

OCT 1 1973

WXPost
A Congressional Consensus on How We Go to War

Agreement by House and Senate conferees on war-powers legislation puts the Congress within reach of reclaiming its constitutionally and politically appropriate role in a critical area of national policy-making; the conference report goes to the floor of both houses this week. A succession of Presidents have taken to themselves authority to commit the country to war, most recently and painfully, of course, in Vietnam. Finally, after more than a decade of warmaking in Indochina, the Congress has managed to assemble a consensus on the position it should take in future conflicts. The delay, not to speak of Congress' general reluctance to grapple with assertive Presidents on this issue, does not exactly enhance confidence in the legislature's capacity to play the role it has now staked out for itself. Still, it is a considerable achievement that, on an issue at once so elusive and charged, the Congress has produced a bill. Rep. Clement Zablocki (D-Wis.) and Sen. Jacob Javits (R-N.Y.), the two principal sponsors, have done outstanding work.

The President has long threatened to veto this bill; it was drafted under that shadow. But here it is noteworthy that Mr. Nixon's objections do not seem to go principally to one or another of the specific features of this bill—these features add up to a requirement that the President truly inform Congress and seek its consent before committing the nation to hostilities, except under stipulated, limited emergency conditions. Rather, Mr. Nixon simply does not wish legislative restraints to be placed on Executive war-making. Whether his view is constitutional is arguable—these days, just about everything is. It is, at any rate, a claim entirely consistent with Mr. Nixon's general and well-known views on the amplitude of presidential power.

Estimates vary on whether the Congress can override

the expected veto; the answer will shortly be available. We would suggest, however, that Mr. Nixon weigh the political benefits to himself and to his office of war-powers legislation. What he dismisses as a curb on presidential power is in fact a guarantee that, in a war, the occupant of the Oval Office would have the support of the legislative branch. A President who had complied with the provisions of this bill would not have to fear dissipating his and the country's energies in a duel with the Congress over the terms of entry into war or of its subsequent conduct. Anyone who, reviewing the last 10 years, cannot understand how much this would serve the national interest has missed one of the chief lessons of the Vietnam war. The administration now regularly advertises the advantages of foreign-policy cooperation between the executive and legislative branches. This bill poses the issue nicely: does the administration mean it or does it not?

We are aware that no war-powers bill can be stronger than the determination of Congress to apply it in a particular set of circumstances. The President would still retain the possibility of going to the country in an emergency and sweeping the Congress along. The congressional record is not reassuring on this score. Nonetheless, by this bill, the Congress has jacked itself up to a standing position on an issue on which it had previously been supine. This is an achievement which not even an upheld veto can take away. In this sense, the significance of this bill lies not only in its specific provisions for information, consultation and review but in the expanded congressional awareness and self-respect which it denotes. This may yet offer the best hope that, whatever the fate of the bill, the Congress will accept its share of national war-making responsibility in any crisis that may come.