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# Defense Report

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## **The War Powers Resolution— A Usurpation of Constitutional Responsibilities**

In 1973 the United States was deep in a national debate over our involvement in Vietnam. Relations between the President and the Congress were at a low ebb, marked by a seemingly endless exchange of charges and countercharges about the way the country became involved in the Southeast Asian quagmire. Many in Congress claimed that successive Presidents, starting with Eisenhower, had overstepped their powers to commit forces. The executive branch countercharged that Congress had worked its will by overwhelmingly approving the Gulf of Tonkin Resolution and US participation in the Southeast Asia Treaty Organization.

But at the height of its frustration over a seemingly endless and costly war the Congress passed its 1973 War Powers Resolution which requires the President to consult with it before committing US forces and empowers the Congress to require withdrawal of US forces after 60 days by passing a veto-proof concurrent resolution. There have been a number of emergencies requiring the use of US military forces in foreign areas since the War Powers Resolution was passed. In each case the President has sought consultation with Congress before committing the forces.

Former President Ford tells of attempting to "consult" with Congress when the evacuation of Danang, South Vietnam, became necessary in 1975. Congress was on its Easter recess and Congressional leaders were scattered on overseas visits or in their home states. One key member of Congress had an unlisted phone number which his staff refused to reveal to the White House. Telephone operators had local police leave a "please call the White House" note on the door of one congressman's beach house. Similar problems were encountered during other emergencies. Clearly, there is no way to be assured that Congress will be in session and available for consultation when the precious minutes needed to cope with an emergency begin to tick off.

Congress has the constitutional duty to raise an army and a navy and to declare war. The Senate has the additional responsibility to provide advice and consent on treaties. The President is the constitutional commander-in-chief of the armed forces and the originator of the nation's foreign policy. In passing the War Powers Resolution the Congress overstepped its constitutional powers and set the stage for an unmanageable conflict of responsibilities in the event of a future emergency.

We can only hope that, with the bitterness of Vietnam behind us, Congress can be persuaded to rescind this potentially disastrous resolution.