

Defense Secretary Challenged

By Michael Getler

Washington Post Staff Writer

Citing "a growing apprehension among Americans that the law simply has little or no meaning or effect," Sen. Stuart Symington (D-Mo.) has challenged the Secretary of Defense on legality of three major actions involving the Pentagon.

Those actions are the continued U.S. bombing in Cambodia, the appointment of the Army vice chief of staff, four-star general Alexander M. Haig, as President Nixon's "chief of staff" in the White House, and the use of millionaire industrialist David Packard, a former deputy secretary of defense, as a special consultant to the Pentagon.

Symington, who is acting chairman of the Senate Armed Services Committee in the absence of Sen. John C. Stennis (D-Miss.), raised these issues in a series of letters last week to then Defense Secretary Elliot L. Richardson.

Richardson, however, left the Pentagon Friday to become Attorney General, and Defense Department spokesmen said yesterday that Deputy Secretary William P. Clements would respond to the issues raised by Symington.

On Cambodia, the senator has asked for a specific "explanation of just what authority you believe exists in the laws of the United States" which would enable the Pentagon to continue bombing in Cambodia even if Congress denies the authority to transfer funds to help pay for it.

Administration officials have defended the President's inherent powers to continue the bombing as linked to his authority to see that the Vietnam cease-fire agreement is adhered to.

They have also said the Pentagon would use other funds to pay for the war if the transfer authority is denied.

At the same time, however, a Senate committee has voted to restrict all funds for the war, and defense officials said yesterday that if the commit-

tee action is upheld, it would indeed shut off the war funds and thus Symington's question would be moot.

Symington, however, appeared determined to make the administration state the legal basis for its earlier statements.

On General Haig, Symington claims that "the cherished concept of civilian supremacy in the American body politic" is reflected in Section 973, Title 10, of the U.S. Code. That section basically says that "except as otherwise provided by law," no active duty regular military officer may hold a civil office by election or appointment.

Symington maintains that Haig's position as White House "chief of staff" is one which is "historically looked upon as a civil position."

Haig's "interim" appointment to fill the post formerly held by since-resigned H.R. Haldeman had previously been challenged on the same grounds by consumer advocate Ralph Nader. At that time, defense officials would only say they believe the President's constitutional authority as commander-in-chief allows him to use Haig, at least temporarily, in that pivotal spot.

There is another provision in Title 10 which would also allow it, but that requires "advice and consent" of the Senate, which would undoubtedly be difficult. The administration has not mentioned it publicly.

Though Haig is known to be anxious to return to the Army, it is also known that the prospects of his switching to a status other than active duty are under study, which may foreshadow a much longer stay for the general in the White House.

On the role of former Deputy Secretary of Defense David Packard serving as a Pentagon consultant, Symington said "no doubt it is good citizenship" on Packard's part which caused him to volunteer to serve at no pay.

But Packard, a man of enormous wealth, is the head of a firm that does about \$20 million a year business with the Pentagon. He also serves on a number of boards of directors of other firms, and has huge stock holdings valued at more than \$400 million.

Symington has asked the Pentagon for its interpretation of the conflict of interest laws of the U.S. Code which essentially prohibit anyone in government from getting involved

in projects in which he or she may have a financial interest.

The Packard situation, however, may also be a moot point as far as whether he will actually serve as a consultant.

After initially presenting Packard with a flourish last week as one who would return to a battered administration as a consultant to shore up the Pentagon hierarchy in the wake of Richardson's departure, the Pentagon subsequently backed away from using the former deputy in such a role.

After a barrage of questioning by newsmen on the conflict of interest implications, Pentagon spokesman Jerry W. Friedheim acknowledged that Pentagon lawyers had given Packard's role "further thought" and that it was "a possibility" that Packard would not do any consulting.

His only chore at that point had been to visit the B-1 bomber plant in California and tell the Air Force managers there they were doing "a good job."