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President's Power: Tonkin and Today

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Nearly 11 years ago, the House of Representatives, in 40 minutes, unanimously rushed through the Gulf of Tonkin resolution, giving the President broad authority to use American troops in Indochina.

Early this morning, after 14 hours of turbulent and disconnected debate, the House, by a vote of 230 to 187, passed legislation giving the President limited authority to use American troops to rescue American and South Vietnamese citizens from Saigon.

Similar but more restrictive authority was approved yesterday by a vote of 75 to 17 in the Senate, which, in August, 1964, passed the Tonkin resolution by 88 to 2.

The Congressional alacrity 11 years ago in giving broad powers to the Commander in Chief, and the reluctance today to grant authority for even a humanitarian mission, symbolize the changing relationship—and the continuing difficulties—between Congress and the White House on sharing of the war-making powers.

Began With Tonkin

The new authority, as it emerges from a Senate-House conference committee, may well become the Congressional epilogue in a Vietnam War story that, as far as Congress was concerned, began with the Tonkin resolution.

The legislation will also represent the fruit of an evolutionary political process that has been going on since Congress began to see the Tonkin resolution as the culmination of Congressional abdication of war-making powers to the President.

For the last six years, Congress in various ways has been trying to limit the President's war powers. The

move began with the national-commitments resolution of 1969, which called upon the President not to enter into foreign military commitments without Congressional assent. There followed various Congressional amendments specifically prohibiting the President from reintroducing military forces into Indochina. And then came the 1973 War Powers Act, which sought to impose Congressional limitations on the President's authority to commit the armed forces to hostilities.

Ford's Bid for Troops

This evolutionary process had an important test when in the final stages of the Vietnam war, President Ford decided it might be necessary to use troops to get out the last Americans, as well as some endangered South Vietnamese citizens, out of Saigon.

Mr. Ford believed that as Commander in Chief he had inherent Constitutional powers to use troops to protect Americans but he decided that, in view of the various Congressional restrictions, it was best that Congress "clarify" his authority. He also openly acknowledged that, in view of the War Powers Act, he needed Congressional authority to use the troops to rescue South Vietnamese citizens.

Congress found it difficult to accede. The limitations had grown out of a mistrust of the executive branch, and it was particularly among the more vocal younger members, that made it so difficult to grant Mr. Ford's request.

Mr. Ford contributed to the mistrust by asking for broad, nonspecific authority to use the troops "to carry out humanitarian evacuation." The House and Senate bills limited the authority by providing, in general, that the troops were to be used to protect Americans, b

and any rescue of South Vietnamese was to be ancillary.

Even with that basic restriction, suspicion prevailed among many members of the House that the President wanted a pretext for large-scale military re-involvement. For a while the House was against giving the President any authority.

As the debate went into evening yesterday, however, a realization developed in the House that if it wanted to share in war-making powers it had to issue a Congressional mandate that, while it would dispose limitations, would also depend upon confidence in the president's exercise of the authority.

The tide of the debate began to change perceptibly after two of Democratic liberals—Donald M. Fraser of Minnesota and Robert N. Giaimo of Connecticut—arose to berate younger members who had been delaying action.

'Within Reason . . .'

"The only issue before us here tonight," Mr. Giaimo said, "is whether we will extend to our President a minimum of confidence, a minimum of trust and say, 'Yes, Mr. President, within reason and without the engaging of a massive number of troops, do everything you possible can to save human beings who are entitled to help from the United States.'"

"We are great in this Congress when it comes to lowering taxes or voting greater deficits or voting for many good social programs, he said, "but when we got a tough nut like this one before us, we tend to obfuscate and get lost in many extraneous and literally non-germane areas."

To Mr. Fraser, the issue was whether Congress was prepared to write "a prescription" on how the President could use his war powers. As though lecturing the younger members who had not experienced the years of

the evolutionary process, he told the House:

Dominican Move Cited

"Under the War Powers Act, we tried to limit the President by asking him to come to us if he wanted to use force anywhere in the world. I do not like to see us abdicate that responsibility. I do not like to see us say: 'Well, we cannot work it out, so we hand it back to you and you use your Constitutional authority.'"

"I remember that we invaded the Dominican Republic under that alleged claim of Constitutional authority."

Ten years ago President Lyndon B. Johnson sent marines and airborne troops into Dominican Republic on the ground that he was protecting American citizens endangered by a Communist-supported coup.

Mr. Ford and Congress may now jointly have established a precedent, so defining the somewhat ambiguous War Powers Act that future Commanders in Chief cannot so freely use troops without first obtaining Congressional approval.