

Jules Zacher

The American people and Congress have abrogated all rights to control nuclear weapons to the Executive branch in complete derogation of the separation of powers under the Constitution. The reasons for this anti-democratic result are many. Secrecy surrounding the bomb since its inception, the need for instantaneous decision making regarding the usage of these weapons, denial and the need to not be a part of such a horrible weapon, etc. are just some reasons. All of these reasons will be developed in the paper. Nevertheless, the American public and Congress can play a critical and constructive role. FOIA litigation has resulted in discovering documents which show the President not being able to communicate with 50 warheads for 60 minutes in 2010 and is but one example of citizen involvement. There are many other examples of how citizens, particularly lawyers and academics, can engage the Executive branch to be more forthcoming regarding these catastrophic weapons.