

# Senate Panel Supports Curbs On Presidential War Powers

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WASHINGTON, Feb. 10 — The Senate Foreign Relations committee contended today that proposed legislation defining the war powers of the President represented a needed and useful step toward restoring the constitutional balance between Congress and the executive branch.

The committee began setting the stage for a constitutional debate by issuing a favorable report on a war powers bill to be considered by the Senate in the next few weeks.

The legislation would provide that in the absence of a Congressional declaration of war, the President could not use the armed forces except in certain specified emergencies, such as an attack upon the United States or its forces or an imminent threat of attack, or to protect American citizens endangered in a foreign country.

Even in such emergencies the President could not continue hostilities for more than 30 days without obtaining Congressional approval.

## Wide-Ranging Support

The legislation has wide-ranging support, with the co-sponsorship of such Senators as Jacob K. Javits, Republican of New York; John Stennis, Democrat of Mississippi; Thomas F. Eagleton, Democrat of Missouri; William B. Spong Jr., Democrat of Virginia; Robert Taft Jr., Republican of Ohio, and Lloyd M. Bentsen, Democrat of Texas.

In the Senate, the bill seems likely to be opposed by some conservatives as well as by the Administration.

In a preview of the arguments ahead, Senator Barry Goldwater, Republican of Arizona, issued a statement contending that "183 years of experience under the Constitution has firmly established the principle that the President, as Commander in Chief and the primary author of foreign policy, has both a duty and a right to take military action at any time he feels danger for the country or its freedoms."

"Any legislation, such as the war powers bill, which would restrict his flexibility in these situations, is clearly unconstitutional," Senator Goldwater said.

The Goldwater views correspond generally with those of the Nixon Administration, which has objected that the proposed legislation would limit the President's flexibility in a nuclear age.

As if responding to this argument, the committee said in its report.

"No responsible citizen questions the right — or even the duty — of the President to take immediate action against a sudden attack, or imminent threat of attack, upon the United States or its armed forces.

What the committee does contest is that expansive view of executive prerogative which holds that the President may use the armed forces at will, even in conditions falling short of a genuine national emergency, and that he may sustain that use for as long as he, and he alone, sees fit."

In "additional views," Senator J. W. Fulbright, the committee chairman, supported the general purpose of the legislation but expressed concern that in defining the emergency situations in which the President might act, the provisions of the bill "may have the unintended effect of giving away more power than they withhold."

## Demurer by Fulbright

For example, he said, the provision authorizing the President to "forestall the direct and imminent threat" of attack could be used "to justify almost any conceivable foreign military initiative" and could be "construed as sanctioning a pre-emptive, or first strike, attack solely on the President's own judgment."

Senator Fulbright announced that when the bill was considered by the Senate, he would offer a substitute approach that would provide that the President could use armed forces only in "a national emergency of such a nature as does not permit advance Congressional authorization," and that he could not use nuclear weapons without explicit Congressional authorization.

Senator John Sherman Cooper, Republican of Kentucky, questioned whether Congress could impose a 30-day limit on the President's emergency use of the Armed Forces.

His suggestion was that in event the President committed forces to foreign hostilities, Congress immediately be notified and proceed to consideration of the question of whether it would authorize such use of the armed forces.