

# Nixon Faces Renewed Conflict

By Richard L. Lyons  
Washington Post Staff Writer

As President Nixon begins his second term, he faces a series of conflicts and confrontations with Congress over policies and powers.

Conflict between a strong President and a Congress controlled by the opposition party is inevitable. But not in recent years has there been such a clamor from Congress that President Nixon is usurping the constitutional powers of Congress, pays no attention to congressional policy as spelled out in legislation, and must be made to understand that they are equal branches of government.

The major policy issues that divide them are war and spending.

The President has been insistent on ending U.S. involvement in Indochina only through a settlement that brings "peace with honor" to Southeast Asia. Congress seems in a mood, if current Paris talks fail, to say: Get out and just bring the prisoners with you.

At home, the President says he is determined to cut federal spending by large amounts from popular programs such as aid to farmers, housing, efforts to clean polluted waterways. No member of Congress, no matter how conservative he prides himself on being, wants federal aid, once given, withdrawn from constituents.

## HEW Bill Vetoed Twice

Twice last year, Mr. Nixon vetoed the budget-busting HEW appropriation bill and it is still waiting final enactment. When Congress overrode his veto of the big clean-water bill, the President responded by impounding — refusing to spend — more than half the funds authorized for the next two years.

The Democratic majorities in Congress that enacted the big spending programs are fit to be tied.

In a Senate speech last week, Sen. Hubert H. Humphrey (D-Minn.), his party's presidential nominee four years ago and a principal architect of social welfare legislation, said he wanted to cooperate with the President. He wanted "partnership

with the President," but received notice that:

"If the President feels that somehow or other this country cannot afford to take care of the sick, the infirm, the elderly, and the children, I want the President to know that he is in for a fight and that the floor of the Senate will be used day in and day out for that purpose."

If leading members of Congress mean what they have been saying in recent days, the larger struggle will be over the powers of the President and Congress to impose their will.

## It's Fiercest

Congress has been grumbling for years that the huge executive branch it created during the last 40 years is taking over congressional powers. But the anger and frustration and desire for Congress to try to reclaim and assert its eroded powers seems greater than has ever been.

The struggle includes war

powers, power of the purse, executive privilege.

A large and growing part of Congress feels that a past President usurped the congressional power to declare war by committing troops in Vietnam and that the present President is at least on questionable legal grounds in continuing the combat now that the Gulf of Tonkin resolution has been repealed.

Congress resents not being consulted on the December bombing of North Vietnam, on the negotiations which first seemed on the verge of success and then broke off and have now been reconvened. It feels that Mr. Nixon figures he can run the government without Congress and intends to do so.

## With Congress

## on Powers

When the Senate Foreign Relations Committee recently asked Secretary of State William P. Rogers and the President's principal negotiator on the war, Henry A. Kissinger, for a briefing on the state of the war and negotiations, Mr. Nixon forbade either to appear.

Kissinger as a personal adviser to the President could claim executive privilege in not testifying before Congress. But Rogers, as a cabinet officer subject to Senate confirmation, is usually available when a congressional committee wants to talk to him.

One congressional response has been a declaration by the Senate Democratic caucus that all presidential nominees should promise as a condition of Senate confirmation to appear before a Senate committee upon request.

There has been congressional talk of requiring Senate confirmation, to permit questioning, of some officials such as the budget director who do not now require Senate approval. And there has been talk of delaying confirmation action on

pending cabinet appointments until the President agrees to keep Congress advised.

## May Reconsider Limits

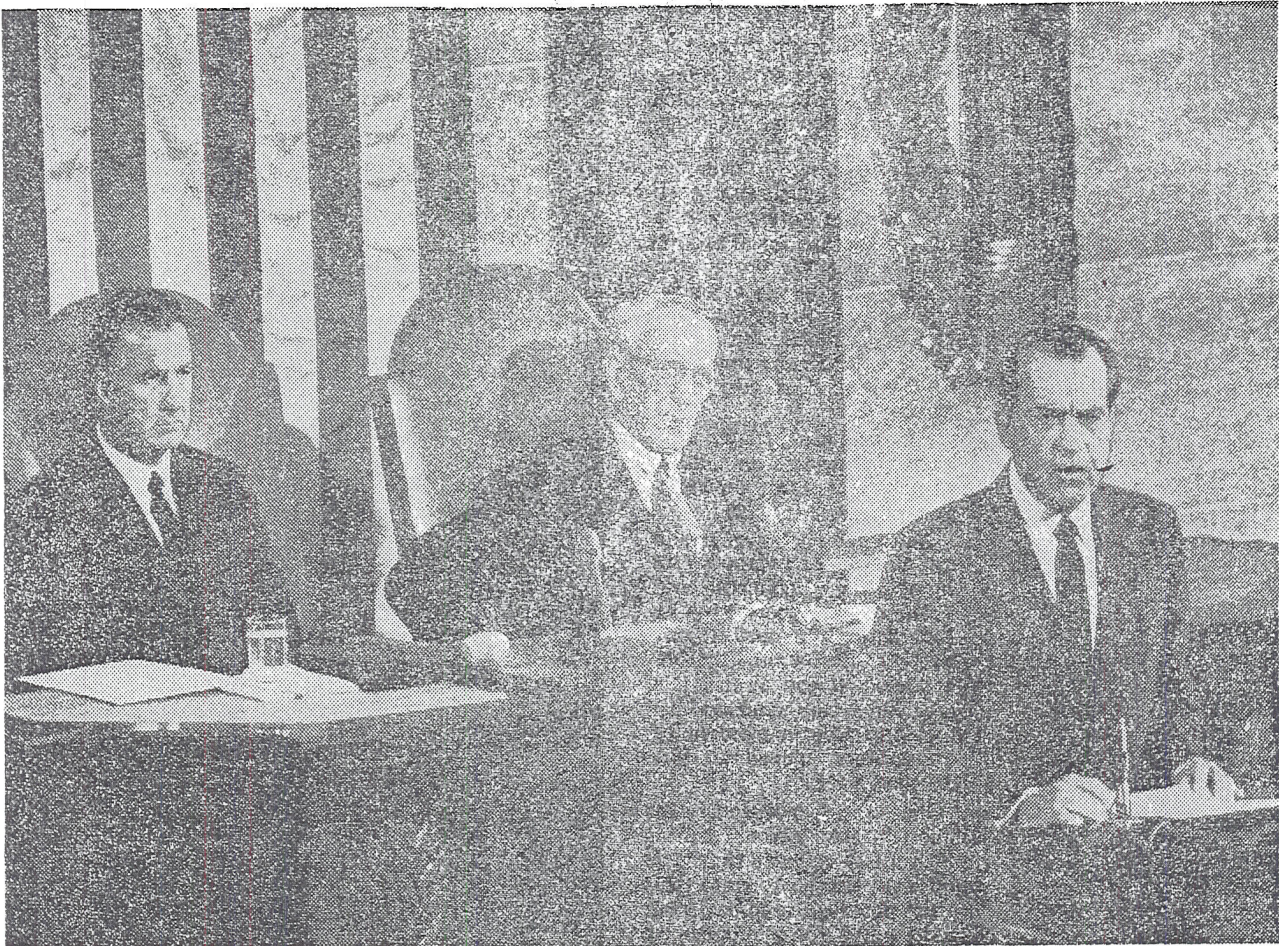
The Senate, at least, plans consideration again of bills limiting the President's power to commit troops to combat and to impound appropriated funds without congressional approval.

Almost all Senate committee chairmen are supporting a federal court suit challenging the President's power to refuse to spend funds as Congress prescribes. The Constitution gives Congress the power to decide how federal money is

to be spent. If the President can decide how to spend the money — either through claimed powers of impoundment or by enforcing a spending ceiling which he unsuccessfully requested last year—senators feel the congressional power of the purse is considerably diminished.

The issue of executive privilege—the claimed right of the President and his personal advisers to withhold information from Congress—is put in sharper focus with the apparent decision of the President to run the domestic portions of the executive branch through super-Cabinet officers who would operate as counselors to the President. As counselors, these department heads, like Kissinger, presumably would be immune from congressional questioning.

The National Committee for an Effective Congress said in a recent letter to members of Congress that this design for the domestic departments “reproduces that of the Nixon foreign policy apparatus, where the untouchable Dr. Kissinger commands a personal foreign ministry while the accountable Secretary of State



By Bob Burchette—The Washington Post

Mr. Nixon gives first State of the Union address in 1970. Behind him, Vice President Agnew, then-Speaker McCormack.

is a ceremonial figure, able to share very little with Congress except frustration.

“Broad domestic and eco-

nomie policy will be directed by a small group of managers, under the dual command of John Ehrlichman and George Shultz who

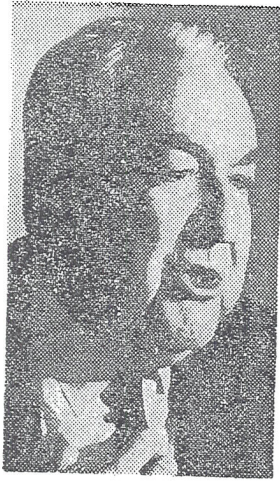
will operate behind the shield of special presidential assistant. The chain of command will flow through an inner network of assistant secretaries and bureau chiefs picked from the inner circle of White House loyalists . . . The cabinet system will fade and control will be concentrated in an authoritarian President."

Congress probably does not as of now have the will to end U.S. involvement in the war. If it could obtain a majority vote to cut off funds, and this is not yet quite visible in the House, the President could veto the bill and the two-thirds vote required to override is not yet available. And Congress would insist that any funds cut off be conditioned on release of U.S. prisoners. This would, in effect, give a veto to a source outside Congress.

#### **Powers That Pinch**

But if the struggle between executive and legislative branches becomes sufficiently intense, Congress has powers that could pinch the President. It could refuse to provide money to pay his staff. The Senate could refuse to confirm his new cabinet members.

Sen. Edward W. Brooke (R-Mass.), said in a recent televised interview that "if you continue to invest more and more power into the executive, if one man can start a war, conduct a war . . . or end a war without congressional approval, then you're



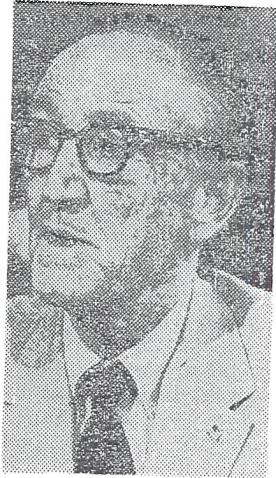
**SEN. SAM ERVIN**  
... Hill 'abdicated'

getting perilously close to a dictatorship."

Sen. Sam J. Ervin (D-N.C.), the Senate's leading constitutional authority, said recently that the executive branch has usurped power of the legislative branch, but that Congress is also guilty of giving its power away.

"Congress has abdicated much of its power to the President because it's a little more comfortable politically to some congressmen and to some senators not to have to face certain issues and let the President take the responsibility," said Ervin. "I think that's bad."

House members have been less vocal on these issues, but Democratic lead-



**SEN. MIKE MANSFIELD**  
... checks and balances

ers drew heaviest applause at a recent party caucus there by calling for a reassertion of congressional powers.

Senate Majority Leader Mike Mansfield told Senate Democrats recently that the people, in electing a Democratic Congress in the face of President Nixon's landslide victory, had given Congress a mandate "to exercise our separate and distinct constitutional role in the operation of the federal government. The people have not chosen to be governed by one branch of government alone. Rather, they have called for a reinforcement of the Constitution's checks and balances."