

the Navy with the minimum possible changes. The result produces anomalous situations, such as the lack of any reference to the sea service mission of the Department of the Navy.

The effect clearly is substantial, but the Committee has not, through hearings, sought to determine what it will be. Nonetheless, several areas of concern are beginning to emerge.

First, responsible legal officials have recently pointed out that the authorities of the Service Secretaries have been acquired over many, many years, based on many statutes, revisions to statutes, legislative history, executive and Congressional interpretations of law, and a massive number of court and administrative law cases. The sweeping abrogation or modification of existing law not only will call much of that history and authority into question and produce administrative confusion or chaos, but it will, in all probability, unleash a flood of litigation that will continue until authorities and responsibilities have been redefined. In other words, in our increasingly litigious society, everyone who can sue will do so.

Second, the Service Secretaries currently have authority to manage their resources in a way that maximizes efficiency and economy. The bill does away with broad authorities and substitutes eleven specific areas for which each Secretary is responsible. By providing a detailed enumeration of authorities, it by inference excludes many more, some of which are well established in law and practice. There is, for example, no power given in the bill to the Secretary of the Navy to construct, arm, equip, and employ Naval vessels. There is no specific power or mandate for the Service Secretaries to ensure the efficient utilization of resources.

Third, the attempt to provide uniformity fails to accommodate the diversity among the Departments and the military services. For example, the Department of the Navy includes two services (the Marines and the Navy), and could in time of war include a third (the Coast Guard). Yet there is confusion in the bill about where authorities can or should be located. Functions that may, in the other Departments, fall properly under the Chief of Staff must, in the Navy, fall under the Service Secretary. That is, for example, the case with the Judge Advocate General, a provision now properly included in the bill but omitted in the staff revision of the bill as marked up by the Committee. There may be other instances of the same sort.

Fourth, the attempt to achieve uniformity resulted in the elimination of several provisions that, although having little practical effect one way or the other, have historical basis and meaning. The Army has lost the long-standing statutory authority for the Administrative Assistant to the Secretary, the Navy the long-standing statutory provision making the Chief of Naval Operations the "principal naval advisor" to the President and the Secretary of the Navy. Although there may have been no compelling reason other than history and tradition to retain such provisions, there were no compelling reasons at all for deleting them.

Fifth, a number of things simply fell out or were left out along the way. For example, there is no provision for comptrollers in the Service Departments. That may or may not be significant, but the current legal authorities have been deleted, and some of the Services believe that problems will result from that fact. Nor are there