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*For the Record*

*From testimony by Sen. Jacob Javits  
(R-N.Y.) before the House International  
Affairs Committee on June 4.*

To a disturbing extent, consultations with the Congress prior to the Mayaguez incident resembled the old, discredited practice of informing selected members of Congress a few hours in advance of the implementation of decisions already taken within the executive branch. It is unclear whether this relapse was from force of habit or was calculated to test the mettle and resoluteness of the Congress.

It seems to me that the time has come to establish a crucial distinction, if the War Powers Resolution is to meet the nation's expectations of it. A distinction must be made between the historic custom of giving advance notice to the congressional leadership of major presidential decisions, and the prior consultations requirements of the law. The prior consultations required under the law should be conducted with the committees having legislative jurisdiction—meeting in their formal capacities as committees of the Senate and House of Representatives. If the President wishes to conduct the consultations personally, as he did in one instance with the Senate Foreign Relations Committee, the committee as a matter of courtesy can meet the President at the White House. Otherwise, I believe that it is incumbent upon the President to send his designated representative or representatives to appear before the Senate Foreign Relations Committee and the House International Affairs Committee, in full and timely manner, to consult in the full sense of that term.

The President would not be bound in any legal sense by the advice he received in the course of consultations with the committees. But, he would be rash to wholly discount it because any actions he may take after consultation are subject to congressional review. . . .