed to "The Director of the Office of Civil and Defense Mobilization" by section 2 of Reorganization Plan No. 1, 1978, effective July 1, 1958 (23 F. R. 4991) as amended by Public Law 85-763, August 26, 1958 (72 Stat. 831).

NATIONAL SECURITY ACT OF 1947

31

[The foregoing section was amended by section 53 of the Act of August 10, 1956 (70A Stat. 676) by deleting the reference therein to the Secretary of Defense. As applicable to the Secretary of Defense, the provisions of this section are codified in section 173 of title 10, United States Code as follows:

"§ 173. (a) The Secretary of Defense may establish such advisory committees and employ such part-time advisers as he considers necessary for the performance of his functions and those of the agencies under his control.

(b) A person who serves as a member of a committee may not be paid for that service while holding another position or office under the United States for which he receives compensation. Other members and part-time advisers may serve without compensation or may be paid not more than \$50 for each day of service, as the Secretary determines.

(c) Sections 281, 283, and 284 of title 18 do not apply to a person because of his service on a committee, or as a part-time adviser, under subsection (a), unless he performs an act which is unlawful under one of those sections and which relates to a matter directly involving a department or agency which he is advising or to a matter in which that department or agency is directly interested."]

STATUS OF TRANSFERRED CIVILIAN PERSONNEL

Sec. 304. All transfers of civilian personnel under this Act shall be without change in classification or compensation, but the head of any department or agency to which such a transfer is made is authorized to make such changes in the titles and designations and prescribe such changes in the duties of such personnel commensurate with their classification as he may deem necessary and appropriate."

Transferred
per onnel,
Status of.

SAVING PROVISIONS

Sec. 305. (a) All laws, orders, regulations, and other actions applicable with respect to any function, activity, personnel, property, records, or other thing transferred under this Act, or with respect to any officer, department, or agency, from which such transfer is made, shall, except to the extent rescinded, modified, superseded, terminated, or made inapplicable by or under authority of law, have the same effect as if such transfer had not been made; but, after any such transfer, any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or agency from which such transfer was made shall, insofar as applicable with respect to the function, activity, personnel, property, records or other thing transferred and to

Applicability
of laws, orders,
regulations,
and other
actions.

* From section 504, Public Law 253, 80th Congress, July 26, 1947 (61 Stat. 455).

the extent not inconsistent with other provisions of this Act, be deemed to have vested such function in or relate to the officer, department, or agency to which the transfer was made.

Nonabatement
of suits or
other pro-
ceedings.

(b) No suit, action, or other proceeding lawfully commenced by or against the head of any department or agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, shall abate by reason of the taking effect of any transfer or change in title under the provisions of this Act; and, in the case of any such transfer, such suit, action, or other proceeding may be maintained by or against the successor of such head or other officer under the transfer, but only if the court shall allow the same to be maintained on motion or supplemental petition filed within twelve months after such transfer takes effect, showing a necessity for the survival of such suit, action, or other proceeding to obtain settlement of the questions involved.

Applicability
of existing
laws and
regulations.

(c) Notwithstanding the provisions of the second paragraph of section 5 of title I of the First War Powers Act, 1911, the existing organization of the War Department under the provisions of Executive Order Numbered 9082 of February 28, 1942, as modified by Executive Order Numbered 9722 of May 13, 1946, and the existing organization of the Department of the Navy under the provisions of Executive Order Numbered 9635 of September 29, 1945, including the assignment of functions to organizational units within the War and Navy Departments, may, to the extent determined by the Secretary of Defense, continue in force for two years following the date of enactment of this Act except to the extent modified by the provisions of this Act or under the authority of law.⁴¹

TRANSFER OF FUNDS

Transfer of
funds to the
Department of
the Air Force.

SEC. 306. All unexpended balances of appropriations, allocations, nonappropriated funds, or other funds available or hereafter made available for use by or on behalf of the Army Air Forces or officers thereof, shall be transferred to the Department of the Air Force for use in connection with the exercise of its functions. Such other unexpended balances of appropriations, allocations, nonappropriated funds, or other funds available or hereafter made available for use by the Department of War or the Department of the Army in exercise of functions transferred to the Department of the Air Force under this Act, as the Secretary of Defense shall determine, shall be transferred to the Department of the Air Force for use in connection with the exercise of its functions. Unexpended balances transferred under this section may be used for the purposes for which the appropriations, allo-

⁴¹ From section 305, Public Law 253, 80th Congress, July 24, 1947 (61 Stat. 495).

NATIONAL SECURITY ACT OF 1947

23

cation, or other funds were originally made available, or for new expenditures occasioned by the enactment of this Act. The transfers herein authorized may be made with or without warrant action as may be appropriate from time to time from any appropriation covered by this section to any other such appropriation or to such new accounts established on the books of the Treasury as may be determined to be necessary to carry into effect provisions of this Act.⁴²

AUTHORIZATION FOR APPROPRIATIONS

SEC. 307. There are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act.⁴³

Appropriations authorization.

DEFINITIONS

Definitions.

SEC. 308. (a) As used in this Act, the term "function" includes functions, powers, and duties.

(b) As used in this Act, the term "Department of Defense" shall be deemed to include the military departments of the Army, the Navy, and the Air Force, and all agencies created under title II of this Act.⁴⁴

SEPARABILITY

SEC. 309. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.⁴⁵

EFFECTIVE DATE

SEC. 310. (a) The first sentence of section 202 (a) and sections 1, 2, 307, 308, 309, and 310 shall take effect immediately upon the enactment of this Act.

(b) Except as provided in subsection (a), the provisions of this Act shall take effect on whichever of the following days is the earlier: The day after the day upon which the Secretary of Defense first appointed takes office, or the sixtieth day after the date of the enactment of this Act.⁴⁶

SUCCESSION TO THE PRESIDENCY

SEC. 311. Paragraph (1) of the subsection (d) of section 1 of the Act entitled "An Act to provide for the performance of the duties of the office of President in case

Secretary of Defense
Succession to the Presidency.

⁴² From section 208, Public Law 253, 80th Congress, July 26, 1947 (61 Stat. 495).

⁴³ From section 307, Public Law 253, 80th Congress, July 26, 1947 (61 Stat. 495).

⁴⁴ Subsection (a) from section 304 (a), Public Law 253, 80th Congress, July 26, 1947 (61 Stat. 495); subsection (b) amended by section 12 (e), Public Law 216, 81st Congress, August 10, 1949 (61 Stat. 578).

⁴⁵ From section 309, Public Law 253, 80th Congress, July 26, 1947 (61 Stat. 495).

⁴⁶ From section 310, Public Law 253, 80th Congress, July 26, 1947 (61 Stat. 495).

NATIONAL SECURITY ACT OF 1947

of the removal, resignation, death, or inability both of the President and Vice President", approved July 13, 1947, is amended by striking out "Secretary of War" and inserting in lieu thereof "Secretary of Defense", and by striking out "Secretary of the Navy,"⁴⁷

(Note.—The following provisions of Public Law 216, Eighty-first Congress although not amendments to any particular sections of the National Security Act of 1947, are pertinent:)

The titles of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Under Secretaries and the Assistant Secretaries of the Departments of the Army, Navy, and Air Force, shall not be changed by virtue of this Act, and the reappointment of the officials holding such titles on the effective date of this Act shall not be required. It is hereby declared to be the intention of Congress that section 203 (a) of the National Security Act of 1947, as amended by section 6 of this Act, shall not be deemed to have created a new office of Deputy Secretary of Defense but shall be deemed to have continued in existence under a new title, the Office of Under Secretary of Defense which was established by the Act entitled "An Act to amend the National Security Act of 1947 to provide for an Under Secretary of Defense", approved April 2, 1949 (Public Law 36, Eighty-first Congress). The title of the official holding the Office of Under Secretary of Defense on the effective date of this Act shall be changed to Deputy Secretary of Defense and the reappointment of such official shall not be required.⁴⁸

All laws, orders, regulations, and other actions relating to the National Military Establishment, the Departments of the Army, the Navy, or the Air Force, or to any officer or activity of such establishment, or such departments, shall, except to the extent inconsistent with the provisions of this Act, have the same effect as if this Act had not been enacted; but, after the effective date of this Act, any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or establishment, shall be deemed to have vested such function in or relate to the officer or department, executive or military, succeeding the officer, department, or establishment in which such function was vested. For purposes of this sub-section the Department of Defense shall be deemed the department succeeding the National Military Establishment, and the military departments of Army, Navy, and Air Force shall be deemed the departments succeeding the Executive Departments of Army, Navy, and Air Force.⁴⁹

Reorganization Plan Numbered 8 of 1949, which was transmitted to the Congress by the President on July 18, 1949, pursuant to the provisions of the Reorganization Act of 1947, shall not take effect, notwithstanding the provisions of section 6 of such Reorganization Act of 1949.⁵⁰

⁴⁷ From section 311, Public Law 253, 80th Congress, July 26, 1947 (61 Stat. 405).

⁴⁸ From section 12 (f), Public Law 216, 81st Congress, August 10, 1949 (63 Stat. 578). Reference to "the Chairman of the Munitions Board, and the Chairman of the Research and Development Board", contained in the text as originally enacted had been deleted, these offices were abolished by section 2 (b) of Reorganization Plan 6 (67 Stat. 678) (see appendix II).

⁴⁹ From section 12 (2), Public Law 216, 81st Congress, August 10, 1949 (63 Stat. 578).

⁵⁰ From section 12 (1), Public Law 216, 81st Congress, August 10, 1949 (63 Stat. 578).

TITLE IV⁴⁸

PROMOTION OF ECONOMY AND EFFICIENCY THROUGH ESTABLISHMENT OF UNIFORM BUDGETARY AND FISCAL PROCEDURES AND ORGANIZATIONS

COMPTROLLER OF DEPARTMENT OF DEFENSE

Sec. 401. (a) There is hereby established in the Department of Defense the Comptroller of the Department of Defense, who shall be one of the Assistant Secretaries of Defense.

Comptroller of
Department of
Defense.
Establishment
Duties.

(b) The Comptroller shall advise and assist the Secretary of Defense in performing such budgetary and fiscal functions as may be required to carry out the powers conferred upon the Secretary of Defense by this Act, including but not limited to those specified in this subsection. Subject to the authority, direction, and control of the Secretary of Defense, the Comptroller shall—

(1) supervise and direct the preparation of the budget estimates of the Department of Defense; and

(2) establish, and supervise the execution of—

(A) principles, policies, and procedures to be followed in connection with organizational and administrative matters relating to—

(i) the preparation and execution of the budgets,

(ii) fiscal, cost, operating, and capital property accounting,

(iii) progress and statistical reporting,

(iv) internal audit, and

(B) policies and procedures relating to the expenditure and collection of funds administered by the Department of Defense; and

(3) establish uniform terminologies, classifications, and procedures in all such matters.

MILITARY DEPARTMENT BUDGET AND FISCAL ORGANIZATION—DEPARTMENTAL COMPTROLLERS

Sec. 402.⁴⁹ [Repealed. Codified in identical sections of title 10, United States Code, relating separately to the Army, Navy, and Air Force; for purposes of brevity only that provision relating to the Army which is codified in section 3014 of title 10, United States Code, is repeated below:

"§ 3014. (a) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Army shall have the following matters in the Depart-

⁴⁸ Title and section thereof added by section 11, Public Law 216, 81st Congress, August 10, 1949 (63 Stat. 578). No comparable title or sections in Public Law 253, 89th Congress, July 20, 1947 (61 Stat. 495).

⁴⁹ Repealed by section 53 of the Act of August 10, 1956 (70A Stat. 676).

ment of the Army organized and conducted consistently with the operations of the Office of the Comptroller of the Department of Defense:

- (1) Budgeting.
- (2) Accounting.
- (3) Progress and statistical reporting.
- (4) Internal audit.
- (5) Administrative organization structure, and managerial procedures, relating to the matters covered by clauses (1)-(4).

"(b) There are a Comptroller of the Army and a Deputy Comptroller of the Army in the Department of the Army. They shall be appointed by the Secretary of the Army. The Secretary may appoint either civilian or military personnel to these offices. If either the Comptroller or the Deputy Comptroller is not a civilian, the other must be a civilian.

"(c) Subject to the authority of the Secretary of the Army, the Comptroller is responsible for the matters in the Department of the Army named in subsection (a) (1)-(5).

"(d) The Comptroller is under the direction and supervision of, and is directly responsible to, either the Secretary of the Army, the Under Secretary, or an Assistant Secretary. However, this subsection does not prevent the Comptroller from having concurrent responsibility to the Chief of Staff, the Vice Chief of Staff, or a Deputy Chief of Staff, if the Secretary so prescribes." ²⁹

PERFORMANCE BUDGET

Performance
budget.

SEC. 403. (a) The budget estimates of the Department of Defense shall be prepared, presented, and justified, where practicable, and authorized programs shall be administered, in such form and manner as the Secretary of Defense, subject to the authority and direction of the President, may determine, so as to account for, and report, the cost of performance of readily identifiable functional programs and activities, with segregation of operating and capital programs. So far as practicable, the budget estimates and authorized programs of the military departments shall be set forth in readily comparable form and shall follow a uniform pattern.

Authority to
make trans-
fers and
adjustments
of military
departmental
appropriations.

(b) In order to expedite the conversion from present budget and accounting methods to the cost-of-performance method prescribed in this title, the Secretary of each military department, with the approval of the President and the Secretary of Defense, is authorized and directed, until the end of the second year following the date of enactment of this Act, to make such transfers and adjustments within the military department of

²⁹ Corresponding Navy and Air Force provisions are contained in title 10, United States Code, sections 2091 and 2014, respectively.

which he is the head between appropriations available for obligation by such department in such manner as he deems necessary to cause the obligation and administration of funds and the reports of expenditures to reflect the cost of performance of such programs and activities. Reports of transfers and adjustments made pursuant to the authority of this subsection shall be made currently by the Secretary of Defense to the President and the Congress.

Reports to the President and Congress.

OBLIGATION OF APPROPRIATIONS

SEC. 404. In order to prevent overdrafts and deficiencies in any fiscal year for which appropriations are made, on and after the beginning of the next fiscal year following the date of enactment of this Act appropriations made to the Department of Defense or to the military departments, and reimbursements thereto, shall be available for obligation and expenditure only after the Secretary of Defense shall approve scheduled rates of obligation, or modifications thereof: *Provided*, That nothing in this section shall affect the right of the Department of Defense to incur such deficiencies as may be now or hereafter authorized by law to be incurred.

Deficiencies.

WORKING-CAPITAL FUNDS*

SEC. 405. (a) In order more effectively to control and account for the cost of programs and work performed in the Department of Defense, the Secretary of Defense is authorized to require the establishment of working-capital funds in the Department of Defense for the purpose of --

Working-capital funds.

- (1) financing inventories of such stores, supplies, materials, and equipment as he may designate; and
- (2) providing working capital for such industrial-type activities, and for such commercial-type activities as provide common services within or among the departments and agencies of the Department of Defense, as he may designate.

(b) The Secretary of the Treasury is authorized and directed to establish on the books of the Treasury Department at the request of the Secretary of Defense the working-capital funds established pursuant to the authority of this section.

Working-Capital Funds, Designation on books of Treasury Department.

*Section 614, Department of Defense Appropriation Act, 1954 (Act of August 1, 1953, Public Law 179 (81 Stat. 537)) provides in part as follows: "That current applicable appropriations of the Department of Defense may be credited with monies arising from the disposition of such supplies, goods, and materials as are not covered under stock funds pursuant to section 405 of the National Security Act, as amended: *Provided further*, That obligations may be incurred against anticipated reimbursements to stock funds in such amounts and for such periods determined by the Secretary of Defense, with the approval of the Director of the Bureau of the Budget, to be necessary to maintain required stock levels not inconsistent with planned operations for the succeeding fiscal year, without regard to fiscal year limitations."

(1) Such funds shall be—

(1) charged, when appropriate, with the cost of stores, supplies, materials, and equipment procured or otherwise acquired, manufactured, repaired, issued, and consumed and of services rendered or work performed, including applicable administrative expenses; and

(2) reimbursed from available appropriations or otherwise credited for the cost of stores, supplies, materials, or equipment furnished and of services rendered or work performed, including applicable administrative expenses.

Reports to
the President
and Congress.

Reports of the condition and operations of such funds shall be made annually to the President and to the Congress.

Working-
Capital Funds,
Capital for.

(d) The Secretary of Defense is authorized to provide capital for such working-capital fund by capitalizing inventories on hand and, with the approval of the President, by transfer, until December 31, 1954, from unexpended balances of any appropriations of the military departments not carried to the surplus fund of the Treasury: *Provided*, That no deficiency shall be incurred in any such appropriation as a result of any such transfer. To the extent that such methods do not, in the determination of the Secretary of Defense, provide adequate amounts of working capital, there is hereby authorized to be appropriated, out of any moneys in the Treasury not appropriated for other purposes, such sums as may be necessary to provide adequate working capital.

Limitation on
deficiencies.

Allocation of
responsibility.

(e) Subject to the authority and direction of the Secretary of Defense, the Secretaries of the military departments shall allocate responsibility within their respective military departments for the execution of functions which each military department is authorized by law to perform in such a manner as to effect the most economical and efficient organization and operation of the activities and use of the inventories for which working-capital funds are authorized by this section.

Cost limitation.

(f) No greater cost shall be incurred by the requisitioning agency for stores, supplies, materials, or equipment drawn from inventories, and for services rendered or work performed by the industrial-type or commercial-type activities for which working-capital funds are authorized by this section, than the amount of appropriations or funds available for such purposes.

Cost limitation.
Authority of
Secretary of
Defense to
govern activities.

(g) The Secretary of Defense is authorized to issue regulations to govern the operation of activities and use of inventories authorized by this section, which regulations may, whenever he determines the measures set forth in this subsection to be required by the needs of the Department of Defense, and when such measures are authorized by law, permit, stores, supplies, materials, and equipment to be sold to, and services to be rendered

or work performed for, purchasers or users outside the Department of Defense. In such cases, the working-capital funds involved may be reimbursed by charges against appropriate appropriations or by payments received in cash.

(h) The appraised value of all stores, supplies, materials, and equipment returned to such working-capital funds from any department, activity, or agency, may be charged to the working-capital fund concerned and the proceeds thereof shall be credited to the current appropriations concerned; the amount so credited shall be available for expenditures for the same purposes as the appropriations credited: *Provided*, That the provisions of this subsection shall not permit credits to appropriations as the result of capitalization of inventories authorized by subsection (d) of this section.

MANAGEMENT FUNDS

SEC. 406. The Act of July 3, 1942 (56 Stat. 615, c. 431), as amended, is hereby further amended to read as follows:

"(a) For the purpose of facilitating the economical and efficient conduct of operations in the Department of Defense which are financed by two or more appropriations where the costs of the operations are not susceptible of immediate distribution as charges to such appropriations, there are hereby established the Navy Management Fund, the Army Management Fund, and the Air Force Management Fund, each within, and under the direction of the respective Secretaries of, the Departments of the Navy, Army, or Air Force, as the case may be. There are authorized to be appropriated from time to time such funds as may be necessary to accomplish the purposes of the funds.

"(b) The corpus of the Navy Management Fund shall consist of the sum of \$1,000,000 heretofore transferred to the Naval Procurement Fund from the Naval Emergency Fund (17X0300), which amount, and all balances in, and obligations against, any accounts in the Naval Procurement Fund, are hereby transferred to the Navy Management Fund; the corpus of the Army Management Fund shall consist of the sum of \$1,000,000, which shall be transferred thereto from any unobligated balance of any appropriation available to the Department of the Army; the corpus of the Air Force Management Fund shall consist of the sum of \$1,000,000, which shall be transferred thereto from any unobligated balance of any appropriation available to the Department of the Air Force; in each case together with such additional funds as may from time to time be appropriated to any of said funds. Accounts for the individual operations to be financed under the respective management funds shall be established only upon approval by the Secretary of Defense.

Credit for returned supplies and equipment. Management funds, Army, Navy, and Air Force. Establishment. Collection.

Expenditures
from funds.

"(c) Expenditures may be made from said management funds from time to time for material (other than material for stock) and for personal and contractual services under such regulations as may be prescribed by the Secretary of Defense: *Provided*, (1) That no obligation shall be incurred against any such fund which is not properly chargeable to available funds under an appropriation of the department within which the fund is established or, wherever necessary to effectuate purposes authorized by this Act to funds of another department or agency within the Department of Defense, and (2) that each fund shall be promptly reimbursed from the appropriate appropriations of such department for all expenditures properly chargeable thereto. Nothing herein or in any other provision of law shall be construed to prevent advances by check or warrant, or reimbursements to any of said management funds from appropriations of said departments on the basis of the estimated cost of a project, such estimated cost to be revised and necessary appropriation adjustments made when adequate data become available.

Restrictions
of funds.

Availability

"(d) Except as otherwise provided by law, amounts advanced to the management funds under the provisions of this Act shall be available for obligation only during the fiscal year in which they are advanced: *Provided*, That nothing contained in this Act shall alter or limit the authorized period of availability of the funds from which such advances are made. Final adjustments of advances in accordance with actual costs shall be effected with the appropriate funds for the fiscal year in which such funds are advanced.

"(e) The portion of the Naval Appropriation Act, 1945 (58 Stat. 301, 310), relating to the Naval Procurement Fund is hereby repealed."

ADJUSTMENT OF ACCOUNTS

Adjustment of
accounts.

SEC. 407. (a) When under authority of law a function or an activity is transferred or assigned from one department or agency within the Department of Defense to another such department or agency, the balances of appropriations which are determined by the Secretary of Defense to be available and necessary to finance or discharge the function or activity so transferred or assigned may, with the approval of the President, be transferred to, and be available for use by, the department or agency to which said function or activity is transferred or assigned for any purpose for which said funds were originally available. Balances so transferred shall be credited to any applicable existing appropriation account or accounts, or to any new appropriation account or accounts, which are hereby authorized to be established on the books of the Treasury Department, of the department

NATIONAL SECURITY ACT OF 1947

41

or organization to which such function or activity is transferred, and shall be merged with funds in the applicable existing or newly established appropriation account or accounts and thereafter accounted for as one fund. Balances transferred to existing accounts shall be subject only to such limitations as are specifically applicable to such accounts and those transferred to new accounts shall be subject only to such limitations as are applicable to the appropriations from which they are transferred.

(b) The number of employees which in the opinion of the Secretary of Defense is required for such transferred functions or activities may, with the approval of the Director of the Bureau of the Budget, be deducted from any personnel maximum or limitation of the department or agency within the Department of Defense from which such function or activity is transferred, and added to any such personnel maximum or limitation of the department or agency to which such function or activity is transferred.

Transfer of
personnel, Ac-
counting for.

"Miscellaneous provisions.—(a) The Secretary of Defense may from time to time effect such transfers within the Department of Defense of any of the records, property, and personnel affected by this reorganization plan, and such transfers of unexpended balances (available or to be made available for use in connection with any affected function or agency) of appropriations, allocations, and other funds of such Department, as he deems necessary to carry out the provisions of this reorganization plan.

"(b) Nothing herein shall affect the compensation of the Chairman of the Military Liaison Committee (63 Stat. 762)."

AVAILABILITY OF REIMBURSEMENTS

SEC. 408. To carry out the purposes of this Act, reimbursements made under the authority of the Economy Act (31 U. S. C. 636), and sums paid by or on behalf of personnel of any department or organization for services rendered or supplies furnished, may be credited to authorized replacing or other accounts. Funds credited to such accounts shall remain available for obligation for the same period as the funds in the account so credited and each such account shall constitute one fund on the books of the Treasury Department.

Reimburse-
ments.

COMMON USE OF DISBURSING FACILITIES

SEC. 409. To the extent authorized by the Secretary of Defense, disbursing officers of the Departments of the Army, Navy, and Air Force may, out of accounts of advances available to them, make disbursements covering obligations arising in connection with any function or activity of any other department or organization within the Department of Defense and charge upon

Disbursing
facilities.

*Section 6 of Reorganization Plan 6 of 1953 (57 Stat. 639) (see appendix II).

NATIONAL SECURITY ACT OF 1917

touchers the proper appropriation or appropriations of the other department or organization: *Provided*, That all said expenditures shall subsequently be adjusted in settlement of disbursing officers' accounts.

REPORTS OF PROPERTY

Property
Records.

SEC. 410.²¹ [Repealed. Codified in section 2701 of title 10, United States Code, as follows:

"§ 2701. (a) Under regulations prescribed by him, the Secretary of Defense shall have the records of the fixed property, installations, major equipment, items, and stored supplies of the military departments maintained on both a quantitative and a monetary basis, so far as practicable.

Reports to the
President and
the Congress.

"(b) The Secretary shall report once a year to Congress and the President on property records maintained under this section."]

REPEALING AND SAVING PROVISIONS

Repeal of in-
consistent
laws, orders,
and regula-
tions.

SEC. 411. All laws, orders, and regulations inconsistent with the provisions of this title are repealed insofar as they are inconsistent with the powers, duties, and responsibilities enacted hereby: *Provided*, That the powers, duties, and responsibilities of the Secretary of Defense under this title shall be administered in conformance with the policy and requirements for administration of budgetary and fiscal matters in the Government generally, including accounting and financial reporting, and that nothing in this title shall be construed as eliminating or modifying the powers, duties, and responsibilities of any other department, agency, or officer of the Government in connection with such matters, but no such department, agency, or officer shall exercise any such powers, duties, or responsibilities in a manner that will render ineffective the provisions of this title.

²¹ Repealed by section 53 of the Act of August 10, 1936 (70A Stat. 676).

APPENDIXES

APPENDIX I

REORGANIZATION PLAN NO. 1 OF 1958

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 24, 1958, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended

CIVILIAN MOBILIZATION

SECTION 1. *Transfer of functions to the President.*—(a) There are hereby transferred to the President of the United States all functions vested by law (including reorganization plan) in the following: The Office of Defense Mobilization, the Director of the Office of Defense Mobilization, the Federal Civil Defense Administration, and the Federal Civil Defense Administrator.

(b) The President may from time to time delegate any of the functions transferred to him by sub-section (a) of this section to any officer, agency, or employee of the executive branch of the Government, and may authorize such officer, agency, or employee to re-delegate any of such functions delegated to him.

SEC. 2. *Office of Defense and Civilian Mobilization.*—(a) Subject to the provisions of this reorganization plan, the Office of Defense Mobilization and the Federal Civil Defense Administration are hereby consolidated to form a new agency in the Executive Office of the President which shall be known as the Office of Defense and Civilian Mobilization, hereinafter referred to as the "Office".

(b) There shall be at the head of the Office a Director of the Office of Defense and Civilian Mobilization, who shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate now or hereafter prescribed by law for the heads of executive departments.

(c) There shall be in the Office a Deputy Director of the Office of Defense and Civilian Mobilization, who shall be appointed by the President by and with the advice and consent of the Senate, shall receive compensation at the rate now or hereafter prescribed by law for the under secretaries referred to in section 101 of the Federal Executive Pay Act of 1956 (5 U. S. C. 2203), shall perform such functions as shall be delegated or assigned to him pursuant to the provisions of this reorganization plan, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

(d) There shall be in the Office three Assistant Directors of the Office of Defense and Civilian Mobilization, each of whom shall be appointed by the President by and with the advice and consent of

the Senate, shall receive compensation at the rate now or hereafter prescribed by law for assistant secretaries of executive departments, and shall perform such functions as shall be delegated or assigned to him pursuant to the provisions of this reorganization plan.

(e) The Office and the Director thereof shall perform such functions as the President may from time to time delegate or assign thereto. The said Director may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, or by any agency or employee, of the Office of any function delegated or assigned to the Office or to the Director.

SEC. 3. Regional directors.—There are hereby established in the Office so many new positions, not in excess of ten existing at any one time, with the title "Regional Director", as the Director of the Office shall from time to time determine. Each Regional Director shall be appointed under the classified civil service, shall be the head of a regional office of the Office of Defense and Civilian Mobilization, shall perform such functions appropriate to such regional office as may be delegated or assigned to him pursuant to the provisions of this reorganization plan, and shall receive compensation which shall be fixed from time to time pursuant to the classification laws as now or hereafter amended except that the compensation may be fixed without regard to the numerical limitations on positions set forth in section 505 of the Classification Act of 1949, as amended (5 U. S. C. 1105).

SEC. 4. Membership on National Security Council.—The functions of the Director of the Office of Defense Mobilization with respect to being a member of the National Security Council are excluded from the scope of the provisions of section 1 (a) of this reorganization plan and are hereby transferred to the Director of the Office of Defense and Civilian Mobilization.

SEC. 5. Civil Defense Advisory Council.—The Civil Defense Advisory Council, created by section 102 (a) of the Federal Civil Defense Act (50 U. S. C. App. 2272 (a)), together with its functions, is hereby transferred to the Office of Defense and Civilian Mobilization.

SEC. 6. Abolitions.—The offices of Federal Civil Defense Administrator and Deputy Administrator provided for in section 101 of the Federal Civil Defense Act (50 U. S. C. App. 2271) and the offices of the Director of the Office of Defense Mobilization and Deputy Director of the Office of Defense Mobilization provided for in section 1 of Reorganization Plan Numbered 2 of 1953 (67 Stat. 634) are hereby abolished. The Director of the Office of Defense and Civilian Mobilization shall make such provisions as may be necessary in order to wind up any outstanding affairs of the offices abolished by this section which are not otherwise provided for in this reorganization plan.

SEC. 7. Records, property, personnel, and funds.—(a) The records, property, personnel, and unexpended balances, available or to be made available, of appropriations, allocations, and other funds of the Office of Defense Mobilization and of the Federal Civil Defense Administration shall, upon the taking effect of the provisions of this reorganization plan, become records, property, personnel, and unexpended balances of the Office of Defense and Civilian Mobilization.

(b) Records, property, personnel, and unexpended balances, available or to be made available, of appropriations, allocations, and other

funds of any agency (including the Office of Defense and Civilian Mobilization), relating to functions vested in or delegated or assigned to the Office of Defense Mobilization or the Federal Civil Defense Administration immediately prior to the taking effect of the provisions of this reorganization plan, may be transferred from time to time to any other agency of the Government by the Director of the Bureau of the Budget under authority of this subsection for use, subject to the provisions of the Reorganization Act of 1949, as amended, in connection with any of the said functions authorized at time of transfer under this subsection to be performed by the transferee agency.

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in connection with the provisions of subsections (a) and (b) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

Sec. 8. Interim provisions.—The President may authorize any person who immediately prior to the effective date of this reorganization plan holds an office abolished by section 6 hereof to hold any office established by section 2 of this reorganization plan until the latter office is filled pursuant to the said section 2 or by recess appointment, as the case may be, but in no event for any period extending more than one-hundred-and-twenty days after the said effective date.

Sec. 9. Effective date.—The provisions of this reorganization plan shall take effect at the time determined under the provisions of section 6 (a) of the Reorganization Act of 1949, as amended, or on July 1, 1958, whichever is later.

APPENDIX II

REORGANIZATION PLAN No. 6 OF 1953

(Effective June 30, 1953, 18 F. R. 3713, 67 Stat. 638)

DEPARTMENT OF DEFENSE

SECTION 1. Transfers of functions.—(a) All functions of the Munitions Board, the Research and Development Board, the Defense Supply Management Agency, and the Director of Installations are hereby transferred to the Secretary of Defense.

(b) The selection of the Director of the Joint Staff by the Joint Chiefs of Staff, and his tenure, shall be subject to the approval of the Secretary of Defense.

(c) The selection of the members of the Joint Staff of the Joint Chiefs of Staff, and their tenure, shall be subject to the approval of the Chairman of the Joint Chiefs of Staff.

(d) The functions of the Joint Chiefs of Staff with respect to managing the Joint Staff and the Director thereof are hereby transferred to the Chairman of the Joint Chiefs of Staff.

Sec. 2. Abolition of agencies and functions.—(a) There are hereby abolished the Munitions Board, the Research and Development Board, and the Defense Supply Management Agency.

(b) The offices of Chairman of the Munitions Board, Chairman of the Research and Development Board, Director of the Defense Supply Management Agency, Deputy Director of the Defense

Supply Management Agency, and Director of Installations are hereby abolished.

(c) The Secretary of Defense shall provide for winding up any outstanding affairs of the said abolished agency, boards, and offices, not otherwise provided for in this reorganization plan.

(d) The function of guidance to the Munitions Board in connection with strategic and logistic plans as required by section 213 (c) of the National Security Act of 1917, as amended, is hereby abolished.

SEC. 3. Assistant Secretaries of Defense.—Six additional Assistant Secretaries of Defense may be appointed from civilian life by the President, by and with the advice and consent of the Senate. Each such Assistant Secretary shall perform such functions as the Secretary of Defense may from time to time prescribe and each shall receive compensation at the rate prescribed by law for assistant secretaries of executive departments.

SEC. 4. General Counsel.—The President may appoint from civilian life, by and with the advice and consent of the Senate, a General Counsel of the Department of Defense, who shall be the chief legal officer of the Department, and who shall perform such functions as the Secretary of Defense may from time to time prescribe. He shall receive compensation at the rate prescribed by law for assistant secretaries of executive departments.

SEC. 5. Performance of functions.—The Secretary of Defense may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Defense of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

SEC. 6. Miscellaneous provisions.—(a) The Secretary of Defense may from time to time effect such transfers within the Department of Defense of any of the records, property, and personnel affected by this reorganization plan, and such transfers of unexpended balances (available or to be made available for use in connection with any affected function or agency) of appropriations, allocations, and other funds of such Department, as he deems necessary to carry out the provisions of this reorganization plan.

(b) Nothing herein shall affect the compensation of the Chairman of the Military Liaison Committee (63 Stat. 762).

APPENDIX III

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, D. C., March 27, 1953.

LEGAL OPINION RE THE POWER AND AUTHORITY OF THE SECRETARY OF DEFENSE

At your request, we have considered the scope, quality and degree of the power and authority of the Secretary of Defense with respect to all officers, organizations and agencies of the Department of Defense, including the respective Secretaries of the military departments, the Joint Chiefs of Staff and all other officials, officers and personnel of the Department as a whole and of all constituent parts thereof.

NATIONAL SECURITY ACT OF 1917

47

We have examined all pertinent statutes, the legislative hearings, debates and reports leading up to the enactment of the National Security Act and to the subsequent amendments thereof, basic documents in the delineation of responsibilities within the Department, such as the Key West and Newport papers, numerous studies, opinions, reports and commentaries on the subject matter and various views on the operation of the Department by individuals familiar therewith, including the letter to the President by Secretary Lovett of November 18, 1952.

CONCLUSION

In our opinion, the Secretary of Defense now has by statute full and complete authority, subject only to the President and certain specific restrictions subsequently herein listed, over the Department of Defense, all its agencies, subdivisions, and personnel. To make this statement perfectly plain, there are no separately administered preserves in the Department of Defense. The Secretaries of the military departments, the Joint Chiefs of Staff, all officers and agencies and all other personnel of the Department are "under" the Secretary of Defense. Congress has delegated to the Secretary of Defense not only all the authority and power normally given the head of an executive department, but Congress has, in addition, expressly given the Secretary of Defense even greater power when it made the Secretary of Defense "the principal Assistant to the President in all matters relating to the Department of Defense."

To repeat, subject to the President and certain express prohibitions against specifically described actions on the part of the Secretary as contained in the National Security Act, as amended, the power and authority of the Secretary of Defense is complete and supreme. It blankets all agencies and all organizations within the Department; it is superior to the power of all other officers thereof; it extends to all affairs and all activities of the Department; and all other authorities and responsibilities must be exercised in consonance therewith.

DISCUSSION

It is always possible for individuals who do not agree with the purposes and intent of a statute to engage in semantic sophistry and to try to squeeze unintended meanings out of words. Many have done so in connection with the power and authority of the Secretary of Defense. Statutory interpretation is not an esoteric pursuit reserve for word-splitters. It is not a game of words. It involves nothing more than a straightforward and direct effort to ascertain the intent of the lawmakers. With respect to the National Security Act, the congressional intent is clear and unmistakable. Nothing more is necessary.

Since this congressional intent is clear, word splitting should be stopped. It is most difficult, perhaps impossible, to write laws so as to preclude the possibility of some individual bent upon intellectual gymnastics from raising some semantic argument. The courts have repeatedly disregarded that approach and sought the statutory intent.

The National Security Act clearly establishes and determines that the power of the Secretary of Defense is of the highest order of magnitude in the Department of Defense. The law does this in such manner

and with such finality as to eliminate any reasonable doubt. The statute accomplishes this in three ways.

First, the law designates the Secretary of Defense as the "head of an executive department of the Government." This phrase "head of an executive department of the Government" was not a chance expression. It is a phrase of "legal art." Since July 28, 1789, this terminology has always been used by Congress in the statutes defining the responsibility and authority of the chief officer of each executive department. The phrase "head of an executive department of the Government" describes the highest order of authority and responsibility in an executive department. In the vernacular, this phrase means "boss." For instance, the complete authority of the Attorney General of the United States over the Department of Justice depends on this phrase alone.

The phrase "head of the department" carries with it in tradition and in law certain well-recognized connotations. By custom and by usage the "head of the executive department" is a member of the Cabinet of the President, and as such, is the officer of the department most closely associated with the source of supreme power. In law, the "head of the executive department," is the one, among all officers in the entire establishment, who may prescribe regulations for the governance of the whole department. The basic statute of 1789 provides that the "head of the department" (and this refers to all departments) has the power to: "prescribe regulations for the government of the department, the conduct of its officers and clerks, the distribution and performance of its business, and the custody, use and preservation of the records, papers, and property appertaining to it."

Such regulations, when not contrary to a specific prohibition of law, of themselves have the force and effect of law. Therefore, the regulations of the head of the department legally bind under oath all officers and employees of the department of whatsoever authority, rank, or station. This right to govern the department appertains to no other officer save the one designated as the "head." In the Department of Defense only the Secretary of Defense by law is "the head thereof" and has the general right to govern the Department of Defense.

Second, the National Security Act, as amended, specifically states that the Secretary of Defense shall have "direction, authority and control over the Department of Defense." Originally, the statute contained the word "general" in front of these three words of command. In the period 1917-19, this word "general" was seized upon by some to argue that the drafters of the statute had intended to limit the authority of the Secretary of Defense. Such argument was obviously without substance, but to make their intent doubly clear, Congress in 1949 struck out the word "general." The words "direction, authority and control" are clear enough by themselves, but to make doubt impossible, Chairman Vinson, of the House Armed Services Committee, stated in the congressional debates as follows:

"This sentence giving the Secretary direction, authority and control is the heart of this legislation. * * * In order that there can be no doubt as to what direction, authority and control mean, I want to give you their meaning.

"Direction means the act of governing, management, superintends.

"Authority means legal power; a right to command; the right and

power of a public officer to require obedience to his order lawfully issued in the scope of his public duties.

"Control means power or authority to manage, to direct, superintend, regulate, direct, govern, administer, or oversee.

"So under this law the Secretary of Defense is to have clear-cut authority to run the Department of Defense."

After such legislative history, can anyone honestly doubt the congressional intent? If the Secretary of Defense has the power to "govern, manage and superintend"; if he has the "legal power to command and to require obedience to his lawful commands"; if he has the power to "regulate, to administer, and to oversee"; and if this power is specifically by its terms extended throughout the Department of Defense, as it is, then, the Secretary of Defense has supreme authority in the Department of Defense and his power is of the highest order of magnitude therein.

Third, Congress in the National Security Act made the Secretary of Defense "the principal assistant to the President in all matters relating to the Department of Defense." These are words of potent authority, for, the President under the Constitution is the Commander in Chief. And, the Secretary of Defense is thus made the Commander in Chief's deputy in all matters relating to the Department. The legislative history of this provision also shows beyond the possibility of challenge that Congress was well aware of the distinctive constitutional command relationships between the President and certain officers in the Department of Defense. Under this power, then, the Secretary of Defense is the highest military officer of the Department.

The fact that statutes have been passed subsequent to the 1919 amendments to the National Security Act which statutes confer specific authorities on a Secretary of a particular military department or other subordinate officer of the Department does not detract from the supreme authority of the Secretary of Defense. Once supreme authority is established it need not be repeatedly mentioned. On the contrary, it would require a most specific and emphatic statement to restrict or detract from the supreme authority conferred on the Secretary of Defense in the basic statute, the National Security Act, as amended.

Limitations on the supreme power of the Secretary of Defense are few and are specifically cataloged in the National Security Act. They are--

(1) The Secretary of Defense may not exercise his power so as to transfer, reassign, abolish, or consolidate the combatant functions of the military services. The scope and definition of what is meant by "combatant function" are carefully spelled out in the law. Congress did not intend that such scope be enlarged or diminished by reading into the statute what is not specifically there.

(2) The Secretary of Defense may not indirectly accomplish what is directly forbidden in the first paragraph by either:

- (a) Detailing or assigning personnel, or
- (b) directing the expenditure of funds.

(3) The Secretary of Defense cannot merge the three military departments or deprive the Secretaries of those departments of their legal right to administer their organizations, subject to his power and authority.

This prohibition is reinforced by the affirmative provision that "the Departments of the Army, Navy, and Air Force shall be separately administered by their respective Secretaries under the direction, authority and control of the Secretary of Defense." The argument that the words "separately administered" detract from the "direction, authority, and control" of the Secretary of Defense is without substance on its face and obviously is contrary to congressional intent. "Separately administered" simply means that the Secretary of Defense cannot exercise his supreme power so as to destroy the separate entities of the three military departments, or deny them the right to operate in the spheres assigned to them by the law, or deprive their respective Secretaries of their top administrative position over their respective departments.

(4) The Secretary of Defense cannot use his legal power to establish a single commander of all the Armed Forces; an operating military supreme command over the Armed Forces; or a supreme Armed Forces general staff. This prohibition on the exercise of the Secretary's power and authority is expressed in two places in the National Security Act. It is provided for in the preamble to the statute and in a phrase to the effect that the Secretary may not "establish a military staff."

The legislative history of the statute shows unmistakably that the prohibition "he shall not establish a military staff" was never intended by the Congress to operate as a limitation on the power of the Secretary of Defense to establish in his own office such staff units or agencies as he felt might be necessary to assist him in carrying out any responsibilities to him under law. The Secretary of Defense has full power, expressly granted in the law, to set up such units and to staff them with either civilian or military personnel as he chooses. Everyone familiar with the background and legislative history of the National Security Act knows just what Congress meant by the term "military staff." The general staff type of military control, as it existed in Germany, has been explained, defined, and attacked in Congress often enough. That form of military staff is completely different from the employment by the Secretary of assistants, either as individuals or grouped into organized units, to advise and assist him. There is no limitation upon the type of problem or subject matter which the Secretary may assign to such assistants or units. Such problems, in the Secretary's discretion, may involve engineering, standardization, weapons evaluation, program review, physical audits and inspections, or whatever else the Secretary may choose.

(5) The Secretary of Defense may not transfer, reassign, abolish, or consolidate a specific function assigned by the National Security Act or some other law to another officer or organizational segment of the Department, unless he first reports his intended action to the Armed Services Committee of the Congress. It should be noted that only a report, not prior approval, is required.

This language clearly presupposes that the Secretary of Defense, as head of the Department of Defense, has the authority to transfer, reassign, abolish, or consolidate functions within the Department, as long as the Secretary does not violate one of the above specified limitations upon his general power.

(6) The following provision of the law is not really a limitation on the power of the Secretary of Defense, namely the provision that

nothing in the statute shall be construed: "to prevent a Secretary of a military department or a member of the Joint Chiefs of Staff from presenting to the Congress, on his own initiative, after first so informing the Secretary of Defense, any recommendation relating to the Department of Defense that he may deem proper.

This provision needs no further elaboration.

The six foregoing limitations are all the specific restrictions placed upon the supreme power of the Secretary of Defense to exercise full and complete control over the Department of Defense.

There remains for discussion only one further question, Does the fact that various laws, some passed after the enactment of the National Security Act, vest specific statutory authorities in subordinate officers of the Department in any way impair the supreme authority of the Secretary of Defense?

These laws vesting specific statutory authorities in subordinate officers of the Department in no way impair the supreme authority of the Secretary over the Department. This is true irrespective of the time of passage of such laws.

General provisions of supreme authority do not have to be repeated. As each executive department of the Federal Government has its own statutory lead, its own internal administrative command structure, its separate statutory authorities, duties, and responsibilities and its individual traditions, customs, and usages, so also has the Department of Defense been cut from the same cloth. Presidential executive power flows over the separate independent departments and establishments of the Federal Government, is superior to, yet permeates the whole. So also the executive authority, direction, and control of the Secretary of Defense flows over the agencies and organizations of the Department of Defense. No one at this date in our constitutional history would seriously advance the argument that because specific laws vest particular duties and responsibilities in the heads of executive departments, therefore the President does not have and cannot exercise supreme executive power over the entire fabric. The power of the Secretary of Defense is in the same relative position.

In the study of the theory of executive power in the Government, it is quite normal and customary to find that powers of different magnitude are frequently exercised in the same area at the same time. This is true even though the power of one order of magnitude is derived from a specific law, whereas the power of the higher order of magnitude relies upon the words of general import or even upon the structure of the organization itself. There is nothing inherently strange, alien, or difficult in the concept of orders of magnitude in executive power in the Federal Government. Such orders do not mutually exclude each other nor do they operate in specific corners or tiny segments. They operate together. The higher order, however, when it is exercised in a given area, is supreme and overrides the lower order. Insofar as the power of the Secretary of Defense is concerned, there is no legal significance in the fact that various laws have been enacted from time to time vesting specific authorities in subordinate officers of the Department. The time of passage of these laws is of no importance.

SUMMARY

To summarize, we are of the opinion that the National Security Act, as amended, grants to the Secretary of Defense supreme power and authority to run the affairs of the Department of Defense and all its organizations and agencies. We believe that the power of the Secretary of Defense extends to all matters arising in the Department of whatever kind or nature; that the statute provides that the power and authority of the Secretary are superior to the authorities possessed by any other official, or member of the Department; that the Secretary's power in the Department is the superior power in respect of when or how any other individual's power was derived. The limitations on the exercise of the Secretary's power are only six and they are specifically defined. These limitations have been discussed in detail herein. We do not believe they were intended by the Congress to go beyond what we have outlined.

H. STREVE HENSEL,
Counsel for the Committee on Department of Defense Organization.
 ROGER KENT,
General Counsel.
 FRANK X. BROWN,
Assistant General Counsel (Departmental Programs).

APPENDIX IV

[PUBLIC LAW 253—80TH CONGRESS]

[CHAPTER 313—1ST SESSION]

[S. 733]

AN ACT

To promote the national security by providing for a Secretary of Defense; for a National Military Establishment; for a Department of the Army, a Department of the Navy, and a Department of the Air Force; and for the coordination of the activities of the National Military Establishment with other departments and agencies of the Government concerned with the national security.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

That this Act may be cited as the "National Security Act of 1947".

TABLE OF CONTENTS

Sec. 2. Declaration of policy.

TITLE I—COORDINATION FOR NATIONAL SECURITY

Sec. 101. National Security Council.

Sec. 102. Central Intelligence Agency.

Sec. 103. National Security Resources Board.

NATIONAL SECURITY ACT OF 1947

53

TITLE II—THE NATIONAL MILITARY ESTABLISHMENT

- Sec. 201. National Military Establishment.
- Sec. 202. Secretary of Defense.
- Sec. 203. Military Assistants to the Secretary.
- Sec. 204. Civilian personnel.
- Sec. 205. Department of the Army.
- Sec. 206. Department of the Navy.
- Sec. 207. Department of the Air Force.
- Sec. 208. United States Air Force.
- Sec. 209. Effective date of transfers.
- Sec. 210. War Council.
- Sec. 211. Joint Chiefs of Staff.
- Sec. 212. Joint staff.
- Sec. 213. Munitions Board.
- Sec. 214. Research and Development Board.

TITLE III—MISCELLANEOUS

- Sec. 301. Compensation of Secretaries.
- Sec. 302. Under Secretaries and Assistant Secretaries.
- Sec. 303. Advisory committees and personnel.
- Sec. 304. Status of transferred civilian personnel.
- Sec. 305. Saving provisions.
- Sec. 306. Transfer of funds.
- Sec. 307. Authorization for appropriations.
- Sec. 308. Definitions.
- Sec. 309. Separability.
- Sec. 310. Effective date.
- Sec. 311. Succession to the Presidency.

DECLARATION OF POLICY

Sec. 2. In enacting this legislation, it is the intent of Congress to provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security; to provide three military departments for the operation and administration of the Army, the Navy (including naval aviation and the United States Marine Corps), and the Air Force, with their assigned combat and service components; to provide for their authoritative coordination and unified direction under civilian control but not to merge them; to provide for the effective strategic direction of the armed forces and for their operation under unified control and for their integration into an efficient team of land, naval, and air forces.

TITLE I—COORDINATION FOR NATIONAL SECURITY

NATIONAL SECURITY COUNCIL

Sec. 101. (a) There is hereby established a council to be known as the National Security Council (hereinafter in this section referred to as the "Council").

The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and

the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of the President; the Secretary of State; the Secretary of Defense, appointed under section 202; the Secretary of the Army, referred to in section 205; the Secretary of the Navy; the Secretary of the Air Force, appointed under section 207; the Chairman of the National Security Resources Board, appointed under section 103; and such of the following named officers as the President may designate from time to time: The Secretaries of the executive departments, the Chairman of the Munitions Board appointed under section 213, and the Chairman of the Research and Development Board appointed under section 214; but no such additional member shall be designated until the advice and consent of the Senate has been given to his appointment to the office the holding of which authorizes his designation as a member of the Council.

(b) In addition to performing such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security, it shall, subject to the direction of the President, be the duty of the Council—

(1) to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; and

(2) to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith.

(c) The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President, and who shall receive compensation at the rate of \$10,000 a year. The executive secretary, subject to the direction of the Council, is hereby authorized, subject to the civil-service laws and the Classification Act of 1923, as amended, to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

(d) The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require.

CENTRAL INTELLIGENCE AGENCY

SEC. 102. (a) There is hereby established under the National Security Council a Central Intelligence Agency with a Director of Central Intelligence, who shall be the head thereof. The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among the commissioned officers of the armed services or from among individuals in civilian life. The Director shall receive compensation at the rate of \$14,000 a year.

(b) (1) If a commissioned officer of the armed services is appointed as Director then—

(A) in the performance of his duties as Director, he shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were a civilian in no way connected with the Department of the Army, the Department of the Navy, the Department of the Air Force, or the armed services or any component thereof; and

(B) he shall not possess or exercise any supervision, control, powers, or functions (other than such as he possesses, or is authorized or directed to exercise, as Director) with respect to the armed services or any component thereof, the Department of the Army, the Department of the Navy, or the Department of the Air Force, or any branch, bureau, unit or division thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in paragraph (1), the appointment to the office of Director of a commissioned officer of the armed services, and his acceptance of and service in such office, shall in no way affect any status, office, rank, or grade he may occupy or hold in the armed services, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. Any such commissioned officer shall, while serving in the office of Director, receive the military pay and allowances (active or retired, as the case may be) payable to a commissioned officer of his grade and length of service and shall be paid, from any funds available to defray the expenses of the Agency, annual compensation at a rate equal to the amount by which \$14,000 exceeds the amount of his annual military pay and allowances.

(c) Notwithstanding the provisions of section 6 of the Act of August 24, 1912 (37 Stat. 555), or the provisions of any other law, the Director of Central Intelligence may, in his discretion, terminate the employment of any officer or employee of the Agency whenever he shall deem such termination necessary or advisable in the interests of the United States, but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the United States Civil Service Commission.

(d) For the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security, it shall be the duty of the Agency, under the direction of the National Security Council—

(1) to advise the National Security Council in matters concerning such intelligence activities of the Government departments and agencies as relate to national security;

(2) to make recommendations to the National Security Council for the coordination of such intelligence activities of the departments and agencies of the Government as relate to the national security;

(3) to correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government, using where appropriate existing agencies and facilities: *Provided*, That the Agency shall have no police, subpoena, law enforcement powers, or inter-

nal-security functions: *Provided further*, That the departments and other agencies of the Government shall continue to collect, evaluate, correlate, and disseminate departmental intelligence: *And provided further*, That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure;

(4) to perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security Council determines can be more efficiently accomplished centrally;

(5) to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

(c) To the extent recommended by the National Security Council and approved by the President, such intelligence of the departments and agencies of the Government, except as hereinafter provided, relating to the national security shall be open to the inspection of the Director of Central Intelligence, and such intelligence as relates to the national security and is possessed by such departments and other agencies of the Government, except as hereinafter provided, shall be made available to the Director of Central Intelligence for correlation, evaluation, and dissemination: *Provided, however*, That upon the written request of the Director of Central Intelligence, the Director of the Federal Bureau of Investigation shall make available to the Director of Central Intelligence such information for correlation, evaluation, and dissemination as may be essential to the national security.

(f) Effective when the Director first appointed under subsection (a) has taken office—

(1) the National Intelligence Authority (11 Fed. Reg. 1337, 1339, February 5, 1946) shall cease to exist; and

(2) the personnel, property, and records of the Central Intelligence Group are transferred to the Central Intelligence Agency, and such Group shall cease to exist. Any unexpended balances of appropriations, allocations, or other funds available or authorized to be made available for such Group shall be available and shall be authorized to be made available in like manner for expenditure by the Agency.

NATIONAL SECURITY RESOURCES BOARD

SEC. 103. (a) There is hereby established a National Security Resources Board (hereinafter in this section referred to as the "Board") to be composed of the Chairman of the Board and such heads or representatives of the various executive departments and independent agencies as may from time to time be designated by the President to be members of the Board. The Chairman of the Board shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$14,000 a year.

(b) The Chairman of the Board, subject to the direction of the President, is authorized, subject to the civil-service laws and the Classification Act of 1923, as amended, to appoint and fix the compensation of such personnel as may be necessary to assist the Board in carrying out its functions.

(c) It shall be the function of the Board to advise the President concerning the coordination of military, industrial, and civilian mobilization, including—

(1) policies concerning industrial and civilian mobilization in order to assure the most effective mobilization and maximum utilization of the Nation's manpower in the event of war;

(2) programs for the effective use in time of war of the Nation's natural and industrial resources for military and civilian needs, for the maintenance and stabilization of the civilian economy in time of war, and for the adjustment of such economy to war needs and conditions;

(3) policies for unifying, in time of war, the activities of Federal agencies and departments engaged in or concerned with production, procurement, distribution, or transportation of military or civilian supplies, materials, and products;

(4) the relationship between potential supplies of, and potential requirements for, manpower, resources, and productive facilities in time of war;

(5) policies for establishing adequate reserves of strategic and critical material, and for the conservation of these reserves;

(6) the strategic relocation of industries, services, government, and economic activities, the continuous operation of which is essential to the Nation's security.

(d) In performing its functions, the Board shall utilize to the maximum extent the facilities and resources of the departments and agencies of the Government.

TITLE II—THE NATIONAL MILITARY ESTABLISHMENT

ESTABLISHMENT OF THE NATIONAL MILITARY ESTABLISHMENT

SEC. 201. (a) There is hereby established the National Military Establishment, and the Secretary of Defense shall be the head thereof.

(b) The National Military Establishment shall consist of the Department of the Army, the Department of the Navy, and the Department of the Air Force, together with all other agencies created under title II of this Act.

SECRETARY OF DEFENSE

SEC. 202. (a) There shall be a Secretary of Defense, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate: *Provided*, That a person who has within ten years been on active duty as a commissioned officer in a Regular component of the armed services shall not be eligible for appointment as Secretary of Defense. The Secretary of Defense shall be the principal assistant to the President in all matters relating to the national security. Under the direction of the President and subject to the provisions of this Act he shall perform the following duties:

(1) Establish general policies and programs for the National Military Establishment and for all of the departments and agencies therein;

(2) Exercise general direction, authority, and control over such departments and agencies;

(3) Take appropriate steps to eliminate unnecessary duplication or overlapping in the fields of procurement, supply, transportation, storage, health, and research;

(4) Supervise and coordinate the preparation of the budget estimates of the departments and agencies comprising the National Military Establishment; formulate and determine the budget estimates for submittal to the Bureau of the Budget; and supervise the budget programs of such departments and agencies under the applicable appropriation act:

Provided, That nothing herein contained shall prevent the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force from presenting to the President or to the Director of the Budget, after first so informing the Secretary of Defense, any report or recommendation relating to his department which he may deem necessary: *And provided further*, That the Department of the Army, the Department of the Navy, and the Department of the Air Force shall be administered as individual executive departments by their respective Secretaries and all powers and duties relating to such departments not specifically conferred upon the Secretary of Defense by this Act shall be retained by each of their respective Secretaries.

(b) The Secretary of Defense shall submit annual written reports to the President and the Congress covering expenditures, work, and accomplishments of the National Military Establishment, together with such recommendations as he shall deem appropriate.

(c) The Secretary of Defense shall cause a seal of office to be made for the National Military Establishment, of such design as the President shall approve, and judicial notice shall be taken thereof.

MILITARY ASSISTANTS TO THE SECRETARY

SEC. 203. Officers of the armed services may be detailed to duty as assistants and personal aides to the Secretary of Defense, but he shall not establish a military staff.

CIVILIAN PERSONNEL

SEC. 204. (a) The Secretary of Defense is authorized to appoint from civilian life not to exceed three special assistants to advise and assist him in the performance of his duties. Each such special assistant shall receive compensation at the rate of \$10,000 a year.

(b) The Secretary of Defense is authorized, subject to the civil-service laws and the Classification Act of 1923, as amended, to appoint and fix the compensation of such other civilian personnel as may be necessary for the performance of the functions of the National Military Establishment other than those of the Departments of the Army, Navy, and Air Force.

DEPARTMENT OF THE ARMY

SEC. 205. (a) The Department of War shall hereafter be designated the Department of the Army, and the title of the Secretary of War shall be changed to Secretary of the Army. Changes shall be made in the titles of other officers and activities of the Department of the Army as the Secretary of the Army may determine.

(b) All laws, orders, regulations, and other actions relating to the Department of War or to any officer or activity whose title is changed under this section shall, insofar as they are not inconsistent with the provisions of this Act, be deemed to relate to the Department of the Army within the National Military Establishment or to such officer or activity designated by his or its new title.

(c) The term "Department of the Army" as used in this Act shall be construed to mean the Department of the Army at the seat of government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Army.

(d) The Secretary of the Army shall cause a seal of office to be made for the Department of the Army, of such design as the President may approve, and judicial notice shall be taken thereof.

(e) In general the United States Army, within the Department of the Army, shall include land combat and service forces and such aviation and water transport as may be organic therein. It shall be organized, trained, and equipped primarily for prompt and sustained combat incident to operations on land. It shall be responsible for the preparation of land forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of peacetime components of the Army to meet the needs of war.

DEPARTMENT OF THE NAVY

SEC. 206. (a) The term "Department of the Navy" as used in this Act shall be construed to mean the Department of the Navy at the seat of government; the headquarters, United States Marine Corps; the entire operating forces of the United States Navy, including the naval aviation, and of the United States Marine Corps, including the reserve components of such forces; all field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Department of the Navy; and the United States Coast Guard when operating as a part of the Navy pursuant to law.

(b) In general the United States Navy, within the Department of the Navy, shall include naval combat and service forces and such aviation as may be organic therein. It shall be organized, trained, and equipped primarily for prompt and sustained combat incident to operations at sea. It shall be responsible for the preparation of naval forces necessary for the effective prosecution of war except as otherwise assigned, and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Navy to meet the needs of war.

All naval aviation shall be integrated with the naval service as part thereof within the Department of the Navy. Naval aviation shall consist of combat and service and training forces, and shall include land-based naval aviation, air transport essential for naval operations, all air weapons and air techniques involved in the operations and activities of the United States Navy, and the entire remainder of the aeronautical organization of the United States Navy, together with the personnel necessary therefor.

The Navy shall be generally responsible for naval reconnaissance, anti-submarine warfare, and protection of shipping.

The Navy shall develop aircraft, weapons, tactics, technique, organization and equipment of naval combat and service elements; matters of joint concern as to these functions shall be coordinated between the Army, the Air Force, and the Navy.

(c) The United States Marine Corps, within the Department of the Navy, shall include land combat and service forces and such aviation as may be organic therein. The Marine Corps shall be organized, trained, and equipped to provide fleet marine forces of combined arms, together with supporting air components, for service with the fleet in the seizure or defense of advanced naval bases and for the conduct of such land operations as may be essential to the prosecution of a naval campaign. It shall be the duty of the Marine Corps to develop, in coordination with the Army and the Air Force, those phases of amphibious operations which pertain to the tactics, technique, and equipment employed by landing forces. In addition, the Marine Corps shall provide detachments and organizations for service on armed vessels of the Navy, shall provide security detachments for the protection of naval property at naval stations and bases, and shall perform such other duties as the President may direct: *Provided*, That such additional duties shall not detract from or interfere with the operations for which the Marine Corps is primarily organized. The Marine Corps shall be responsible, in accordance with integrated joint mobilization plans, for the expansion of peacetime components of the Marine Corps to meet the needs of war.

DEPARTMENT OF THE AIR FORCE

SEC. 207. (a) Within the National Military Establishment there is hereby established an executive department to be known as the Department of the Air Force, and a Secretary of the Air Force, who shall be the head thereof. The Secretary of the Air Force shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) Section 159 of the Revised Statutes is amended to include the Department of the Air Force and the provisions of so much of title IV of the Revised Statutes as now or hereafter amended as is not inconsistent with this Act shall be applicable to the Department of the Air Force.

(c) The term "Department of the Air Force" as used in this Act shall be construed to mean the Department of the Air Force at the seat of government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Air Force.

(d) There shall be in the Department of the Air Force an Under Secretary of the Air Force and two Assistant Secretaries of the Air Force, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate.

(e) The several officers of the Department of the Air Force shall perform such functions as the Secretary of the Air Force may prescribe.

(f) So much of the functions of the Secretary of the Army and of the Department of the Army, including those of any officer of such Department, as are assigned to or under the control of the

Commanding General, Army Air Forces, or as are deemed by the Secretary of Defense to be necessary or desirable for the operations of the Department of the Air Force or the United States Air Force, shall be transferred to and vested in the Secretary of the Air Force and the Department of the Air Force: *Provided*, That the National Guard Bureau shall, in addition to the functions and duties performed by it for the Department of the Army, be charged with similar functions and duties for the Department of the Air Force, and shall be the channel of communication between the Department of the Air Force and the several States, on all matters pertaining to the Air National Guard: *And provided further*, That, in order to permit an orderly transfer, the Secretary of Defense may, during the transfer period hereinafter prescribed, direct that the Department of the Army shall continue for appropriate periods to exercise any of such functions, insofar as they relate to the Department of the Air Force, or the United States Air Force or their property and personnel. Such of the property, personnel, and records of the Department of the Army used in the exercise of functions transferred under this subsection as the Secretary of Defense shall determine shall be transferred or assigned to the Department of the Air Force.

(g) The Secretary of the Air Force shall cause a seal of office to be made for the Department of the Air Force, of such device as the President shall approve, and judicial notice shall be taken thereof.

UNITED STATES AIR FORCE

SEC. 208. (a) The United States Air Force is hereby established under the Department of the Air Force. The Army Air Forces, the Air Corps, United States Army, and the General Headquarters Air Force (Air Force Combat Command), shall be transferred to the United States Air Force.

(b) There shall be a Chief of Staff, United States Air Force, who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years from among the officers of general rank who are assigned to or commissioned in the United States Air Force. Under the direction of the Secretary of the Air Force, the Chief of Staff, United States Air Force, shall exercise command over the United States Air Force and shall be charged with the duty of carrying into execution all lawful orders and directions which may be transmitted to him. The functions of the Commanding General, General Headquarters Air Force (Air Force Combat Command), and of the Chief of the Air Corps and of the Commanding General, Army Air Forces, shall be transferred to the Chief of Staff, United States Air Force. When such transfer becomes effective, the offices of the Chief of the Air Corps, United States Army, and Assistants to the Chief of the Air Corps, United States Army, provided for by the Act of June 4, 1920, as amended (41 Stat. 768), and Commanding General, General Headquarters Air Force, provided for by section 6 of the Act of June 16, 1936 (49 Stat. 1525), shall cease to exist. While holding office as Chief of Staff, United States Air Force, the incumbent shall hold a grade and receive allowances equivalent to those prescribed by law for the Chief of Staff, United States Army.

The Chief of Staff, United States Army, the Chief of Naval Operations, and the Chief of Staff, United States Air Force, shall take rank among themselves according to their relative dates of appointment as such, and shall each take rank above all other officers on the active list of the Army, Navy, and Air Force: *Provided*, That nothing in this Act shall have the effect of changing the relative rank of the present Chief of Staff, United States Army, and the present Chief of Naval Operations.

(c) All commissioned officers, warrant officers, and enlisted men, commissioned, holding warrants, or enlisted, in the Air Corps, United States Army, or the Army Air Forces, shall be transferred in branch to the United States Air Force. All other commissioned officers, warrant officers, and enlisted men, who are commissioned, hold warrants, or are enlisted, in any component of the Army of the United States and who are under the authority or command of the Commanding General, Army Air Forces, shall be continued under the authority or command of the Chief of Staff, United States Air Force, and under the jurisdiction of the Department of the Air Force. Personnel whose status is affected by this subsection shall retain their existing commissions, warrants, or enlisted status in existing components of the armed forces unless otherwise altered or terminated in accordance with existing law; and they shall not be deemed to have been appointed to a new or different office or grade, or to have vacated their permanent or temporary appointments in an existing component of the armed forces, solely by virtue of any change in status under this subsection. No such change in status shall alter or prejudice the status of any individual so assigned, so as to deprive him of any right, benefit, or privilege to which he may be entitled under existing law.

(d) Except as otherwise directed by the Secretary of the Air Force, all property, records, installations, agencies, activities, projects, and civilian personnel under the jurisdiction, control, authority, or command of the Commanding General, Army Air Forces, shall be continued to the same extent under the jurisdiction, control, authority, or command, respectively, of the Chief of Staff, United States Air Force, in the Department of the Air Force.

(e) For a period of two years from the date of enactment of this Act, personnel (both military and civilian), property, records, installations, agencies, activities, and projects may be transferred between the Department of the Army and the Department of the Air Force by direction of the Secretary of Defense.

(f) In general the United States Air Force shall include aviation forces both combat and service not otherwise assigned. It shall be organized, trained, and equipped primarily for prompt and sustained offensive and defensive air operations. The Air Force shall be responsible for the preparation of the air forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Air Force to meet the needs of war.

EFFECTIVE DATE OF TRANSFERS

Sec. 209. Each transfer, assignment, or change in status under section 207 or section 208 shall take effect upon such date or dates as may be prescribed by the Secretary of Defense.

WAR COUNCIL

Sec. 210. There shall be within the National Military Establishment a War Council composed of the Secretary of Defense, as Chairman, who shall have power of decision; the Secretary of the Army; the Secretary of the Navy; the Secretary of the Air Force; the Chief of Staff, United States Army; the Chief of Naval Operations; and the Chief of Staff, United States Air Force. The War Council shall advise the Secretary of Defense on matters of broad policy relating to the armed forces, and shall consider and report on such other matters as the Secretary of Defense may direct.

JOINT CHIEFS OF STAFF

Sec. 211. (a) There is hereby established within the National Military Establishment the Joint Chiefs of Staff, which shall consist of the Chief of Staff, United States Army; the Chief of Naval Operations; the Chief of Staff, United States Air Force; and the Chief of Staff to the Commander in Chief, if there be one.

(b) Subject to the authority and direction of the President and the Secretary of Defense, it shall be the duty of the Joint Chiefs of Staff—

(1) to prepare strategic plans and to provide for the strategic direction of the military forces;

(2) to prepare joint logistic plans and to assign to the military services logistic responsibilities in accordance with such plans;

(3) to establish unified commands in strategic areas where such unified commands are in the interest of national security;

(4) to formulate policies for joint training of the military forces;

(5) to formulate policies for coordinating the education of members of the military forces;

(6) to review major material and personnel requirements of the military forces, in accordance with strategic and logistic plans; and

(7) to provide United States representation on the Military Staff Committee of the United Nations in accordance with the provisions of the Charter of the United Nations.

(c) The Joint Chiefs of Staff shall act as the principal military advisers to the President and the Secretary of Defense and shall perform such other duties as the President and the Secretary of Defense may direct or as may be prescribed by law.

JOINT STAFF

Sec. 212. There shall be, under the Joint Chiefs of Staff, a Joint Staff to consist of not to exceed one hundred officers and to be composed of approximately equal numbers of officers from each of the three armed services. The Joint Staff, operating under a Director thereof appointed by the Joint Chiefs of Staff, shall perform such duties as may be directed by the Joint Chiefs of Staff. The Director shall be an officer junior in grade to all members of the Joint Chiefs of Staff.

MUNITIONS BOARD

SEC. 213. (a) There is hereby established in the National Military Establishments a Munitions Board (hereinafter in this section referred to as the "Board").

(b) The Board shall be composed of a Chairman, who shall be the head thereof, and an Under Secretary or Assistant Secretary from each of the three military departments, to be designated in each case by the Secretaries of their respective departments. The Chairman shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$14,000 a year.

(c) It shall be the duty of the Board under the direction of the Secretary of Defense and in support of strategic and logistic plans prepared by the Joint Chiefs of Staff—

(1) to coordinate the appropriate activities within the National Military Establishment with regard to industrial matters, including the procurement, production, and distribution plans of the departments and agencies comprising the Establishment;

(2) to plan for the military aspects of industrial mobilization;

(3) to recommend assignment of procurement responsibilities among the several military services and to plan for standardization of specifications and for the greatest practicable allocation of purchase authority of technical equipment and common use items on the basis of single procurement;

(4) to prepare estimates of potential production, procurement, and personnel for use in evaluation of the logistic feasibility of strategic operations;

(5) to determine relative priorities of the various segments of the military procurement programs;

(6) to supervise such subordinate agencies as are or may be created to consider the subjects falling within the scope of the Board's responsibilities;

(7) to make recommendations to regroup, combine, or dissolve existing interservice agencies operating in the fields of procurement, production, and distribution in such manner as to promote efficiency and economy;

(8) to maintain liaison with other departments and agencies for the proper correlation of military requirements with the civilian economy, particularly in regard to the procurement or disposition of strategic and critical material and the maintenance of adequate reserves of such material, and to make recommendations as to policies in connection therewith;

(9) to assemble and review material and personnel requirements presented by the Joint Chiefs of Staff and those presented by the production, procurement, and distribution agencies assigned to meet military needs, and to make recommendations thereon to the Secretary of Defense; and

(10) to perform such other duties as the Secretary of Defense may direct.

(d) When the Chairman of the Board first appointed has taken office, the Joint Army and Navy Munitions Board shall cease to exist and all its records and personnel shall be transferred to the Munitions Board.

NATIONAL SECURITY ACT OF 1947

65

(c) The Secretary of Defense shall provide the Board with such personnel and facilities as the Secretary may determine to be required by the Board for the performance of its functions.

RESEARCH AND DEVELOPMENT BOARD

SEC. 214. (a) There is hereby established in the National Military Establishment a Research and Development Board (hereinafter in this section referred to as the "Board"). The Board shall be composed of a Chairman, who shall be the head thereof, and two representatives from each of the Departments of the Army, Navy, and Air Force, to be designated by the Secretaries of their respective Departments. The Chairman shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$14,000 a year. The purpose of the Board shall be to advise the Secretary of Defense as to the status of scientific research relative to the national security, and to assist him in assuring adequate provision for research and development on scientific problems relating to the national security.

(b) It shall be the duty of the Board, under the direction of the Secretary of Defense—

(1) to prepare a complete and integrated program of research and development for military purposes;

(2) to advise with regard to trends in scientific research relating to national security and the measures necessary to assure continued and increasing progress;

(3) to recommend measures of coordination of research and development among the military departments, and allocation among them of responsibilities for specific programs of joint interest;

(4) to formulate policy for the National Military Establishment in connection with research and development matters involving agencies outside the National Military Establishment;

(5) to consider the interaction of research and development and strategy and to advise the Joint Chiefs of Staff in connection therewith; and

(6) to perform such other duties as the Secretary of Defense may direct.

(c) When the Chairman of the Board first appointed has taken office, the Joint Research and Development Board shall cease to exist and all its records and personnel shall be transferred to the Research and Development Board.

(d) The Secretary of Defense shall provide the Board with such personnel and facilities as the Secretary may determine to be required by the Board for the performance of its functions.

TITLE III—MISCELLANEOUS

COMPENSATION OF SECRETARIES

SEC. 301. (a) The Secretary of Defense shall receive the compensation prescribed by law for heads of executive departments.

(b) The Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force shall each receive the compensation prescribed by law for heads of executive departments.

UNDER SECRETARIES AND ASSISTANT SECRETARIES

Sec. 302. The Under Secretaries and Assistant Secretaries of the Army, the Navy, and the Air Force shall each receive compensation at the rate of \$10,000 a year and shall perform such duties as the Secretaries of their respective departments may prescribe.

ADVISORY COMMITTEES AND PERSONNEL

Sec. 303. (a) The Secretary of Defense, the Chairman of the National Security Resources Board, and the Director of Central Intelligence are authorized to appoint such advisory committees and to employ, consistent with other provisions of this Act, such part-time advisory personnel as they may deem necessary in carrying out their respective functions and the functions of agencies under their control. Persons holding other offices or positions under the United States for which they receive compensation while serving as members of such committees shall receive no additional compensation for such service. Other members of such committees, and other part-time advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed \$35 for each day of service, as determined by the appointing authority.

(b) Service of an individual as a member of any such advisory committee, or in any other part-time capacity for a department or agency hereunder, shall not be considered as service bringing such individual within the provisions of section 109 or 113 of the Criminal Code (U. S. C., 1940 edition, title 18, secs. 198 and 203), or section 10 (c) of the Contract Settlement Act of 1944, unless the act of such individual, which by such section is made unlawful when performed by an individual referred to in such section, is with respect to any particular matter which directly involves a department or agency which such person is advising or in which such department or agency is directly interested.

STATUS OF TRANSFERRED CIVILIAN PERSONNEL

Sec. 304. All transfers of civilian personnel under this Act shall be without change in classification or compensation, but the head of any department or agency to which such a transfer is made is authorized to make such changes in the titles and designations and prescribe such changes in the duties of such personnel commensurate with their classification as he may deem necessary and appropriate.

SAVING PROVISIONS

Sec. 305. (a) All laws, orders, regulations, and other actions applicable with respect to any function, activity, personnel, property, records, or other things transferred under this Act, or with respect to any officer, department, or agency, from which such transfer is made, shall, except to the extent rescinded, modified, superseded, terminated, or made inapplicable by or under authority of law, have the same effect as if such transfer had not been made; but, after any such transfer, any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or agency from

which such transfer was made shall, insofar as applicable with respect to the function, activity, personnel, property, records or other thing transferred and to the extent not inconsistent with other provisions of this Act, be deemed to have vested such function in or relate to the officer, department, or agency to which the transfer was made.

(b) No suit, action, or other proceeding lawfully commenced by or against the head of any department or agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, shall abate by reason of the taking effect of any transfer or change in title under the provisions of this Act; and, in the case of any such transfer, such suit, action, or other proceeding may be maintained by or against the successor of such head or other officer under the transfer, but only if the court shall allow the same to be maintained on motion or supplemental petition filed within twelve months after such transfer takes effect, showing a necessity for the survival of such suit, action, or other proceeding to obtain settlement of the questions involved.

(c) Notwithstanding the provisions of the second paragraph of section 5 of title I of the First War Powers Act, 1914, the existing organization of the War Department under the provisions of Executive Order Numbered 9082 of February 23, 1942, as modified by Executive Order Numbered 9722 of May 13, 1946, and the existing organization of the Department of the Navy under the provisions of Executive Order Numbered 9635 of September 29, 1945, including the assignment of functions to organizational units within the War and Navy Departments, may, to the extent determined by the Secretary of Defense, continue in force for two years following the date of enactment of this Act except to the extent modified by the provisions of this Act or under the authority of law.

TRANSFER OF FUNDS

SEC. 306. All unexpended balances of appropriations, allocations, nonappropriated funds, or other funds available or hereafter made available for use by or on behalf of the Army Air Forces or officers thereof, shall be transferred to the Department of the Air Force for use in connection with the exercise of its functions. Such other unexpended balances of appropriations, allocations, nonappropriated funds, or other funds available or hereafter made available for use by the Department of War or the Department of the Army in exercise of functions transferred to the Department of the Air Force under this Act, as the Secretary of Defense shall determine, shall be transferred to the Department of the Air Force for use in connection with the exercise of its functions. Unexpended balances transferred under this section may be used for the purposes for which the appropriations, allocations, or other funds were originally made available, or for new expenditures occasioned by the enactment of this Act. The transfers herein authorized may be made with or without warrant action as may be appropriate from time to time from any appropriation covered by this section to any other such appropriation or to such new accounts established on the books of the Treasury as may be determined to be necessary to carry into effect provisions of this Act.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 307. There are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act.

DEFINITIONS

SEC. 303. (a) As used in this Act, the term "function" includes functions, powers, and duties.

(b) As used in this Act, the term "budget program" refers to recommendations as to the apportionment, to the allocation and to the review of allotments of appropriated funds.

SEPARABILITY

SEC. 309. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 310. (a) The first sentence of section 202 (a) and sections 1, 2, 307, 308, 309, and 310 shall take effect immediately upon the enactment of this Act.

(b) Except as provided in subsection (a), the provisions of this Act shall take effect on whichever of the following days is the earlier: The day after the day upon which the Secretary of Defense first appointed takes office, or the sixtieth day after the date of the enactment of this Act.

SUCCESSION TO THE PRESIDENCY

SEC. 311. Paragraph (1) of subsection (d) of section 1 of the Act entitled "An Act to provide for the performance of the duties of the office of President in case of the removal, resignation, death, or inability both of the President and Vice President", approved July 18, 1947, is amended by striking out "Secretary of War" and inserting in lieu thereof "Secretary of Defense", and by striking out "Secretary of the Navy".

Approved July 26, 1947.

APPENDIX V

[PUBLIC LAW 216—81ST CONGRESS]

[CHAPTER 412—1ST SESSION]

[H. R. 5032]

AN ACT

To reorganize fiscal management in the National Military Establishment to promote economy and efficiency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Security Act Amendments of 1949".

SEC. 2. Section 2 of the National Security Act of 1947 is amended to read as follows:

"Sec. 2. In enacting this legislation, it is the intent of Congress to provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the department, agencies, and functions of the Government relating to the national security; to provide three military departments, separately administered, for the operation and administration of the Army, the Navy (including naval aviation and the United States Marine Corps), and the Air Force, with their assigned combat and service components; to provide for their authoritative coordination and unified direction under civilian control of the Secretary of Defense but not to merge them; to provide for the effective strategic direction of the armed forces and for their operation under unified control and for their integration into an efficient team of land, naval, and air forces but not to establish a single Chief of Staff over the armed forces nor an armed forces general staff (but this is not to be interpreted as applying to the Joint Chiefs of Staff or Joint Staff)."

CHANGE IN COMPOSITION OF THE NATIONAL SECURITY COUNCIL

SEC. 3. The fourth paragraph of section 101 (a) of the National Security Act of 1947 is amended to read as follows:

"The Council shall be composed of—

"(1) the President;

"(2) the Vice President;

"(3) the Secretary of State;

"(4) the Secretary of Defense;

"(5) the Chairman of the National Security Resources Board;

and

"(6) The Secretaries and Under Secretaries of other executive departments and of the military departments, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure."

CONVERSION OF THE NATIONAL MILITARY ESTABLISHMENT INTO AN
EXECUTIVE DEPARTMENT

SEC. 4. Section 201 of the National Security Act of 1947 is amended to read as follows:

"Sec. 201. (a) There is hereby established, as an Executive Department of the Government, the Department of Defense, and the Secretary of Defense shall be the head thereof.

"(b) There shall be within the Department of Defense (1) the Department of the Army, the Department of the Navy, and the Department of the Air Force, and each such department shall on and after the date of enactment of the National Security Act Amendments of 1949 be military departments in lieu of their prior status as Executive Departments, and (2) all other agencies created under title II of this Act.

"(c) Section 158 of the Revised Statutes, as amended, is amended to read as follows:

"Sec. 158. The provisions of this title shall apply to the following Executive Departments:

"First. The Department of State.

"Second. The Department of Defense.

"Third. The Department of the Treasury.

"Fourth. The Department of Justice.

"Fifth. The Post Office Department.

"Sixth. The Department of the Interior.

"Seventh. The Department of Agriculture.

"Eighth. The Department of Commerce.

"Ninth. The Department of Labor."

"(d) Except to the extent inconsistent with the provisions of this Act, the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense."

THE SECRETARY OF DEFENSE

SEC. 5. Section 202 of the National Security Act of 1947, as amended, is further amended to read as follows:

"Sec. 202. (a) There shall be a Secretary of Defense, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate: *Provided*, That a person who has within ten years been on active duty as a commissioned officer in a Regular component of the armed services shall not be eligible for appointment as Secretary of Defense.

"(b) The Secretary of Defense shall be the principal assistant to the President in all matters relating to the Department of Defense. Under the direction of the President, and subject to the provisions of this Act, he shall have direction, authority, and control over the Department of Defense.

"(c) (1) Notwithstanding any other provision of this Act, the combatant functions assigned to the military services by sections 205 (c), 206 (b), 203 (c), and 208 (f) hereof shall not be transferred, resigned, abolished, or consolidated.

"(2) Military personnel shall not be so detailed or assigned as to impair such combatant functions.

"(3) The Secretary of Defense shall not direct the use and expenditure of funds of the Department of Defense in such manner as to effect the results prohibited by paragraphs (1) and (2) of this subsection.

"(4) The Departments of the Army, Navy, and Air Force shall be separately administered by their respective Secretaries under the direction, authority, and control of the Secretary of Defense.

"(5) Subject to the provisions of paragraph (1) of this subsection no function which has been or is hereafter authorized by law to be performed by the Department of Defense shall be substantially transferred, reassigned, abolished or consolidated until after a report in regard to all pertinent details shall have been made by the Secretary of Defense to the Committees on Armed Services of the Congress.

"(6) No provision of this Act shall be so construed as to prevent a Secretary of a military department or a member of the Joint Chiefs of Staff from presenting to the Congress, on his own initiative, after first so informing the Secretary of Defense, any recommendation relating to the Department of Defense that he may deem proper.

"(d) The Secretary of Defense shall not less often than semi-annually submit written reports to the President and the Congress covering expenditures, work and accomplishments of the Department of Defense, accompanied by (1) such recommendations as he shall deem appropriate, (2) separate reports from the military departments covering their expenditures, work and accomplishments, and (3) itemized statements showing the savings of public funds and the eliminations of unnecessary duplications and overlappings that have been accomplished pursuant to the provisions of this Act.

"(e) The Secretary of Defense shall cause a seal of office to be made for the Department of Defense, of such design as the President shall approve, and judicial notice shall be taken thereof.

"(f) The Secretary of Defense may, without being relieved of his responsibility therefor, and unless prohibited by some specific provision of this Act or other specific provision of law, perform any function vested in him through or with the aid of such officials or organizational entities of the Department of Defense as he may designate."

DEPUTY SECRETARY OF DEFENSE; ASSISTANT SECRETARIES OF DEFENSE;
MILITARY ASSISTANTS; AND CIVILIAN PERSONNEL

SEC. 6. (a) Section 203 of the National Security Act of 1947 is amended to read as follows:

"SEC. 203. (a) There shall be a Deputy Secretary of Defense, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate: *Provided*, That a person who has within ten years been on active duty as a commissioned officer in a Regular component of the armed services shall not be eligible for appointment as Deputy Secretary of Defense. The Deputy Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe and shall take precedence in the Department of Defense next after the Secretary of Defense. The Deputy Secretary shall act for, and exercise the powers of, the Secretary of Defense during his absence or disability.

"(b) There shall be three Assistant Secretaries of Defense, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. The Assistant Secretaries shall

perform such duties and exercise such powers as the Secretary of Defense may prescribe and shall take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force.

"(c) Officers of the armed services may be detailed to duty as assistants and personal aides to the Secretary of Defense, but he shall not establish a military staff other than that provided for by section 211 (a) of this Act."

(b) Section 204 of the National Security Act of 1947 is amended to read as follows:

"Sec. 204. The Secretary of Defense is authorized, subject to the civil-service laws and the Classification Act of 1923, as amended, to appoint and fix the compensation of such civilian personnel as may be necessary for the performance of the functions of the Department of Defense other than those of the Departments of the Army, Navy, and Air Force."

CREATING THE POSITION OF CHAIRMAN OF THE JOINT CHIEFS OF STAFF
AND PRESCRIBING HIS POWERS AND DUTIES

SEC. 7. (a) Section 210 of the National Security Act of 1947 is amended to read as follows:

"SEC. 210. There shall be within the Department of Defense an Armed Forces Policy Council composed of the Secretary of Defense, as Chairman, who shall have power of decision; the Deputy Secretary of Defense; the Secretary of the Army; the Secretary of the Navy; the Secretary of the Air Force; the Chairman of the Joint Chiefs of Staff; the Chief of Staff, United States Army; the Chief of Naval Operations; and the Chief of Staff, United States Air Force. The Armed Forces Policy Council shall advise the Secretary of Defense on matters of broad policy relating to the armed forces and shall consider and report on such other matters as the Secretary of Defense may direct."

(b) Section 211 of the National Security Act of 1947 is amended to read as follows:

"SEC. 211. (a) There is hereby established within the Department of Defense the Joint Chiefs of Staff, which shall consist of the Chairman, who shall be the presiding officer thereof but who shall have no vote; the Chief of Staff, United States Army, the Chief of Naval Operations; and the Chief of Staff, United States Air Force. The Joint Chiefs of Staff shall be the principal military advisers to the President, the National Security Council, and the Secretary of Defense.

"(b) Subject to the authority and direction of the President and the Secretary of Defense, the Joint Chiefs of Staff shall perform the following duties, in addition to such other duties as the President or the Secretary of Defense may direct:

"(1) preparation of strategic plans and provision for the strategic direction of the military forces;

"(2) preparation of joint logistic plans and assignment to the military services of logistic responsibilities in accordance with such plans;

- "(3) establishment of unified commands in strategic areas;
- "(4) review of major material and personnel requirements of the military forces in accordance with strategic and logistic plans;
- "(5) formulation of policies for joint training of the military forces;
- "(6) formulation of policies for coordinating the military education of members of the military forces; and
- "(7) providing United States representation on the Military Staff Committee of the United Nations in accordance with the provisions of the Charter of the United Nations.

"(c) The Chairman of the Joint Chiefs of Staff (hereinafter referred to as the 'Chairman') shall be appointed by the President, by and with the advice and consent of the Senate, from among the Regular officers of the armed services to serve at the pleasure of the President for a term of two years and shall be eligible for one reappointment, by and with the advice and consent of the Senate, except in time of war hereafter declared by the Congress when there shall be no limitation on the number of such reappointments. The Chairman shall receive the basic pay and basic and personal money allowances prescribed by law for the Chief of Staff, United States Army, and such special pays and hazardous duty pays to which he may be entitled under other provisions of law.

"(d) The Chairman, if in the grade of general, shall be additional to the number of officers in the grade of general provided in the third proviso of section 504 (b) of the Officer Personnel Act of 1947 (Public Law 381, Eightieth Congress) or, if in the rank of admiral, shall be additional to the number of officers having the rank of admiral provided in section 413 (a) of such Act. While holding such office he shall take precedence over all other officers of the armed services: *Provided*, That the Chairman shall not exercise military command over the Joint Chiefs of Staff or over any of the military services.

"(e) In addition to participating as a member of the Joint Chiefs of Staff in the performance of the duties assigned in sub-section (b) of this section, the Chairman shall, subject to the authority and direction of the President and the Secretary of Defense, perform the following duties:

- "(1) serve as the presiding officer of the Joint Chiefs of Staff;
- "(2) provide agenda for meetings of the Joint Chiefs of Staff and assist the Joint Chiefs of Staff to prosecute their business as promptly as practicable; and
- "(3) inform the Secretary of Defense and, when appropriate as determined by the President or the Secretary of Defense, the President, of those issues upon which agreement among the Joint Chiefs of Staff has not been reached."

"(c) Section 212 of the National Security Act of 1947 is amended to read as follows:

"Sec. 212. There shall be, under the Joint Chiefs of Staff, a Joint Staff to consist of not to exceed two hundred and ten officers and to be composed of approximately equal numbers of officers appointed by the Joint Chiefs of Staff from each of the three armed services. The Joint Staff, operating under a Director thereof appointed by the Joint Chiefs of Staff, shall perform such duties as may be directed by the Joint Chiefs of Staff. The Director shall be an officer junior in grade to all members of the Joint Chiefs of Staff."

CHANGING THE RELATIONSHIP OF THE SECRETARY OF DEFENSE TO THE MUNITIONS BOARD

Sec. 8. Section 213 of the National Security Act of 1947 is amended to read as follows:

"Sec. 213. (a) There is hereby established in the Department of Defense a Munitions Board (hereinafter in this section referred to as the 'Board').

"(b) The Board shall be composed of a Chairman, who shall be the head thereof and who shall, subject to the authority of the Secretary of Defense and in respect to such matters authorized by him, have the power of decision upon matters falling within the jurisdiction of the Board, and an Under Secretary or Assistant Secretary from each of the three military departments, to be designated in each case by the Secretaries of their respective departments. The Chairman shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$14,000 a year.

"(c) Subject to the authority and direction of the Secretary of Defense, the Board shall perform the following duties in support of strategic and logistic plans and in consonance with guidance in those fields provided by the Joint Chiefs of Staff, and such other duties as the Secretary of Defense may prescribe:

"(1) coordination of the appropriate activities with regard to industrial matters, including the procurement, production, and distribution plans of the Department of Defense;

"(2) planning for the military aspects of industrial mobilization;

"(3) assignment of procurement responsibilities among the several military departments and planning for standardization of specifications and for the greatest practicable allocation of purchase authority of technical equipment and common use items on the basis of single procurement;

"(4) preparation of estimates of potential production, procurement, and personnel for use in evaluation of the logistic feasibility of strategic operations;

"(5) determination of relative priorities of the various segments of the military procurement programs;

"(6) supervision of such subordinate agencies as are or may be created to consider the subjects falling within the scope of the Board's responsibilities;

"(7) regrouping, combining, or dissolving of existing inter-service agencies operating in the fields of procurement, production, and distribution in such manner as to promote efficiency and economy;

"(8) maintenance of liaison with other departments and agencies for the proper correlation of military requirements with the civilian economy, particularly in regard to the procurement or disposition of strategic and critical material and the maintenance of adequate reserves of such material, and making of recommendations as to policies in connection therewith; and

"(9) assembly and review of material and personnel requirements presented by the Joint Chiefs of Staff and by the production, procurement, and distribution agencies assigned to meet

military needs, and making of recommendations thereon to the Secretary of Defense.

"(d) When the Chairman of the Board first appointed has taken office, the Joint Army and Navy Munitions Board shall cease to exist and all its records and personnel shall be transferred to the Munitions Board.

"(e) The Secretary of Defense shall provide the Board with such personnel and facilities as the Secretary may determine to be required by the Board for the performance of its functions."

CHANGING THE RELATIONSHIP OF THE SECRETARY OF DEFENSE TO THE RESEARCH AND DEVELOPMENT BOARD

SEC. 9. Section 214 of the National Security Act of 1947 is amended to read as follows:

"SEC. 214. (a) There is hereby established in the Department of Defense a Research and Development Board (hereinafter in this section referred to as the 'Board'). The Board shall be composed of a Chairman, who shall be the head thereof and who shall, subject to the authority of the Secretary of Defense and in respect to such matters authorized by him, have the power of decision on matters falling within the jurisdiction of the Board, and two representatives from each of the Departments of the Army, Navy, and Air Force, to be designated by the Secretaries of their respective Departments. The Chairman shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$14,000 a year. The purpose of the Board shall be to advise the Secretary of Defense as to the status of scientific research relative to the national security, and to assist him in assuring adequate provision for research and development on scientific problems relating to the national security.

"(b) Subject to the authority and direction of the Secretary of Defense, the Board shall perform the following duties and such other duties as the Secretary of Defense may prescribe:

"(1) preparation of a complete and integrated program of research and development for military purposes;

"(2) advising with regard to trends in scientific research relating to national security and the measures necessary to assure continued and increasing progress;

"(3) coordination of research and development among the military departments, and allocation among them of responsibilities for specific programs;

"(4) formulation of policy for the Department of Defense in connection with research and development matters involving agencies outside the Department of Defense; and

"(5) consideration of the interaction of research and development and strategy, and advising the Joint Chiefs of Staff in connection therewith.

"(c) When the Chairman of the Board first appointed has taken office, the Joint Research and Development Board shall cease to exist, and all its records and personnel shall be transferred to the Research and Development Board.

"(d) The Secretary of Defense shall provide the Board with such personnel and facilities as the Secretary may determine to be required by the Board for the performance of its functions."

COMPENSATION OF SECRETARY OF DEFENSE, DEPUTY SECRETARY OF DEFENSE, SECRETARIES OF MILITARY DEPARTMENTS, AND CONSULTANTS

SEC. 10. (a) Section 301 of the National Security Act of 1947 is amended to read as follows:

"Sec. 301. (a) The Secretary of Defense shall receive the compensation prescribed by law for heads of executive departments.

"(b) The Deputy Secretary of Defense shall receive compensation at the rate of \$14,500 a year, or such other compensation plus \$500 a year as may hereafter be provided by law for under secretaries of executive departments. The Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force shall each receive compensation at the rate of \$14,000 a year, or such other compensation as may hereafter be provided by law for under secretaries of executive departments."

(b) Section 302 of the National Security Act of 1947 is amended to read as follows:

"Sec. 302. The Assistant Secretaries of Defense and the Under Secretaries and Assistant Secretaries of the Army, the Navy, and the Air Force shall each receive compensation at the rate of \$10,330 a year or at the rate hereafter prescribed by law for assistant secretaries of executive departments and shall perform such duties as the respective Secretaries may prescribe."

(c) Section 303 (a) of the National Security Act of 1947 is amended to read as follows:

"(a) The Secretary of Defense, the Chairman of the National Security Resources Board, the Director of Central Intelligence, and the National Security Council, acting through its Executive Secretary, are authorized to appoint such advisory committees and to employ, consistent with other provisions of this Act, such part-time advisory personnel as they may deem necessary in carrying out their respective functions and the functions of agencies under their control. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Other members of such committees and other part-time advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed \$50 for each day of service, as determined by the appointing authority."

NATIONAL SECURITY ACT OF 1917

77

REORGANIZATION OF FISCAL MANAGEMENT TO PROMOTE ECONOMY AND EFFICIENCY

SEC. 11. The National Security Act of 1917 is amended by inserting at the end thereof the following new title:

"TITLE IV

"PROMOTION OF ECONOMY AND EFFICIENCY THROUGH ESTABLISHMENT OF UNIFORM BUDGETARY AND FISCAL PROCEDURES AND ORGANIZATIONS

"COMPTROLLER OF DEPARTMENT OF DEFENSE

"SEC. 401. (a) There is hereby established in the Department of Defense the Comptroller of the Department of Defense, who shall be one of the Assistant Secretaries of Defense.

"(b) The Comptroller shall advise and assist the Secretary of Defense in performing such budgetary and fiscal functions as may be required to carry out the powers conferred upon the Secretary of Defense by this Act, including but not limited to those specified in this subsection. Subject to the authority, direction, and control of the Secretary of Defense, the Comptroller shall—

"(1) supervise and direct the preparation of the budget estimates of the Department of Defense; and

"(2) establish, and supervise the execution of—

"(A) principles, policies, and procedures to be followed in connection with organizational and administrative matters relating to—

"(i) the preparation and execution of the budgets,

"(ii) fiscal, cost, operating, and capital property accounting,

"(iii) progress and statistical reporting,

"(iv) internal audit, and

"(B) policies and procedures relating to the expenditure and collection of funds administered by the Department of Defense; and

"(3) establish uniform terminologies, classifications, and procedures in all such matters.

"MILITARY DEPARTMENT BUDGET AND FISCAL ORGANIZATION—
DEPARTMENTAL COMPTROLLERS

"SEC. 402. (a) The Secretary of each military department, subject to the authority, direction, and control of the Secretary of Defense, shall cause budgeting, accounting, progress and statistical reporting, internal audit and administrative organization structure and managerial procedures relating thereto in the department of which he is the head to be organized and conducted in a manner consistent with the operations of the Office of the Comptroller of the Department of Defense.

"(b) There is hereby established in each of the three military departments a Comptroller of the Army, a Comptroller of the Navy, or a Comptroller of the Air Force, as appropriate in the department.

concerned. There shall, in each military department, also be a Deputy Comptroller. Subject to the authority of the respective departmental Secretaries, the comptrollers of the military departments shall be responsible for all budgeting, accounting, progress and statistical reporting, and internal audit in their respective departments and for the administrative organization structure and managerial procedures relating thereto. The Secretaries of the military departments may in their discretion appoint either civilian or military personnel as comptrollers of the military departments. Departmental comptrollers shall be under the direction and supervision of, and directly responsible to, either the Secretary, the Under Secretary, or an Assistant Secretary of the respective military departments: *Provided*, That nothing herein shall preclude the comptroller from having concurrent responsibility to a Chief of Staff or a Chief of Naval Operations, a Vice Chief of Staff or a Vice Chief of Naval Operations, or a Deputy Chief of Staff or a Deputy Chief of Naval Operations, if the Secretary of the military department concerned should so prescribe. Where the departmental comptroller is not a civilian, the Secretary of the department concerned shall appoint a civilian as Deputy Comptroller.

"PERFORMANCE BUDGET

"SEC. 403. (a) The budget estimates of the Department of Defense shall be prepared, presented, and justified, where practicable, and authorized programs shall be administered, in such form and manner as the Secretary of Defense, subject to the authority and direction of the President, may determine, so as to account for, and report, the cost of performance of readily identifiable functional programs and activities, with segregation of operating and capital programs. So far as practicable, the budget estimates and authorized programs of the military departments shall be set forth in readily comparable form and shall follow a uniform pattern.

"(b) In order to expedite the conversion from present budget and accounting methods to the cost-of-performance method prescribed in this title, the Secretary of each military department, with the approval of the President and the Secretary of Defense, is authorized and directed, until the end of the second year following the date of enactment of this Act, to make such transfers and adjustments within the military department of which he is the head between appropriations available for obligation by such department in such manner as he deems necessary to cause the obligation and administration of funds and the reports of expenditures to reflect the cost of performance of such programs and activities. Reports of transfers and adjustments made pursuant to the authority of this subsection shall be made currently by the Secretary of Defense to the President and the Congress.

"OBLIGATION OF APPROPRIATIONS

"SEC. 404. In order to prevent overdrafts and deficiencies in any fiscal year for which appropriations are made, on and after the beginning of the next fiscal year following the date of enactment of this Act appropriations made to the Department of Defense or to the military departments, and reimbursements thereto, shall be available for obligation and expenditure only after the Secretary of Defense shall

NATIONAL SECURITY ACT OF 1947

70

approve scheduled rates of obligation, or modifications thereof: *Provided*, That nothing in this section shall affect the right of the Department of Defense to incur such deficiencies as may be now or hereafter authorized by law to be incurred.

"WORKING-CAPITAL FUNDS

"Sec. 405. (a) In order more effectively to control and account for the cost of programs and work performed in the Department of Defense, the Secretary of Defense is authorized to require the establishment of working-capital funds in the Department of Defense for the purpose of—

"(1) financing inventories of such stores, supplies, materials, and equipment as he may designate; and

"(2) providing working capital for such industrial-type activities, and for such commercial-type activities as provide common services within or among the departments and agencies of the Department of Defense, as he may designate.

"(b) The Secretary of the Treasury is authorized and directed to establish on the books of the Treasury Department at the request of the Secretary of Defense the working-capital funds established pursuant to the authority of this section.

"(c) Such funds shall be—

"(1) charged, when appropriate, with the cost of stores, supplies, materials, and equipment procured or otherwise acquired, manufactured, repaired, issued, and consumed and of services rendered or work performed, including applicable administrative expenses; and

"(2) reimbursed from available appropriations or otherwise credited for the cost of stores, supplies, materials, or equipment furnished and of services rendered or work performed, including applicable administrative expenses.

Reports of the condition and operations of such funds shall be made annually to the President and to the Congress.

"(d) The Secretary of Defense is authorized to provide capital for such working-capital funds by capitalizing inventories on hand and, with the approval of the President, by transfer, until December 31, 1954, from unexpended balances of any appropriations of the military departments not carried to the surplus fund of the Treasury: *Provided*, That no deficiency shall be incurred in any such appropriation as a result of any such transfer. To the extent that such methods do not, in the determination of the Secretary of Defense, provide adequate amounts of working capital, there is hereby authorized to be appropriated, out of any moneys in the Treasury not appropriated for other purposes, such sums as may be necessary to provide adequate working capital.

"(e) Subject to the authority and direction of the Secretary of Defense, the Secretaries of the military departments shall allocate responsibility within their respective military departments for the execution of functions which each military department is authorized by law to perform in such a manner as to effect the most economical and efficient organization and operation of the activities and use of the inventories for which working-capital funds are authorized by this section.

"(f) No greater cost shall be incurred by the requisitioning agency for stores, supplies, materials, or equipment drawn from inventories, and for services rendered or work performed by the industrial-type or commercial-type activities for which working-capital funds are authorized by this section, than the amount of appropriations or funds available for such purposes.

"(g) The Secretary of Defense is authorized to issue regulations to govern the operation of activities and use of inventories authorized by this section, which regulations may, whenever he determines the measures set forth in this subsection to be required by the needs of the Department of Defense, and when such measures are authorized by law, permit stores, supplies, materials, and equipment to be sold to, and services to be rendered or work performed for, purchasers or users outside the Department of Defense. In such cases, the working-capital funds involved may be reimbursed by charges against appropriate appropriations or by payments received in cash.

"(h) The appraised value of all stores, supplies, materials, and equipment returned to such working-capital funds from any department, activity, or agency, may be charged to the working-capital fund concerned and the proceeds thereof shall be credited to the current appropriations concerned; the amounts so credited shall be available for expenditures for the same purposes as the appropriations credited: *Provided*, That the provisions of this subsection shall not permit credits to appropriations as the result of capitalization of inventories authorized by subsection (d) of this section.

"MANAGEMENT FUNDS

"SEC. 406. The Act of July 3, 1912 (36 Stat. 645, c. 431), as amended, is hereby further amended to read as follows:

"(a) For the purpose of facilitating the economical and efficient conduct of operations in the Department of Defense which are financed by two or more appropriations where the costs of the operations are not susceptible of immediate distribution as charges to such appropriations, there are hereby established the Navy Management Fund, the Army Management Fund, and the Air Force Management Fund, each within, and under the direction of the respective Secretaries of the Departments of the Navy, Army, or Air Force, as the case may be. There are authorized to be appropriated from time to time such funds as may be necessary to accomplish the purposes of the funds.

"(b) The corpus of the Navy Management Fund shall consist of the sum of \$1,000,000 heretofore transferred to the Naval Procurement Fund from the Naval Emergency Fund (17X0300), which amount, and all balances in, and obligations against, any accounts in the Naval Procurement Fund, are hereby transferred to the Navy Management Fund; the corpus of the Army Management Fund shall consist of the sum of \$1,000,000, which shall be transferred thereto from any unobligated balance of any appropriation available to the Department of the Army; the corpus of the Air Force Management Fund shall consist of the sum of \$1,000,000, which shall be transferred thereto from any unobligated balance of any appropriation available to the Department of the Air Force; in each case together with such additional funds as may from time to time be appropriated to any of said funds. Accounts

for the individual operations to be financed under the respective management funds shall be established only upon approval by the Secretary of Defense.

"(c) Expenditures may be made from said management funds from time to time for material (other than material for stock) and for personal and contractual services under such regulations as may be prescribed by the Secretary of Defense: *Provided*, (1) That no obligation shall be incurred against any such fund which is not properly chargeable to available funds under an appropriation of the department within which the fund is established or, whenever necessary to effectuate purposes authorized by this Act to funds of another department or agency within the Department of Defense, and (2) that each fund shall be promptly reimbursed from the appropriate appropriations of such department for all expenditures properly chargeable thereto. Nothing herein or in any other provision of law shall be construed to prevent advances by check or warrant, or reimbursements to any of said management funds from appropriations of said departments on the basis of the estimated cost of a project, such estimated cost to be revised and necessary appropriation adjustments made when adequate data becomes available.

"(d) Except as otherwise provided by law, amounts advanced to the management funds under the provisions of this Act shall be available for obligation only during the fiscal year in which they are advanced: *Provided*, That nothing contained in this Act shall alter or limit the authorized period of availability of the funds from which such advances are made. Final adjustments of advances in accordance with actual costs shall be effected with the appropriate funds for the fiscal year in which such funds are advanced.

"(e) The portion of the Naval Appropriation Act, 1915 (53 Stat. 301, 310), relating to the Naval Procurement Fund is hereby repealed."

"ADJUSTMENT OF ACCOUNTS

"SEC. 407. (a) When under authority of law a function or an activity is transferred or assigned from one department or agency within the Department of Defense to another such department or agency, the balances of appropriations which are determined by the Secretary of Defense to be available and necessary to finance or discharge the function or activity so transferred or assigned may, with the approval of the President, be transferred to, and be available for use by, the department or agency to which said function or activity is transferred or assigned for any purpose for which said funds were originally available. Balances so transferred shall be credited to any applicable existing appropriation account or accounts, or to any new appropriation account or accounts, which are hereby authorized to be established on the books of the Treasury Department, of the department or organization to which such function or activity is transferred, and shall be merged with funds in the applicable existing or newly established appropriation account or accounts and thereafter accounted for as one fund. Balances transferred to existing accounts shall be subject only to such limitations as are specifically applicable to such accounts and those transferred to new accounts shall be subject only to such limitations as are applicable to the appropriations from which they are transferred.

"(b) The number of employees which in the opinion of the Secretary of Defense is required for such transferred functions or activities may, with the approval of the Director of the Bureau of the Budget, be deducted from any personnel maximum or limitation of the department or agency within the Department of Defense from which such function or activity is transferred, and added to any such personnel maximum or limitation of the department or agency to which such function or activity is transferred.

"AVAILABILITY OF REIMBURSEMENTS

"SEC. 408. To carry out the purposes of this Act, reimbursements made under the authority of the Economy Act (31 U. S. C. 686), and sums paid by or on behalf of personnel of any department or organization for services rendered or supplies furnished, may be credited to authorize replacing or other accounts. Funds credited to such accounts shall remain available for obligation for the same period as the funds in the account so credited and each such account shall constitute one fund on the books of the Treasury Department.

"COMMON USE OF DISBURSING FACILITIES

"SEC. 409. To the extent authorized by the Secretary of Defense, disbursing officers of the Departments of the Army, Navy, and Air Force may, out of accounts of advances available to them, make reimbursements covering obligations arising in connection with any function or activity of any other department or organization within the Department of Defense and charge upon vouchers the proper appropriation or appropriations of the other department or organization: *Provided*, That all said expenditures shall subsequently be adjusted in settlement of disbursing officers' accounts.

"REPORTS OF PROPERTY

"SEC. 410. The Secretary of Defense shall cause property records to be maintained in the three military departments, so far as practicable, on both a quantitative and monetary basis, under regulations which he shall prescribe. Such property records shall include the fixed property, installations, and major items of equipment as well as the supplies, materials, and equipment held in store by the armed services. The Secretary shall report annually thereon to the President and to the Congress.

"REPEALING AND SAVING PROVISIONS

"SEC. 411. All laws, orders, and regulations inconsistent with the provisions of this title are repealed insofar as they are inconsistent with the powers, duties, and responsibilities enacted hereby: *Provided*, That the powers, duties, and responsibilities of the Secretary of Defense under this title shall be administered in conformance with the policy and requirements for administration of budgetary and fiscal matters in the Government generally, including accounting and financial reporting, and that nothing in this title shall be construed as eliminating or modifying the powers, duties, and responsibilities of any other department, agency, or officer of the Government in connection

NATIONAL SECURITY ACT OF 1947

82

with such matters, but no such department, agency, or officer shall exercise any such powers, duties, or responsibilities in a manner that will render ineffective the provisions of this title."

MISCELLANEOUS AND TECHNICAL AMENDMENTS AND SAVING PROVISIONS

Sec. 12. (a) The National Security Act of 1947 is amended by striking out the term "National Military Establishment", wherever it appears in such Act, and inserting in lieu thereof "Department of Defense".

(b) Section 207 (a) of the National Security Act of 1947 is amended to read as follows:

"Sec. 207. (a) Within the Department of Defense there is hereby established a military department to be known as the Department of the Air Force, and the Secretary of the Air Force who shall be the head thereof. The Secretary of the Air Force shall be appointed from civilian life by the President by and with the advice and consent of the Senate."

(c) Section 207 (b) of the National Security Act of 1947 is repealed.

(d) The first sentence of section 208 (a) of the National Security Act of 1947 is amended by striking out the word "under" and inserting in lieu thereof the word "within".

(e) Section 308 (b) of the National Security Act of 1947 is amended to read as follows:

"(b) As used in this Act, the term 'Department of Defense' shall be deemed to include the military departments of the Army, the Navy, and the Air Force, and all agencies created under title II of this Act."

(f) The titles of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Under Secretaries and the Assistant Secretaries of the Departments of the Army, Navy, and Air Force, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, shall not be changed by virtue of this Act, and the reappointment of the officials holding such titles on the effective date of this Act shall not be required. It is hereby declared to be the intention of Congress that section 203 (a) of the National Security Act of 1947, as amended by section 6 of this Act, shall not be deemed to have created a new office of Deputy Secretary of Defense but shall be deemed to have continued in existence, under a new title, the Office of Under Secretary of Defense which was established by the Act entitled "An Act to amend the National Security Act of 1947 to provide for an Under Secretary of Defense", approved April 2, 1949 (Public Law 36, Eighty-first Congress). The title of the official holding the Office of Under Secretary of Defense on the effective date of this Act shall be changed to Deputy Secretary of Defense and the reappointment of such official shall not be required.

(g) All laws, orders, regulations, and other actions relating to the National Military Establishment, the Departments of the Army, the Navy, or the Air Force, or to any officer or activity of such establishment or such departments, shall, except to the extent inconsistent with the provisions of this Act, have the same effect as if this Act had not been enacted; but, after the effective date of this Act, any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or establishment, shall be

deemed to have vested such function in or relate to the officer or department, executive or military, succeeding the officer, department, or establishment in which such function was vested. For purposes of this subsection the Department of Defense shall be deemed the department succeeding the National Military Establishment, and the military departments of Army, Navy, and Air Force shall be deemed the departments succeeding the Executive Departments of Army, Navy, and Air Force.

(h) Section 208 (e) of the National Security Act of 1947 is amended by substituting the word "three" for the word "two" appearing therein.

(i) Reorganization Plan Numbered 8 of 1949, which was transmitted to the Congress by the President on July 18, 1949, pursuant to the provisions of the Reorganization Act of 1949, shall not take effect, notwithstanding the provisions of section 6 of such Reorganization Act of 1949.

Approved August 10, 1949.

APPENDIX VI

PUBLIC LAW 85-509

85th Congress, H. R. 12541

August 6, 1958

AN ACT

To promote the national defense by providing for reorganization of the Department of Defense, and for other purposes.

Department of
Defense Reor-
ganization Act
of 1958.
CS Stat. 579.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Reorganization Act of 1958".

AMENDING THE DECLARATION OF POLICY

SEC. 2. Section 2 of the National Security Act of 1947, as amended (50 U. S. C. 401), is further amended to read as follows:

"Sec. 2. In enacting this legislation, it is the intent of Congress to provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security; to provide a Department of Defense, including the three military Departments of the Army, the Navy (including naval aviation and the United States Marine Corps), and the Air Force under the direction, authority, and control of the Secretary of Defense; to provide that each military department shall be separately organized under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense; to provide for their unified direction under civilian control of the

Secretary of Defense but not to merge these departments or services; to provide for the establishment of unified or specified combatant commands, and a clear and direct line of command to such commands; to eliminate unnecessary duplication in the Department of Defense, and particularly in the field of research and engineering by vesting its overall direction and control in the Secretary of Defense; to provide more effective, efficient, and economical administration in the Department of Defense; to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces but not to establish a single Chief of Staff over the armed forces nor an overall armed forces general staff."

STRENGTHENING THE DIRECTION, AUTHORITY, AND CONTROL
OF THE SECRETARY OF DEFENSE

SEC. 3. (a) Section 202 (c) of the National Security Act of 1947, as amended (5 U. S. C. 171a (c)), is amended to read as follows:

63 Stat. 590.

"(c) (1) Within the policy enunciated in section 2, the Secretary of Defense shall take appropriate steps (including the transfer, reassignment, abolition, and consolidation of functions) to provide in the Department of Defense for more effective, efficient, and economical administration and operation and to eliminate duplication. However, except as otherwise provided in this subsection, no function which has been established by law to be performed by the Department of Defense, or any officer or agency thereof, shall be substantially transferred, reassigned, abolished, or consolidated until the expiration of the first period of thirty calendar days of continuous session of the Congress following the date on which the Secretary of Defense reports the pertinent details of the action to be taken to the Armed Services Committees of the Senate and of the House of Representatives. If during such period a resolution is reported by either of the said committees stating that the proposed action with respect to the transfer, reassignment, abolition, or consolidation of any function should be rejected by the resolving House because (1) it contemplates the transfer, reassignment, abolition, or consolidation of a major combatant function now or hereafter assigned to the military services by section 3062 (b), 5012, 5013, or 8062 (c) of title 10 of the United States Code, and (2) if carried out it would in the judgment of the said resolving House tend to impair the defense of the United States, such transfer, reassignment, abolition, or consolidation shall take effect after the expiration of the first period of forty calendar days of continuous session of the Congress following the date on which such resolution is reported; but only if, be-

Transfer of functions, etc.

Combatant function.

70A Stat. 186, 277, 278, 493.

Effective date.

tween the date of such reporting in either House and the expiration of such forty-day period such resolution has not been passed by such House.

"(2) For the purposes of paragraph (1)—

"(A) continuity of session shall be considered as broken only by an adjournment of the Congress sine die; but

"(B) in the computation of the thirty-day period or the forty-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

"(3) (A) The provisions of this paragraph are enacted by the Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

"(B) For the purposes of this paragraph, any resolution reported to either House pursuant to the provisions of paragraph (1) hereof, shall for the purpose of the consideration of such resolution by either House be treated in the same manner as a resolution with respect to a reorganization plan reported by a committee within the meaning of the Reorganization Act of 1949 as in effect on July 1, 1958 (5 U. S. C. 1332 et seq.) and shall be governed by the provisions applicable to the consideration of any such resolution by either House of the Congress as provided by sections 205 and 206 of such Act.

"(4) Notwithstanding the provisions of paragraph (1) hereof, the Secretary of Defense has the authority to assign, or reassign, to one or more departments or services, the development and operational use of new weapons or weapons systems.

"(5) Notwithstanding other provisions of this subsection, if the President determines that it is necessary because of hostilities or imminent threat of hostilities, any function, including those assigned to the military services by sections 3062 (b), 5012, 5013, and 5062 (c) of title 10 of the United States Code, may be transferred, reassigned or consolidated and subject to the determination of the President shall remain so transferred, reassigned, or consolidated until the termination of such hostilities or threat of hostilities.

"(6) Whenever the Secretary of Defense determines it will be advantageous to the Government in terms of

63 Stat. 203

Weapons and
weapons systems.

Supply service
activity.

effectiveness, economy, or efficiency, he shall provide for the carrying out of any supply or service activity common to more than one military department by a single agency or such other organizational entities as he deems appropriate. For the purposes of this paragraph, any supply or service activity common to more than one military department shall not be considered a 'major combatant function' within the meaning of paragraph (1) hereof.

Major combatant function.

"(7) Each military department (the Department of the Navy to include naval aviation and the United States Marine Corps) shall be separately organized under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense. The Secretary of a military department shall be responsible to the Secretary of Defense for the operation of such department as well as its efficiency. Except as otherwise specifically provided by law, no Assistant Secretary of Defense shall have authority to issue orders to a military department unless (1) the Secretary of Defense has specifically delegated in writing to such an Assistant Secretary the authority to issue such orders with respect to a specific subject area, and (2) such orders are issued through the Secretary of such military department or his designee. In the implementation of this paragraph it shall be the duty of each such Secretary, his civilian assistants, and the military personnel in such department to cooperate fully with personnel of the Office of the Secretary of Defense in a continuous effort to achieve efficient administration of the Department of Defense and effectively to carry out the direction, authority, and control of the Secretary of Defense.

Military department organization.

Exceptions.

"(8) No provision of this Act shall be so construed as to prevent a Secretary of a military department or a member of the Joint Chiefs of Staff from presenting to the Congress, on his own initiative, after first so informing the Secretary of Defense, any recommendations relating to the Department of Defense that he may deem proper."

Recommendations to Congress.

(b) Section 202 (d) of the National Security Act of 1947, as amended (5 U. S. C. 171a (d)), is further amended to read as follows:

63 Stat. 580.

"(d) The Secretary of Defense shall annually submit a written report to the President and the Congress covering expenditures, work, and accomplishments of the Department of Defense, accompanied by (1) such recommendations as he shall deem appropriate, (2) separate reports from the military departments covering their expenditures, work, and accomplishments, and (3) itemized statements showing the savings of public funds and the eliminations of unnecessary duplications and overlappings that have been accomplished pursuant to the provisions of this Act."

Reports to President and Congress.

88

NATIONAL SECURITY ACT OF 1947

Repeal.
70A Stat. 119.

(c) Section 2201 of title 10, United States Code, is repealed and the analysis of chapter 131 of title 10 is amended by striking out the following item:

"2201. General functions of Secretary of Defense."

Repeal.
70A Stat. 133.

(d) Section 2351 of title 10, United States Code, is repealed and the analysis of chapter 139 of title 10 is amended by striking out the following item:

"2351. Policy, plans, and coordination."

CLARIFYING THE CHAIN OF COMMAND OVER MILITARY OPERATIONS

70A Stat. 162.

SEC. 4. (a) Section 3031 (d) (4) of title 10, United States Code, is amended to read as follows:

Army.
Chief of Staff.

"(4) exercise supervision over such of the members and organizations of the Army as the Secretary of the Army determines. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or specified combatant commanders pursuant to section 202 (j) of the National Security Act of 1947, as amended."

Post, p. 518.

70A Stat. 231.

(b) Section 5051 (c) of title 10, United States Code, is amended to read as follows:

Chief of Naval
Operations.

"(c) Under the direction of the Secretary of the Navy, the Chief of Naval Operations shall exercise supervision over such of the members and organizations of the Navy and the Marine Corps as the Secretary of the Navy determines. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or specified combatant commanders pursuant to section 202 (j) of the National Security Act of 1947, as amended."

Post, p. 518.

70A Stat. 202.

(c) Section 5201 of title 10, United States Code, is amended by adding at the end thereof a new subsection (d) to read as follows:

Marine Corps.
Commandant.

"(d) Under the direction of the Secretary of the Navy, the Commandant of the Marine Corps shall exercise supervision over such of the members and organizations of the Marine Corps and Navy as the Secretary of the Navy determines. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or specified combatant commanders pursuant to section 202 (j) of the National Security Act of 1947, as amended."

Post, p. 518.

70A Stat. 402.

(d) Clause (5) of section 8034 (d) of title 10, United States Code, is renumbered "(1)" and amended to read as follows:

Air Force.
Chief of Staff.

"(4) exercise supervision over such of the members and organizations of the Air Force as the Secretary of the Air Force determines. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or

NATIONAL SECURITY ACT OF 1947

89

specified combatant commanders pursuant to section 202 (j) of the National Security Act of 1947, as amended. Post, p. 518.

(e) Section 8031 (d) is amended by striking out clauses (4) and by renumbering clauses (6) and (7) as clauses (5) and (6), respectively.

(f) (1) Section 8071 (a) of title 10, United States Code, is amended to read as follows: 70A Stat. 495.

"(a) The Air Force shall be divided into such organizations as the Secretary of the Air Force may prescribe." Commands.

(2) Subsections (b) and (c) of section 8071 of title 10, United States Code, are repealed, and subsection (d) is redesignated as subsection (b). 70A Stat. 490.

(g) Section 3032 (b) (1) of title 10, United States Code, is amended to read as follows: General Duties, Army Staff.

"(1) prepare for such employment of the Army, and for such recruiting, organizing, supplying, equipping, training, serving, mobilizing, and demobilizing of the Army, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Staff;"

(h) Section 8032 (b) (1) of title 10, United States Code, is amended to read as follows: 70A Stat. 161.

"(1) prepare for such employment of the Air Force, and for such recruiting, organizing, supplying, equipping, training, serving, mobilizing, and demobilizing of the Air Force, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Staff;" Air Staff.

CLAIRIFYING THE ORGANIZATION AND DUTIES OF THE JOINT STAFF

SEC. 5. (a) Section 143 of title 10, United States Code, is amended to read as follows: 70A Stat. 7.

"§ 143. Joint Staff

"(a) There is under the Joint Chiefs of Staff a Joint Staff consisting of not more than 400 officers selected by the Joint Chiefs of Staff with the approval of the Chairman. The Joint Staff shall be selected in approximately equal numbers from—

"(1) the Army;

"(2) the Navy and the Marine Corps; and

"(3) the Air Force.

The tenure of the members of the Joint Staff is subject to the approval of the Chairman of the Joint Chiefs of Staff, and except in time of war, no such tenure of duty may be more than three years. Except in time of war, officers completing a tour of duty with the Joint Staff may not be reassigned to the Joint Staff for a period of not less than three years following their previous tour of duty on the Joint Staff, except that selected officers may be recalled to Joint Staff duty in less than three years with the approval of the Secretary of Defense in each case. Tenure.

The number of such officers recalled to Joint Staff duty in less than three years shall not exceed 30 serving on the Joint Staff at any one time.

Director of the
Joint Staff

"(b) The Chairman of the Joint Chiefs of Staff in consultation with the Joint Chiefs of Staff, and with the approval of the Secretary of Defense, shall select the Director of the Joint Staff. Except in time of war, the tour of duty of the Director may not exceed three years. Upon the completion of a tour of duty as Director of the Joint Staff, the Director, except in time of war, may not be reassigned to the Joint Staff. The Director must be an officer junior in grade to each member of the Joint Chiefs of Staff.

Duties

"(c) The Joint Staff shall perform such duties as the Joint Chiefs of Staff or the Chairman prescribes. The Chairman of the Joint Chiefs of Staff manages the Joint Staff and its Director, on behalf of the Joint Chiefs of Staff.

Organization

"(d) The Joint Staff shall not operate or be organized as an overall Armed Forces General Staff and shall have no executive authority. The Joint Staff may be organized and may operate along conventional staff lines to support the Joint Chiefs of Staff in discharging their assigned responsibilities."

USC 171a

(b) Section 202 of the National Security Act of 1947, as amended, is amended by adding at the end thereof the following new subsection:

Combatant
commands

"(j) With the advice and assistance of the Joint Chiefs of Staff the President, through the Secretary of Defense, shall establish unified or specified combatant commands for the performance of military missions, and shall determine the force structure of such combatant commands to be composed of forces of the Department of the Army, the Department of the Navy, the Department of the Air Force, which shall then be assigned to such combatant commands by the departments concerned for the performance of such military missions. Such combatant commands are responsible to the President and the Secretary of Defense for such military missions as may be assigned to them by the Secretary of Defense, with the approval of the President. Forces assigned to such unified combatant commands or specified combatant commands shall be under the full operational command of the commander of the unified combatant command or the commander of the specified combatant command. All forces not so assigned remain for all purposes in their respective departments. Under the direction, authority, and control of the Secretary of Defense each military department shall be responsible for the administration of the forces assigned from its department to such combatant commands. The responsibility for the support of forces assigned to combatant commands shall be vested in one or more of the military departments as may be di-

Responsibility

directed by the Secretary of Defense. Forces assigned to such unified or specified combatant commands shall be transferred therefrom only by authority of and under procedures established by the Secretary of Defense, with the approval of the President."

AUTHORIZING THE DELEGATION OF DUTIES BY THE MILITARY SERVICE CHIEFS

Sec. 6. (a) Section 3035 of title 10, United States Code, is amended by adding at the end thereof a new subsection (c) to read as follows: 70A Stat. 182.

"(c) The Vice Chief of Staff has such authority and duties with respect to the Department of the Army as the Chief of Staff, with the approval of the Secretary of the Army, may delegate to or prescribe for him. Orders issued by the Vice Chief of Staff in performing such duties have the same effect as those issued by the Chief of Staff." Vice Chief of Staff.

(b) Section 5085 (b) of title 10, United States Code, is amended to read as follows: 70A Stat. 223.

"(b) The Vice Chief of Naval Operations has such authority and duties with respect to the Department of the Navy as the Chief of Naval Operations, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Vice Chief of Naval Operations in performing such duties have the same effect as those issued by the Chief of Naval Operations." Vice Chief of Naval Operations.

(c) Section 5202 of title 10, United States Code, is amended by adding at the end thereof a new subsection (c) to read as follows: 70A Stat. 282.

"(c) The Assistant Commandant has such authority and duties with respect to the Marine Corps as the Commandant, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Assistant Commandant in performing such duties have the same effect as those issued by the Commandant." Assistant Commandant.

(d) Section 8035 of title 10, United States Code, is amended by adding at the end thereof a new subsection (d) to read as follows: 70A Stat. 492.

"(d) The Vice Chief of Staff has such authority and duties with respect to the Department of the Air Force as the Chief of Staff, with the approval of the Secretary of the Air Force, may delegate to or prescribe for him. Orders issued by the Vice Chief of Staff in performing such duties have the same effect as those issued by the Chief of Staff."

CLARIFYING THE ROLE OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Sec. 7. Section 111 (a) (1) of title 10, United States Code, is amended by striking out the words "who has no vote". 70A Stat. 6.

NATIONAL SECURITY ACT OF 1947

REDUCING THE NUMBER OF ASSISTANT SECRETARIES OF
MILITARY DEPARTMENTS

70A Stat. 159.

SEC. 8. (a) Section 3013 (a) of title 10, United States Code, is amended to read as follows:

"(a) There are an Under Secretary of the Army and three Assistant Secretaries of the Army in the Department of the Army. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate."

70A Stat. 279.

(b) (1) Section 5031 of title 10, United States Code, is amended to read as follows:

"§ 5031. Assistant Secretaries of the Navy: appointment; duties

"(a) There are three Assistant Secretaries of the Navy in the Department of the Navy. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Assistant Secretaries shall perform such duties as the Secretary of the Navy prescribes."

Repeal.
70A Stat. 279.

(2) Section 5035 of title 10, United States Code, is repealed.

70A Stat. 278-
280.

(3) The analysis of chapter 503 of title 10, United States Code, is amended by striking out the following items:

"5034. Assistant Secretaries of the Navy: appointment; duties; compensation.

"5035. Assistant Secretary of the Navy for Air: appointment; duties; compensation."

and by inserting the following in lieu thereof:

"5034. Assistant Secretaries of the Navy: appointment; duties:

70A Stat. 459.

(c) Section 8013 (a) of title 10, United States Code, is amended to read as follows:

"(a) There are an Under Secretary of the Air Force and three Assistant Secretaries of the Air Force in the Department of the Air Force. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate."

ESTABLISHING THE DIRECTOR OF DEFENSE RESEARCH AND
ENGINEERING

5 USC 171c.

SEC. 9. (a) Section 203 of the National Security Act of 1947, as amended, is amended by redesignating subsections "(b)" and "(c)" as subsections "(c)" and "(d)", respectively, and by inserting a new subsection "(b)" as follows:

"(b) (1) There shall be a Director of Defense Research and Engineering who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, who shall take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretary of the Army,

the Secretary of the Navy, and the Secretary of the Air Force. The Director performs such duties with respect to research and engineering as the Secretary of Defense may prescribe, including, but not limited to, the following: (i) to be the principal adviser to the Secretary of Defense on scientific and technical matters; (ii) to supervise all research and engineering activities in the Department of Defense; and (iii) to direct and control (including their assignment or reassignment) research and engineering activities that the Secretary of Defense deems to require centralized management. The compensation of the Director is that prescribed by law for the Secretaries of the military departments.

"(2) The Secretary of Defense or his designee, subject to the approval of the President, is authorized to engage in basic and applied research projects essential to the responsibilities of the Department of Defense in the field of basic and applied research and development which pertain to weapons systems and other military requirements. The Secretary or his designee, subject to the approval of the President, is authorized to perform assigned research and development projects: by contract with private business entities, educational or research institutions, or other agencies of the Government, through one or more of the military departments, or by utilizing employees and consultants of the Department of Defense.

Research projects.

"(3) There is authorized to be appropriated such sums as may be necessary for the purposes of paragraph (2) of this subsection."

Appropriations.

(b) Section 7 of Public Law 85-325, dated February 12, 1958, is amended to read as follows:

Auto, p. 11.

"Sec. 7. The Secretary of Defense or his designee is authorized to engage in such advanced projects essential to the Defense Department's responsibilities in the field of basic and applied research and development which pertain to weapons systems and military requirements as the Secretary of Defense may determine after consultation with the Joint Chiefs of Staff; and for a period of one year from the effective date of this Act, the Secretary of Defense or his designee is further authorized to engage in such advanced space projects as may be designated by the President.

Advanced projects, etc.

"Nothing in this provision of law shall preclude the Secretary of Defense from assigning to the military departments the duty of engaging in research and development of weapons systems necessary to fulfill the combatant functions assigned by law to such military departments.

"The Secretary of Defense shall assign any weapons systems developed to such military department or departments for production and operational control as he may determine."

64

NATIONAL SECURITY ACT OF 1947

70A Stat. 2.
Armed Forces
Policy Council.

(c) Section 171 (c) of title 10, United States Code, is amended by renumbering clauses "(6)", "(7)", "(8)", or "(9)", as clauses "(7)", "(8)", "(9)", and "(10)", respectively, and inserting the following new clause (6) after clause (5):

"(6) the Director of Defense Research and Engineering;"

REDUCING THE NUMBER OF ASSISTANT SECRETARIES OF DEFENSE

SEC. 10. (a) Subsection (c) of section 203 of the National Security Act of 1947, as amended (5 U. S. C. 171c), as redesignated by section 9 (a) of this Act, is amended as follows:

(1) By striking out the word "three" and inserting the word "seven" in place thereof.

(2) By striking out the word "and" after the word "Navy,"

(3) By inserting the words ", and the Director of Defense Research and Engineering" after the words "Air Force".

(b) Section 2 of Reorganization Plan No. 6 of 1953 (67 Stat. 638) is repealed.

AUTHORIZING THE TRANSFER OF OFFICERS BETWEEN THE ARMED FORCES

70A Stat. 82.
F.

SEC. 11. Chapter 41 of title 10, United States Code, is amended as follows:

(1) By adding the following new item at the end of the analysis:

"716. Commissioned officers: transfers between Army, Navy, Air Force, and Marine Corps."

(2) By adding the following new section at the end:

"§ 716. Commissioned officers: transfers between Army, Navy, Air Force, and Marine Corps

"Notwithstanding any other provision of law, the President may, within authorized strengths, transfer any commissioned officer with his consent from the Army, Navy, Air Force, or Marine Corps to, and appoint him in, any other of those armed forces. The Secretary of Defense shall establish, by regulations approved by the President, policies and procedures for such transfers and appointments. No officer transferred pursuant to this authority shall be assigned precedence or relative rank higher than that which he held on the day prior to such transfer."

NATIONAL SECURITY ACT OF 1947

95

NATIONAL GUARD BUREAU

SEC. 12. Section 3015 of title 10, United States Code, is amended by redesignating subsections "(a)", "(b)", and "(c)" as subsections "(b)", "(c)", and "(d)", respectively, and by inserting a new subsection (a) to read as follows:

79A Stat. 252.

"(a) There is a National Guard Bureau, which is a Joint Bureau of the Department of the Army and the Department of the Air Force, headed by a chief who is the adviser to the Army Chief of Staff and the Air Force Chief of Staff on National Guard matters. The National Guard Bureau is the channel of communication between the departments concerned and the several States, Territories, Puerto Rico, the Canal Zone, and the District of Columbia on all matters pertaining to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States."

Chief of
National Guard
Bureau.

EFFECTIVE DATE

SEC. 13. Sections 8 and 10 of this Act shall become effective six months after the date of enactment of this Act.

Approved August 6, 1953.