

President's War Powers

Senator Javits is indulging in Nixonian hyperbole when he asserts that his War Powers Act, currently before the Senate, is "one of the most important pieces of legislation in the national security field that has come before the Senate in this century." The act merely attempts to spell out powers which Congress has always enjoyed under the Constitution but which successive Congresses, especially in recent years, have allowed dangerously to erode. Unless Congress acts more responsibly than it did, for example, in 1964 when the Tonkin Gulf Resolution was hastily adopted without serious challenge, the War Powers Act is not likely to prove effective in checking the arbitrary extension of Presidential authority in the war-making field.

The Javits bill is, however, a useful appendage to the Constitutional powers because it compels Congress to face up to its responsibilities. While granting the President ample latitude to act immediately in emergency situations, the bill requires a prompt report to Congress and Congressional authorization for the continuation of hostilities beyond 30 days. Congress could no longer allow a Presidential initiative to stand and grow by default as it has done time and again during the steady escalation of the Indochina conflict.

Administration spokesmen have assailed the War Powers Act as an unconstitutional abridgement of the President's powers as commander-in-chief. But it is the President and his predecessors who have defied the Constitution by ascribing to the commander-in-chief exclusive powers to commit the nation to war that were certainly not intended by the Founding Fathers. Senator Javits has pointed out that the Second Continental Congress, wary of the arbitrary authority of kings, strictly instructed George Washington as commander-in-chief "...punctually to observe and follow such orders and directions...from this or a future Congress..."

In a nuclear age when the President of the United States commands forces of unprecedented power scattered around a volatile globe it is especially important to reassert the Congressional checks on Presidential war-making authority that were explicitly written into the Constitution. Senate passage of the War Powers Act could be a significant step toward redressing a perilous imbalance in the American federal system.