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Executive Determination and Roles and Missions

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Speech of Senator Mike Mansfield (D., Montana)

EXECUTIVE DETERMINATION AND ROLES AND MISSIONS

There is an alarming indication that increasing attention in the Pentagon is being directed toward removing basic roles and missions of the Armed Services from existing statute and making them subject only to executive determination.

Such a move is being advocated under the guise of "strengthening" the Secretary of Defense and "streamlining" the Defense Department. This may strengthen the executive agency. But it will weaken legislative authority and status in an area in which Congress has wisely and resolutely insisted on the exercise of its prerogative and responsibility since the founding of our country.

What are these "roles and missions"? Briefly these constitute the specific provisions of the National Security Act of 1947, amended, which set forth the fundamental and basic roles and missions of each of the Armed Services. In a sense these provisions of law constitute a charter for each armed service, a kind of directive from Congress stating the purpose for which Congress, in accordance with its constitutional responsibility, creates, provides for, and maintains each of the armed services.

It must be clearly understood that the statutory prescription of roles and missions is not a detailed statement of the specific day-to-day jobs, weapons, techniques, research projects and routine activities. Rather, roles and missions in law are stated in broad, flexible and elastic terms, which do not make this statutory assignment of roles and missions a straight-jacket, a restriction, or an impediment to scientific and technological progress.

I doubt if anyone today could prescribe in more fundamental and more flexible terms the roles and missions of the armed services as they were written into the National Security Act of 1947 with its subsequent amendment.

It must be clearly understood that the roles and missions of the National Security Act are separate and distinct from the detailed assignment of "functions" of the Armed Services. The functions of the Armed Services are the details of the jobs and duties of the Armed Services, stated in more specific terms than exists in law. Essentially, the functions, which are prescribed by the executive authority of the President or the Secretary of Defense, are adjustable from time to time to new techniques, new weapons, new scientific discoveries. Such functions are amplifications of the basic roles and missions prescribed by law.

So, in the combination of the wording of the roles and missions in the National Security Act as written by Congress and the detailed, adjustable assignment of specific functions by the executive, there is a completely proper, workable, and successful device by which the legislative and the executive can exercise appropriate authority with respect to what the Armed Services are to do.

This matter of statutory prescriptions of roles and missions is no new issue. In fact, it was probably the fundamental issue connected with the National Security Act of 1947. It certainly received more attention from Congress in its consideration of that bill than any other feature of that law.

I would like to briefly review some of the pertinent facts in connection with the inclusion of roles and missions in the National Security Act of 1947, as amended.

As originally proposed, the National Security Act of 1947 did not include the statutory outline of roles and missions. Rather, it was proposed that an executive order on roles and missions would be issued upon passage of the security act. However, Congress, in its wisdom, decided that it was not only the right of Congress to prescribe basic roles and missions for the Armed Services but it was an inescapable responsibility of Congress to so do. Such an attitude on the part of Congress was not readily accepted by the executive sponsors of the proposed national security act. Congress was resolute in its position and set forth in properly worded provisions the fundamental roles and missions of each of the Armed Services.

I would like to point out that Congress, alert to the practical realities of defense matters, recognized that two elements of the Armed Services were in jeopardy. Because they considered those elements to be necessary to the attainment of a properly balanced defense organization and because such jeopardy should not be permitted to continue, Congress was more precise in the prescription of roles and missions for naval aviation and the Marine Corps.

Congress reaffirmed in even more emphatic terms, through Public Law 416, 82d Congress, 2d Session, its insistence upon a continued maintenance of a combat ready Marine Corps as a national force in readiness. Congress underlined its attitude and determination in this respect by stating that the Commandant of the Marine Corps should have coequal status with other members of the JCS in consideration of all matters pertaining to the Marine Corps and that, among other provisions, the Marine Corps should be maintained at a strength of three combat divisions and three air wings.

It was perfectly obvious at that time that powerful factions within the Armed Services bitterly opposed this Congressional decision.

There is not the slightest doubt in my mind but what the Marine Corps will be destroyed as a combat force in readiness if present efforts to remove roles and missions from the law are successful. There is no place for the Marine Corps as it has developed, as Congress wants it, and as the country needs it, in the master plan of those who wish to centralize all military authority under somebody in the Pentagon.

It is just as certain that our balanced naval power, with its unsurpassed naval aviation, as well as its Marine landing forces, will be destroyed if the roles and missions are removed from statute. We will find the United States, which is in fact an island nation dependent upon maritime power for economic and military survival, possessing a Navy which no longer will contain the unique American attribute of sea power -- the balanced fleet.

This effort -- and it is a persistent one -- to remove roles and missions from law is not only a matter of military importance. It is of basic constitutional importance which is impossible to over-emphasize in matters of legislative - executive relationship. In a practical sense the statutory prescription of roles and missions is one of the few meaningful instruments by which Congress can discharge its proper responsibility with respect to defense policy. If roles and missions for the Armed Services, as now prescribed by law, are removed from existing statute and made subject to executive whim, little will remain for Congress to do except appropriate monies for the Pentagon.

This effort, which is gaining momentum within the Pentagon today, is one of the most fundamental issues of our times. Congress could not, and I predict will not, look lightly or casually upon attempts to divest Congress of its authority and its responsibility to prescribe these basic roles and missions. Those persons who have, since 1947, refused to accept the decision of Congress to include roles and missions in the National Security Act must not be permitted to succeed with their efforts to undo this Congressional decision.

There has not, in recent years, been a more clearcut manifestation of a Congressional mandate in defense policies than the Congressional determination to prescribe roles and missions rather than leave it to the executive.

I don't believe that Congress will permit this Pentagon power play to succeed. I do not believe that Congress and the American people will ever permit the Pentagon to erase the statutory safeguards that assure a continued existence of the Marines as an ever-ready combat force.