ARMED FORCES MANAGEMENT. Nov. 1966.

# defense digest

## DEFENSE PROFILE

### General Counsel Warnke

He was not affronted by the question, but considered it seriously. The post had been vacant since June 25, 1964 when John T. McNaughton took on the job as Assistant Secretary for International Security Affairs; his replacement had not assumed the long-vacant post until October 3, this year.

"Should the post be filled by a professional civil servant? No, I don't think so. You see, the General Counsel of the Department of Defense has two responsibilities. First, he is responsible for all legal affairs of the Department. Second, he performs such special assignments as are handed him by the Secretary of Defense." He cited Congressional investigative problems and labor disputes as typical of the special assignments requiring a legally-oriented mind.

The speaker was Paul C. Warnke, a lawyer and partner in the firm of Covington and Burling of Washington, D.C., who left the firm to join government service.

He elaborated on his answer.

"The General Counsel should serve as aide to the Secretary. The day-to-day work of the office can be done by the permanent staff; legal business will be competently handled. [And it had been, too, during the 27 months the top slot was vacant and Deputy Counsel Leonard Niederlehner served as Acting General Counsel.]

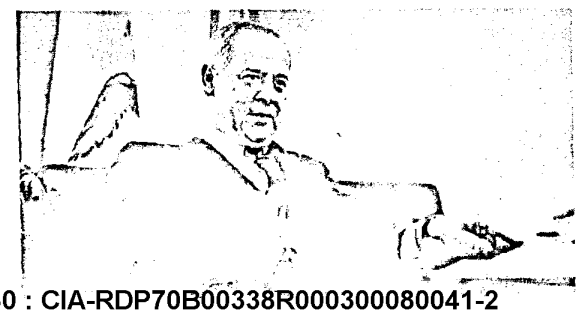
"If the entire staff were regular civil servants, it would be at a great disadvantage. The appointed head can act as a buffer in controversial matters; the career government servant should not be subjected to political heat.

"The appointed head, too, is in a less precarious position than the civil servant. He has already carved out quite a different career before joining the government. It is rare that an appointed official is planning to make a second career out of government, although I don't believe in accepting an appointment with a fixed term of service string attached. By having the top man act as a buffer, however, the professional is freer to do his work.

"Another point is worthy of consideration," Warnke continued. "The appointed official should bring a different approach to the new job and he can help avoid development of overly rigid patterns in government performance.

"I find the subject matter is inherently interesting. Consider all the legal problems of an organization of this size and consider that most of these are problems of significance, and that you get a crack at all of them."

DOD's Warnke



Warnke, at 47, is the Department of Defense's new General

ARMED FORCES MANAGEMENT. November 1966.

# In the McNamara Era, What Is Congress' Role in National Defense?

CRAIG POWELL
*Associate Editor*

*In both Houses of the United States Congress, several specific committees share a closely vested interest in the matter of national security. Probably as illustrative as any of the correlation between Congress and Defense is Rep. L. Mendel River's (D., S.C.) House Armed Services Committee. News media headlines invariably chronicle the Department of Defense and that committee as being constantly locked in combat. But headlines do not tell the full story. The facts are that in the vast majority of actions affecting the armed forces, Congress and the Department of Defense are in accord. This is not to say that there are not disagreements. There are many; some on very major issues. This report concerns the River's Committee as representative of the role of the Legislative Branch in the area of military affairs and national defense.*

"TO RAISE AND SUPPORT ARMIES" is but one of the specific powers relating to national security which have been constitutionally mandated to the Congress of the United States. Those words, emblazoned in bronze in the House Armed Services Committee room are implicit of that committee's strong belief that the security of the nation is the first duty of government. On occasion, detractors have alleged that Congress is losing some of its initiative. Whatever the truths of that allegation, to apply such a charge to Armed Services Committee would be fatuous. Probably no other single Congressional group has been as tenaciously interested and aggressively active in its sphere of responsibility as has the Armed Services Committee of the House of Representatives under the Chairmanship of L. Mendel Rivers and his predecessor, Carl Vinson. Despite the myriad subtleties of the complex task, this committee has been prolific in its activities associated with the control and management of the national defense resources in this arena of changing military requirements.

House Armed Services Committee Chairman Rivers: "We must build and maintain the mightiest military strength possible. . . .

The lawmakers' in-depth hearings into the areas of the proposed merger between the National Guard and the Reserves, airlift capabilities and tactical airpower will have a considerable affect on the future activities in the Pentagon management of the Defense Establishment. That all individual portions of the total affect will be palatable to the Department of Defense is highly problematical. But unquestionably, the actions taken by the committee and subsequently by Congress as a whole, are conscientious actions and, as representatives of the people, Congress will continue to pursue the course of direction that it feels to be in the best interests of the nation. That there should be some disparity of opinion between Congress and Defense is only natural. While both share a common objective of national defense, the individual philosophies of each, as to how best assure the security of the country, are widely divergent.

## Congress Prefers a Margin

The climate of today's Pentagon is one of cost reduction and cost effectiveness. The Secretary of Defense has made it abundantly clear that he will procure only the minimum essential goods and services and that he desires to maintain only those forces he feels mandatory to meet Defense-anticipated contingencies. Congress, on the other hand, feels that there are flaws in this type of cost effectiveness studies and systems analyses and that the stakes are far too excessive to run the Military Establishment in the same manner as a major industrial complex. Or as Chairman Rivers has put it, "I think the American people will always be willing to pay the price for having too much defense, rather than risk the inestimable cost of having too little defense."

But regardless of the issues and differing points of view, one fact is irrefutably clear; the constitution of the United States has invested in the Legislative body of the government, the power to raise and support armies, provide and maintain a navy, and make rules for the [illegible] of the Armed Forces. As executor of these responsibilities, the House Armed Services Committee (together with Richard B. Russell's Senate Armed Services committee) has been chartered with maintaining a vigilance over "common defense and the Department of Defense, in general, including the Departments of Army, Navy and Air Force" and their associated endeavors. Congress has the responsibility and obligation to the American people to maintain an intimate involvement with matters of national defense. Thus, L. Mendel Rivers and his committee in behalf of Congress and the people not only will, but rightly should, continue to probe and question the Military Establishment and influence defense legislation within the best dictates of their own conscience.

Generally speaking, relationships between the Armed Services Committee and the Department of Defense are excellent. Rivers and some of the more senior members of the committee meet with Secretary of Defense Robert McNamara and his deputy, Cyrus Vance, at breakfast frequently to discuss subjects of mutual interest. As a rule, there is a concordance on the majority of issues and while barbs sometimes fly, they do not inflict irrecoverable wounds, and the disagreements are not personal. However, there are some very real and honest differences in opinion as to sources of authority and in the management of the military forces.

Most all-encompassing thorn pricking Congress appears to be what the committee feels is the Defense attitude toward Congress and its constitutional authority, as well as the mutual cooperation that must exist between the two. To quote Chairman Rivers, "The Congress and the Department of Defense must act as partners in the matter of national security, but I think there are times when the Department of Defense forgets that Congress exists for reasons other than to provide a blank check."

A close examination of this situation indicates an annoyance on the part of Congress that they have, on occasions, gone through a futile exercise of enacting authorization bills after long and serious consideration, whether they be [illegible] hardware, military construction, or other matters, only to have the projects deleted or deferred by the

Defense Department. Further, it should not be difficult to understand that the legislators would be "righteously indignant," if, while attempting to responsibly meet their obligations, they believe that the Defense Department circumvents Congressional "intent" (see Special Report—September AFM).

The true crux of the matter seems to be that Defense officials feel that theirs is a better informed judgment. Thus, in matters of conflicting evaluations, particularly in areas of policy and force structures, the Defense Department is inclined to delete or delay programs recommended or directed by Congress, or if implementing them, doing so in a manner not intended by the Legislative body. This obviously does not lend itself to an aura of mutual understanding.

In such areas as pay and allowances, housing, retirement benefits and other personnel matters, Defense is apt to defer to Congressional edict even when there is not complete concurrence. But in areas concerning force structures, application of forces and the management of resources, the Department of Defense feels that the diversity and complexity of defense activities are such as to preclude the civilian committees having an in-depth understanding of the issues. It appears that the DOD position is that questions of proper mix of forces, systems to be developed for maximum cost effectiveness, and questions involving the conduct of military engagements are so complicated that even the best intentioned legislator, with only limited knowledge and background, cannot have a properly informed judgment on which to base complex force level decisions.

### Staff is Experienced

It is a fact, however, that neither the committee members nor the committee staff personnel are either naive or unintelligent. The majority have long years of experience and association with both defense philosophies and military matters. Many of the staff members have been in the business far longer than their Pentagon counterparts and are equally as dedicated to the primary objective of national defense. This is not to say that Congress is not fully aware of the dangers inherent in making decisions without the full and total information available to military officials in the Pentagon. To the contrary, Rivers, himself, would be one of the first to acknowledge these pitfalls. And here lies a prime source of Congressional contention. In past years, the Armed Services Committee has relied heavily on the nation's top military leadership for advice and counsel. These military

## Control of Purse Strings Can Strongly Influence Defense Programs

IN 1949, all Defense appropriations were consolidated into one Defense Appropriations Bill and concurrently Congressman George Herman Mahon (D., Tex.) was named Chairman of the House Subcommittee for Defense Appropriations. A champion of strong national defense programs for over a quarter of a century, Mahon not only still retains the Defense Subcommittee chair, but also has, since 1964, been chairman of Congress' largest committee, the House of Representatives' 50-member Appropriations Committee.

"It is not meddling," says Mahon, "When Congress seeks to influence defense programs and defense policies. Rather it is performing its proper and mandatory function." And, from the position of his dual chairmanships, it is the Texas legislator's view that, over the years, Congress has exhibited strong leadership in pushing toward the attainment of an effective national defense.

While Mahon recognizes the role of the Legislative Branch is not always startling when the Administration and the majority in Congress are of the same party, he nonetheless maintains a firm conviction that it is the duty of his committee to serve as "watchdog of the treasury" and to intelligently attempt to ascertain that funds are applied to those programs clearly in the best interests of the nation rather than to projects of marginal or questionable value. And this he feels, Congress is doing capably.

Some critics readily want to throw the charge that in many instances Congress merely rubber stamps the budget requests from the Executive Branch. This is particularly true when the Congress appropriates almost the identical amount of money as that requested by the Department of Defense and the Armed Services. "A brief examination," says the Appropriations chairman, "would completely refute such a conclusion."

In explaining this contention, Mahon states that, "Congress, often within the framework of defense funds requested, has substantially and importantly changed the course of defense programs, giving them new direction and emphasis. In some cases the change may represent a reduction such as a cutback in funds for an outmoded system or other weapons considered by Congress to be of low priority value; a high priority weapon may be substituted for a low priority weapon; or a high priority program may be accelerated beyond the point recommended by the Executive Branch. A case in point would be the current year's appropriations relative to the proposed nuclear frigates."

In the current budget requests, AFM was told, the Department of Defense had requested funding for two conventional destroyers. However, as Congress has always been particularly sensitive to the demand inherent in the current world situation that the U.S. be as well prepared as possible and desiring to

Mahon: "Congress, often has substantially and importantly changed the course of defense programs giving them new direction and emphasis."

constantly improve its state of readiness, the Committee took a long look at the request. Ultimately, the Armed Services Committee authorized not only the destroyers but added funding for a nuclear frigate and the long leadtime money for a second nuclear frigate. The Appropriations Committee, on the other hand, recommended and budgeted only the necessary funding for the frigates and not that for the destroyers. In this manner Congress asserted its influence on the future of the surface navy.

Other examples, explained the committee, were the authorization and appropriation of money to keep available the production capability for the F-12 Mach-3 interceptor not asked for in the budget, and additional monies for Research on the Navy's Deep Submergence Program. Also there was a modest sum allocated for the continuance of three Air National Guard heavy airlift units (the maintenance of which the Secretary of Defense has agreed to) and for the maintenance of the B-52 bomber force at 600 aircraft.

"The Executive Branch does not always move to accelerate programs in consonance with Congressional intent," said Mahon. "At times funds are impounded and not used for the year in which appropriated, but this is an exception to the rule. However," he continued, "while prompt action is not always taken by the Executive Branch to carry out the will of Congress, some action along the lines recommended by Congress is usually taken sometime within the fiscal year for which the funds are appropriated."

## A Source of Irritation

Without question, one of the greatest irritants to Congress is the current trend taken by the Department of Defense in the major reprogramming of funds. The Secretary of Defense is not required to explain how monies were spent once the appropriations were made. It is within his prerogative to shift funding within a lump sum allocation (such as major aircraft systems procurement) without necessarily informing the Congress, but merely submitting a semi-annual undetailed report showing how much money had been shifted. Over recent years, however, a reprogramming system has evolved in which by "gentleman's agreement," the Department of Defense informs Congress of such shifts at the time and/or requests prior approval of the commitees. Such was the case of the recent request of Congress for authority to shift funds from various other programs in order to make additional buys of F-4 and A-4 aircraft. Under the current agreements, had the committee said "no" to the request, the Secretary would have been left with the alternatives of going ahead with the procurement (thereby risking the ire of the committees), not making the purchase, or initiating action to get funding from the President by making a supplemental budget request in the usual manner.

It is apparent, though, that the inclination on the part of Defense to extensively apply the reprogramming principle to carry out the DOD desires rather than the utilization of the funds as Congress had intended, is leaving many Capitol Hill legislators in a something less than happy frame of mind.

In general, from the Appropriations Committee view, Congress desires to influence national defense through the control of national purse strings. At the same time, it must attempt to do so without becoming inextricably bound in the myriad details of the intermeshing defense management.

Chairman Mahon feels that the U.S. is measurably stronger today and more adequately prepared to meet its responsibilities as a result of the aggressive action of Congress, taken upon its own initiative, above and beyond the recommendations of the Executive Branch. "My position," says the Congressman, "is that if Congress is due any credit, and I think it is, the credit comes, principally, not from increasing or decreasing defense budgets but from redirecting, re-emphasizing, and accelerating key defense programs. The important role of Congress has been in the downgrading of marginal projects or low priority projects and the acceleration of high priority projects having a direct relation to the requirements of the Executive."

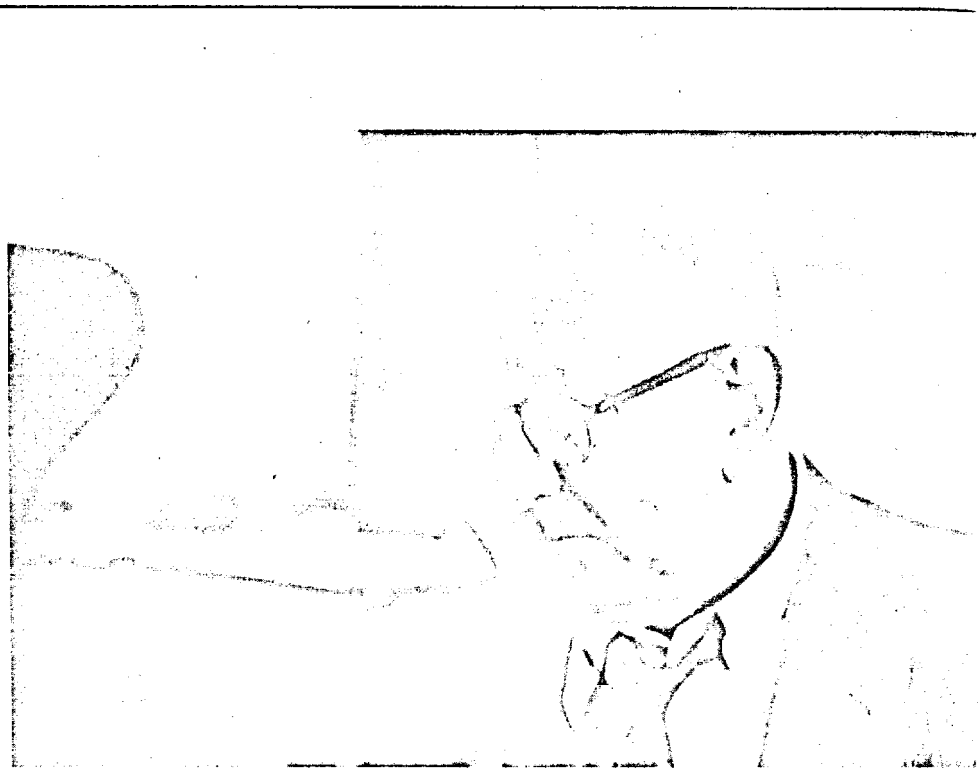
experts have been traditionally brought before the committees and their frank appraisals and best judgments solicited. This has historically been a major source of Congressional defense expertise. Today, however, Rivers and the committee feel that this source of expertise has been shut off or at best seriously diluted. Frank and open discussion of the issues, they believe, is no longer possible. This belief stems from their conclusion that, in the current Defense Department climate, the information made available to them is but a predetermined Defense Department position, and that the top military leaders can do little when appearing before the committee but parrot that defense position.

The Armed Services Committee told AFM that it needs and desires guidance from the military as it has known it in the past and that with such advice they could carry out their own responsibilities to the nation more efficiently and to the greater benefit of the Defense Department. It is a committee opinion that it would behoove DOD to take Congress into closer confidence and keep them better informed of its actions rather than tending to disregard the Congressional role in defense when appropriations are not in total consonance with Defense judgments. However, for the moment at least, there is no such tendency.

### The Committee Setup

It is in this environment, then, that the House Armed Services Committee feels it must carry out its obligations to the people. The committee is a highly competent gathering of 37 United States Congressional Representatives with a collective total of 199 years of experience and close involvement in national security affairs (a pertinent point, the committee feels, when related to the comparative tenure of many policy and decision-making officials at the Department of Defense level).

Guiding activities of the committee is able L. Mendel Rivers, Congressman from South Carolina. Rivers has been in public service since 1933 and a member of the United States Congress for 26 years. He has been on the Armed Services Committee for most of those years and has chaired for the past two years. He has been accused of trying to consolidate his position as committee leader and of being a temperamental chairman, though those who work closely with him thoroughly discount the former. To the latter, they concede only that in his [illegible] he is direct and inclined to caustic comment to emphasize his point. His



COUNTERPART to the River's Committee in the House of Representatives is the 17-member Senate Armed Services Committee chaired by Richard B. Russell of Georgia. By some, Russell has been accused of being aloof and difficult to reach. In fact, however, the senator possesses a politic appreciation of the separate yet co-equal status of the Legislative and Executive Branches of Government. Further, he believes strongly that in his critical role as Chairman of the Armed Services Committee, personalities should not be allowed to blur objectivity nor independent judgment be influenced by personal friendships. As a result, Russell makes a conscious effort in his associations with the Executive Branch to be cordial but not intimate; an attitude which to a degree permeates his committee.

"It is the moment of truth for those in the Executive Branch who formulate defense programs and those in the Legislative Branch who pass upon them," said Russell, prior to the start of a series of hearings on authorization and appropriation of funds for the defense of the country.

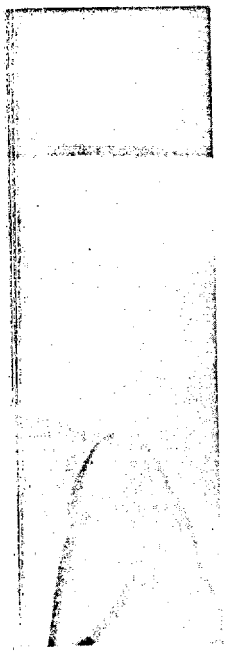
"For several weeks these (Congressional) committees will consider volumes of testimony and almost a mountain of supporting data to help them form a judgment on whether the optimum degree of emphasis is being placed on each of several kinds of forces that constitute the military power of the United States." Russell continued, "The decisions that are weighed in this process are awesome in their complexity and consequences. In all sincerity, I state my awareness that those who participate need a profound understanding of the lessons of history, a discerning judgment of contemporary events, a prescient knowledge of the future to be confident their choices are wise ones."

Chairman Russell is equally aware of the legislative power that is in the hands of Congress and its constitutional responsibilities in the field of national defense. He also leaves no doubt of his conviction that Congress and in particular his Committee are properly facing those responsibilities and taking the necessary legislative action to carry out its obligations. He believes, however, that it would be an oversimplification of the subject to consider these constituted authorities alone. They are not an exclusive grant to Congress and an examination solely of these powers as stated in the original charter leaves many modern day questions unanswered.

The Constitution has given Congress the power to enact laws. At the same time, it has invested in the Executive Branch strong unilateral power. "It is a fact of life," says Russell, "that the division of powers between the Legislative and Executive Branches is not a simple or a complete one."

Consequently, the veteran legislator has consistently and with conviction

# Defining Limit of Congress' Powers Is a Sensitive Matter of Judgment



Russell: "The division of powers over military affairs between the Legislative and Executive Branches is not a simple or a complete one."

tended to observe this thin line of demarcation between the Legislative and Executive charters. While he strongly defends what he conceives to be the proper role of Congress in guiding the activities of his Armed Services Committee, he is equally meticulous in making certain that there is no intrusion into the sphere of Executive responsibility. To do so, he feels, could have disastrous consequences. (The constitutional wordage delineating the powers and responsibilities of the Branches is sufficiently vague as to create a twilight zone between the two; where blacks and whites must fade to varying shades of grey.)

As a case in point, AFM was told, the committee for some time has had a lingering doubt and concern that perhaps there has been an overreliance on the Intercontinental Ballistic Missiles, and there is a stringent need for a follow-on manned bomber to replace an aging B-52 fleet in the mid-1970s. The elongated F-111 (FB-111) they feel to be only an interim bomber at best and that there is a valid requirement for an Advanced Manned Strategic Aircraft to be under full development at this time. As a result, Congress has provided the authorization and the appropriations to proceed with such development. To date, however, Defense has not seen fit to implement any full scale development of the AMSA. At the same time, despite the obvious "intent" of Congress, there is really no constitutional wedge that Congress desires to effect to force the use of the provided authority or the allocated funding.

This does not mean that no provisions are made within the Constitution and the nation's laws for Congress to take action to force its "intent" (though it has few weapons other than its almost unused powers of impeachment). "Intent" may be made more positive in one piece of legislation than in another, depending upon how implicitly the law is written. Laws can be passed in whatever degree of specificity that Congress desires to legislate. Some Congressional critics of the Defense Department would like to dot every "i" and cross every "t." However, Russell feels the Executive Branch should always be left a degree of flexibility.

## Can Wisdom Be Legislated?

The Chairman looks upon Congress and the Committee as highly potent weapons yet at the same time recognizes their limitations. While he feels that Congress has infinite power to grant or deny funds, he is generally skeptical of Congress' ability to legislate efficiency into the management of the Department of Defense. "It is difficult," he says, "to make wisdom a matter of law."

Yet, by cutting back on funds, Congress can force Defense to take a re-examination of its programs and re-evaluate those which it believes will be supported by Congress or that it can support within its already authorized budget.

This is not to say that Russell's Armed Services Committee is not and will not continue to be keenly interested in all facets of Defense activities, nor that it will not act whenever it feels it appropriate. (In fact on many occasions, such as last year's military pay increases, Congress has remained resolute despite conflicting Defense desires.) The committee recognizes that under Secretary of Defense McNamara "options" have been emphasized in an effort to do away with limited or static strategies. At the same time, the committee is cognizant that there can always be a lapse into over-conservatism and failure to appreciate the value of advanced weaponry and changing strategies. For this reason, Congress will unquestionably continue to carry out the functions of inquiry and criticism of the Department of Defense and to legislate to the degree it feels necessary.

Thus, in a dangerous age and in an arena of separate yet co-equal status with the Executive Branch, Congress must perform its role in national defense with wisdom and discretion. For, as Chairman Russell would say, "Under our Constitution the initiative in the conduct of international relations and the command of our armed forces is in the hands of the President. But what the President can and will do in any specific instance is conditioned by Congressional opinion and reaction."

competency to direct activities of his committee has been attested to by high level Pentagon officials close to the committee, who told AFM they find Rivers a "highly capable" chairman.

Backing the Congressional contingent is a 20-year committee veteran, Chief Counsel John Blandford and a professional staff, well versed in defense activities.

To direct its attention to the myriad aspects of those activities, the committee is currently composed of four permanent subcommittees and nine special subcommittees. These subcommittees are chaired by some of the most knowledgeable names in military affairs on Capitol Hill: Philbin (Mass.), Hebert (La.), Price (Ill.), Fisher (Tex.), Byrne (Pa.), Bennett (Fla.), Hardy (Va.), and Pike (N.Y.).

The subcommittees carry out the responsibilities of the committee charter that charges it with an obligation in the management of ammunition depots, forts, arsenals, as well as all Service reservations and establishments. They are concerned with the conservation, development and use of naval petroleum and oil shale reserves, as well as the scientific research and development in support of the armed Services. The size and composition of the Services fall within their purview as do the pay, promotion, retirement and other benefits and privileges of the members of the Services. Major among its activities is the area of strategic and critical materials necessary for common defense.

These responsibilities are mandated and obligatory to the Armed Services Committee as action agent for the House Legislative branch. Mendel Rivers leaves no doubt that he and the committee fully understand both the dictate and the devoir, and that they are zealously devoted to meeting their charge.

AFM talked with Chairman Rivers and members of the committee staff in regard to the present relationship with the Department of Defense and current areas of committee concern.

It is obvious that relationship between the two is better than usually reported, but not so harmonious as it has been in the past. However, it is also obvious that both are working toward their common objective of the best defensive forces possible for the security of the country. It is equally apparent that Congress is inclined to go to greater lengths, more expeditiously and at a commensurately greater cost than the current defense regime where the philosophy of "cost effectiveness" dictates the decision process and a holding of defense resources (predicated upon systems

## Legislators' Power to Investigate Is a Potent Aid to Defense Efficiency

Stennis: "It is imperative that Congress constantly measure our military preparedness against the possible demands we may face."

IT IS HIGHLY questionable that any large bureaucratic organization such as the Department of Defense would operate at peak efficiency for any extended period of time without the motivating force of authoritative criticism from outside sources. While Defense and the military Services have tried to build their own investigative capability (e.g., the Inspector General system) the very nature of the hierarchy and its inherent "chain of obedience" either makes difficult, or precludes, the application of informed criticism in important areas.

In this view the investigative powers of Congress become a valuable and potent aid to the effective management of Defense resources and to proper legislative actions. By picking an area of Defense activity, narrowly and deliberately circumscribed, Congress can focus its energies to a degree not otherwise possible and in this manner make a most telling contribution to national defense. The true value of the application of these powers is well illustrated by recent Congressional hearings into Military Airlift Resources and defense capabilities in the area of Tactical Air Power and Close Air/Ground Suport.

On Capitol Hill, it is generally conceded that "Mr. Investigator" is Senator John Stennis (D., Miss), Chairman of the Subcommittee on Preparedness Investigations and ranking member of the Senate Armed Services Committee. "The responsibility of Congress is clear," Stennis told AFM. "It is imperative that it (Congress) constantly measure our military strength and our military preparedness against the possible demands which we may face in view of our worldwide commitments and that we face up, realistically, to the problems which may confront us at hot spots and potential hot spots all around the world as a result of the aggressive and expansionistic designs of communism."

To do this, Stennis pointed out, Congress must collect its own facts and make its own evaluations independent of the military. He feels strongly that Congress has the responsibility to take this independent action and examine and evaluate each area for itself rather than blindly accepting a Defense-assessed position. He said, "Despite the trend in recent years, to treat the Congress as [illegible] something less than a full partner in military and defense matters, I, for one, will never be content to abdicate my responsibility in this field to any individual, department or agency; nor will I ever be content to sit idly by and see the responsibility and obligation of the Congress in this area turned over to the Executive Department by default or eroded beyond repair or recall."

Stennis is convinced that the major role that Congress should play in the defense field must be boldly asserted; that the Legislative Branch should play a greater, rather than a lesser, role in our government.

### There Can Be No Restraints

In his zeal for Congressional independence in assessing any given situation, Stennis does not mean to imply that Congress would exclude the judgments of the nation's skilled and professional military leaders. To the contrary, on matters that are essentially military in nature, Stennis feels that their advice and recommendations should be sought and seriously weighed and that freedom of expression and even dissent during this period should be both countenanced and encouraged. He feels equally, however, that such testimony, if it is to be beneficial to investigation, must be open and frank, and without restraint imposed by a previously determined Defense Department position.

"Congress can discharge this major responsibility in the defense field," the veteran senator said, "intelligently and effectively only if it has access to all of the facts and to the professional opinions and view of skilled and high-ranking officers. There must be no arbitrary restrictions or institutional restraints which prevent our high-ranking officers, when testifying in executive session upon matters affecting security and survival of this country, from presenting both the facts and their views to the Congress openly, candidly and freely. Without such a free and full presentation by the knowledgeable military people the Congress will be restricted to a one-sided presentation which merely parrots a policy or position which has been officially approved at the highest echelon."

gations into military affairs and management of the Military Establishment, Stennis is extremely pointed in stressing his conviction that the Legislative Branch is not and will not be bound by restrictions placed on Congressional witnesses by executive officers. He stated that in a memorandum issued last January, witnesses were given instructions as "guidance" in testifying before Congress if pressed for their personal opinions. "Among other things," he said, "they were told to give 'the considerations or factors which support the decision'—meaning the decision of higher authority. This attempts," he continued, "to compel the witness to argue for a viewpoint with which he may disagree."

In such interrogation, the subcommittee chairman believes that Congress must insist upon direct and responsive answers when requesting the personal professional opinions in executive hearings. Commented Stennis, "When they are in professional disagreement, they cannot and should not be expected to support the opposing view."

His experience as head of the Preparedness Investigations Subcommittee has given the senator a strong conviction in the value of the Congressional role as both mentor and critic in matters of national defense. He is convinced that previous investigations have evidenced a stringent requirement to question and further evaluate Defense assessment of reported defense needs and capabilities.

So strongly does Congress feel in this relation, says Stennis, that his subcommittee is currently involved in inquiries and an all encompassing survey of U.S. worldwide commitments.

"We have determined," he said, "that it is necessary to make an overall study and assessment of our worldwide military commitments and an evaluation of what is required in military manpower, equipment, weapons and other resources to enable us to respond to these commitments."

Whatever the pros and cons, there seems little question that Congress most properly has the responsibility to carry out an investigative role in national security and this is a view concurred in and desired by most knowledgeable [illegible] military.

analysis) to only those necessary to meet assessed contingencies. The committee feels that a surplus of military hardware even if it means waste, is far preferable to a shortage that may mean disaster.

Rivers told AFM, that the primary differences between Congress and the Pentagon are philosophical. Both agree the country comes first. Those philosophical differences, however, make a common approach difficult. Rivers feels further that the attitude of the Defense Department toward his committee is more one of toleration than of cooperation. "They simply do not take us into their complete confidence," he said.

He indicated that there were a number of areas of disagreement in the manner in which the Pentagon is currently managing defense resources. "I am particularly opposed," he said, "to this business of major reprogramming. It makes a mockery of the whole appropriations process." He pointed out that funding authorizations are made by budget line item only after extensive testimony justifying those items. "I was dismayed," said the Chairman earlier this year, "when the Secretary of Defense announced that many highly important military projects would be deferred, even though the Congress had not only authorized their construction, but funds had been provided. These projects must first go through a long and laborious study and approval by the Bureau of the Budget and the Department of Defense before they are even submitted to the Congress. I am completely dumbfounded," he continued, "by the fact that without any prior consultation with the representatives of the people the Secretary of Defense announced the deferment of many important items and all military family housing."

Research and development projects, the development of advanced weapons systems and failure on the part of Defense to make decisions to proceed with such developments were among the areas causing committee concern.

- The Hebert subcommittee is making a searching inquiry into the announced phaseout of the B-58 and B-52 strategic bombers and what Rivers terms the "lack of decision to develop a suitable replacement aircraft." He feels distraught that the Air Force is not flying a single aircraft specifically designed for close air support that it has been allowed to develop itself.

Early this summer, the Chairman lauded the nation's tremendous defense capability and the advances that had been made. He stated, however that "there are deficiencies in the [illegible] military departments, and our preparations for the future." Referring to the Advanced Manned Strategic Aircraft (AMSA) and an Improved Manned Interceptor, he stated, "There is little interest in the civilian sector of the Department of Defense in a true, follow-on bomber. Instead, the Department is content to gamble on an elongated F-111 to be called the FB-111. It is only an interim bomber at best." He continued, "Our interceptor aircraft will start a downward trend in the years ahead and the fate of a new Improved Interceptor has not been decided. Perhaps it will be the YF-12A or perhaps they will come up with an IMI-111."

- Of equal concern to the committee is its conviction that a block obsolescence of the U.S. Naval Fleet requires immediate action to update deep penetration naval gunfire support ships, heavy gun-carrying units and action to give the Navy a nuclear power capability.

"We have the know-how and the industrial capacity to provide nuclear power for major surface segments of the fleet. But we can't even get a decision from DOD to build a new nuclear-powered frigate," Rivers said. He pointed out that facts supporting the construction of nuclear frigates in order to operate nuclear task forces are so overwhelming that "it is inconceivable to me that anyone can dispute them. But they are still being disputed."

- A caustic source of irritation to the Congressional defense experts is the current controversy over the Defense Department's proposal for the merger of the National Guard and the Reserve Forces. There is a consensus among the committee members that despite an unequivocal and clear rejection of the merger proposal by the Congress, the Pentagon, electing to follow its own judgments, continues to persist in predicating its future planning on the merger and reorganization proposal. This and actions already taken by the Defense Department (which, in effect, closely parallel ends outlined in the original proposal) the committee interprets as "thwarting the will of Congress."

Despite the differences, however, the Pentagon and the Hill do work closely in most areas, particularly in support of the conflict in Southeast Asia. Both are primarily interested in the morale and well-being of the fighting man in Vietnam. But it is the committee's reaction that decisions to properly supply and equip our fighting forces should have been made sooner. "It is high time," says Rivers, "that more consideration is given to the fighting man before he takes on the '30-yard look'." This, he explains, is the look a soldier gets on his face when he is 30 yards from the enemy. "At that point, the Serviceman is the most worried of all men," he said.

Rivers is blunt. He takes little stock in "cost effectiveness" if it results in defense without an adequate "safety margin"; nor is he convinced of the validity of the theory of "escalation" and "restraint." "We have," he says, "too many people who are counting the costs of national security and not enough weighing the cost of defeat." He firmly believes the proper course of action is "to build and maintain the mightiest military strength possible and, if necessary, commit without restraint, the entire arsenal to preserve the nation."

At the same time, there is no doubt that current philosophies within the Pentagon will continue to prevail. As of this writing there appears little hope, at least for the moment, that the climate can be other than one of friendly condescension.

### Vigilance is Needed

Congress and Defense are close to an impasse on many major issues. The Armed Services Committees and Congress realize that they can effect legislation and make appropriations. But they can not easily force the Department of Defense to spend the funds appropriated. They can give authority for action, but cannot without complications require that authority to be used. Rivers recognizes full well these subtleties. He is cognizant that while Congress has powers that can be evoked to achieve certain ends, it is not in every case necessarily prudent nor in the nation's best interest to wield these powers.

Thus, Defense will probably continue in its own way and as it sees fit. Yet one would be naive to the extreme, to assume that Congress is not dedicated to its cause. Or that it will not continue to apply power within the dictates of its own convictions.

If the writers of the Constitution felt the new nation so complex as to necessitate a division of power (Executive-Legislative-Judicial) then perhaps, in the United States of today, it is well that there exists an authority vested with maintaining a vigilance over any bureaucracy the size of the Department of Defense.

Congress must stand this vigil. To do otherwise would be failure to carry out its mandate. Or as Mendel Rivers would say, "The Congress has a constitutional responsibility in the area of national defense. It must either meet this responsibility, watch it erode, or unconstitutionally delegate its responsibility to the Department of Defense."

It is clear that the Armed Services Committee will meet its constitutional duty and responsibility.

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