

Will the President go with emergency powers?

by Nicholas F. Benton

With Congress plotting to cut over 10% from President Reagan's original defense budget request for Fiscal Year 1987, which began Oct. 1, the Pentagon is poised to cut 6,200 officers from the military services the minute a final version of the budget is passed, according to a leading Defense Department official.

The massacre of the U.S. military by Congress won't stop there. According to Chapman B. Cox, assistant secretary for force management and personnel, in an Oct. 1 interview with the *New York Times*, the need to axe more than 26,000 officers (9% of the total number) over the next four years is almost a certainty, and the Pentagon is now mapping out a reduction of 550,000 men and women from the active and reserved armed forces within a year.

This is more losses than the U.S. military has ever suffered in a foreign war, and they are due solely to anticipated defense budget cuts.

Even though Fiscal Year 1987 began Oct. 1, the House and Senate remain far from resolving their final version of spending appropriations for the year. As the atmosphere of confrontation between Congress and the White House grows, government operations are being maintained past Oct. 1 by a piecemeal one-week "continuing resolution." And, with every one of the 435 congressional seats and 34 senatorial seats up for election in less than a month, Congress is eager to recess for a few weeks of campaigning, meaning another stop-gap "continuing resolution" may postpone the final confrontation over the budget—including the defense budget—until well into November.

Nonetheless, it is virtually a foregone conclusion that Congress is going to offer President Reagan a defense budget of about \$288 billion, or \$31 billion less than his original \$319 billion request. The House has already passed an appropriations bill with only \$283 billion for defense, and the Senate Appropriations Committee came out with a defense

figure of \$295 billion.

Once the Senate passes its "omnibus spending bill," then battling for a compromise with the House will probably result in the \$288 billion figure. With that kind of cut, according to Cox, the layoffs of Armed Forces officers will begin immediately.

As one observer noted, officers are not as easily replaced as fired. The damage will be irreversible.

But it doesn't stop there. In addition, the Pentagon is drawing up its contingency plans for what next year's budget will do to personnel levels. Under the provisions of the new Gramm-Rudman-Hollings deficit reduction law, the \$154 billion deficit target for Fiscal Year 1987 will be lowered to \$109 billion in FY88, with the added element that by then, the "automatic sequestering" provision of the law, which was taken out by a Supreme Court ruling last summer, will be put back in by Congress (with technical changes made to comply with the Supreme Court's ruling).

Faced with this prospect, Cox said, the 550,000-man troop reduction estimate may prove conservative. But, he said, plans are now being mapped out for cutting 300,000 out of the active force of 2.1 million and 250,000 out of the reserve force of 1.1 million over the next 12 months.

Reagan, of course, has promised to fight against such draconian cuts. But with Congress tasting blood in its successful override of the President's veto of its South African sanctions bill Oct. 2, and Reagan's Wall Street advisers (such as Chief of Staff Don Regan) deceiving him into believing that compliance with Gramm-Rudman-Hollings is the only thing holding the U.S. economy together, the President is backed into a corner. The key question is, how much resolve he has to fight.

On the negative side, the White House has already sent signals that it "can live with" the Senate's defense budget—which takes the axe to \$23 billion of the President's original

defense request, and has bludgeoned the total for the Strategic Defense Initiative (SDI) down from the original \$5.4 billion request to \$3.4 billion. The Senate legislation also includes a "Buy American" proviso in its SDI appropriation, which restricts the granting of SDI contracts to foreign countries for work that can be done at home.

Whereas the President has said he won't accept that proviso, he has essentially already conceded the Senate dollar amounts. Many observers fear that he is now willing to give way to a few more billion.

On the other hand, as the head-to-head confrontation between the President and Congress develops, Reagan may feel he has no option but to declare a national emergency. The House has placed a half-dozen restraints on U.S. military policy which Reagan has promised to veto. They include bans on nuclear and anti-satellite (ASAT) testing and chemical weapons development, compliance with the never-ratified SALT II treaty, and a 40% bite out of the SDI budget.

The restraints, in fact, violate the separation of powers of government provided in the Constitution, by asserting the Congress' right to dictate military policy to the President, who is commander-in-chief of the Armed Forces. The Congress set the precedent for this in its South African sanctions bill, which requires the administration to terminate military assistance to countries which, in the next six months, have not joined the United States in an arms embargo against South Africa. As the President said when he vetoed the South African bill, "The U.S. will not revert to a single-minded policy of isolationism, with its vast and unforeseen effects on our international security relationships, that would be dictated by the unilateral decisions of our allies. No single issue, no matter how important, can be allowed to override in this way all other considerations in our foreign policy. Our military relationships must continue to be based upon a comprehensive assessment of our national defense needs and the security of the West."

This commitment by Reagan will not only lead to his veto of the provisions in the House spending bill, but could also lead to a constitutional challenge of the South African sanctions bill, despite the congressional override of the veto, when the question of terminating military assistance to U.S. allies comes up.

Washington insiders report that in dealing both with the Soviets and with Congress, the President's commitment is unyielding both in terms of maintaining full troop strength in Europe and in developing the SDI. He is joined in this sentiment by Defense Secretary Caspar Weinberger.

Emergency powers

Maintaining this commitment may require invocation of emergency powers. In fact, rumors abound in Washington that members of the President's national security staff are brushing up on all existing legislation pertaining to such powers, especially those involving the Federal Emergency

Management Agency (FEMA) and the 1949 Defense Production Act. The Defense Production Act, renewed for another three years by Congress Sept. 30, provides broad powers for the President to act in the national security interest with respect to deployment of natural resources, including electrical power generation (e.g., nuclear power) and "technical information." In addition to its powers to prioritize, allocate, draw from stockpiles, and expand supplies, the act provides the President with virtually limitless discretion to define all the circumstances and definitions of terms contained in the legislation.

Ultimately, therefore, the President can use these powers to by-pass a treasonous Congress, altogether. He would require only the backup of the Supreme Court to maintain his initiatives in force, no matter how much the Congress screamed (and it has been recalled that even without Supreme Court support, Franklin D. Roosevelt's emergency decrees remained in power for over two years before some of them were finally overruled).

Aware of his potential recourse to these options, the President has not backed away from his veto weapon since the South African sanctions override vote. On the contrary, the override made the President "hopping mad," according to sources, especially at the leadership of his own party. On the eve of the vote, he unleashed White House Communications Director Patrick Buchanan to deliver a scathing denunciation of Sen. Richard Lugar (R-Ind.), turncoat who led the opposition to the President. Buchanan, in a speech before a large conservative gathering, charged that Lugar would never have become a U.S. Senator had it not been for Reagan, and for him to turn against his President was reminiscent of a line from Shakespeare's *King Lear*: "How sharper than a serpent's tooth it is to have a thankless child" (the Moonie-run *Washington Times* newspaper, in reprinting Buchanan's speech, edited out the entirety of his attack on Lugar). Reagan was also enraged at Senate Majority Leader Sen. Robert Dole (R-Kan.), who nominally voted against the override, but did virtually nothing to whip up the Republican votes needed to block it.

Undeterred, therefore, the day after the South Africa override vote, Reagan announced his intention to veto a \$9 billion so-called "superfund" for elimination of toxic wastes. This move left Congress with the unhappy option of remaining in session past Oct. 13 in order to attempt an override (and losing valuable days on the campaign trail back home), or allowing Reagan to kill the bill with a so-called "pocket veto," which can occur if Congress is recessed, and eliminates the ability of Congress to override.

Thus, on the eve of his summit with Gorbachov in Iceland, and with Congress' house far from in order, President Reagan is apparently prepared to fight down to the wire to retain the national defense. Ultimately, however, his willingness to invoke emergency powers is the decisive measure of his resolve.