

Assignment: War Powers Resolution

The War Powers Resolution was designed to reign in the power of the President when it came to allocating troops for a military purpose. At times, those in both the executive and legislative branches have been relieved to have the restrictions implemented by the War Powers Resolution, but there have been other times when it has hampered the ability of the President to react in times of crisis.

Your assignment is to research the War Powers Resolution and answer the following questions.

- I. What does the Constitution specifically state regarding war-making power.
 - A. The Constitution gives Congress specifically the right to declare war and also to determine funding of the military, both powers serving to hold in check the power of the executive branch. The president is given the power to wage war.
 - B. The President is the Commander-in-Chief of the Armed Forces, giving the President power over the military, and often an precedent for having greater powers over matters related to the military, including foreign policy.
 - C. The powers of warmaking are divided between the Legislative and Executive branches to prevent unilateral decisions from empowering individuals to a tyrannical extent.
- II. Define the importance of each of the following:
 - A. 1941 Declaration of War on Japan
 1. This was the last time that the United States Congress ever officially declared war. With Public Law 77-328, 55 STAT 795, the Congress of the United States officially entered the country into the Second World War on December 8th, 1941, the day after the bombing of Pearl Harbor. Subsequently, the Axis Powers declared war on the United States as part of their alliance to the Japanese Empire.
 - B. Tonkin Gulf Resolution of 1964
 1. By passing the Tonkin Gulf Resolution of 1964, President Lyndon B. Johnson was given extensive wartime powers and the authorization to escalate American involvement in Vietnam without having to go through Congress and declare war as part of an effort to assist members of the Southeast Asia Collective Defense Treaty.
 - C. 1973 War Powers Act
 1. After the controversy that was the Vietnam War, the 1973 War Powers Act sought to bring greater limits onto the power of the president to commit to military engagements without Congressional approval. There is a 48 hour window within which Congress must be notified of armed military engagement, which forces can remain committed to for

no more than 60 days plus 30 days for withdrawal. This time period restriction, of course, only applies if Congress does not eventually approve the military engagement or issue a formal declaration of war. Not only was this a major step in limiting the power of the President in military matters, but it was also an instance where Congress had to override a presidential veto of the legislation.

D. 2002 Iraq War Resolution

1. This was a piece of legislation that once again gave the office of the President significant power over the military, authorizing the President to employ the U.S. Military as "necessary and appropriate" against the state of Iraq, citing Iraq's hostility, ties to terrorists, and the threat posed by Iraq to U.S. allies. A majority of both houses approved the 2002 Iraq War Resolution.

III. Compare and contrast the actions taken by the president in each of these situations.

A. 1941 Declaration of War on Japan: The then-President, Franklin Delano Roosevelt, gave a speech to both chambers of Congress requesting permission to formally issue a declaration of war against the Empire of Japan, recognizing the state of conflict that then existed between the US and Japan as a result of Pearl Harbor. Unlike the other examples, this resulted in an actual formal declaration of war.

B. Tonkin Gulf Resolution of 1964: President Lyndon Baines Johnson initially rejected the idea of submitting a resolution to Congress requesting authorization for escalation of the engagement in Vietnam, but following the Gulf of Tonkin Incident, the Secretary of Defense and Secretary of State convinced Congress to pass the Tonkin Gulf Resolution, authorizing the President to use armed force in Vietnam without declaring war.

C. 1973 War Powers Act: President Richard Milhouse Nixon vetoed the 1973 War Powers Act until Congress overrode the veto by a $\frac{2}{3}$ majority. Unlike the previous two examples, the President here did not seek approval of Congress for an expansion of powers or passage of a decision, but instead sought to impose his will upon Congress to prevent an erosion of his powers.

D. 2002 Iraq War Resolution: President George Walker Bush spoke to the United Nations about intervention in Iraq and subsequently requested Congressional approval. This eventually manifested in the form of the Iraq War Resolution, which was passed by the majority of Congress. This is a return to more of the norm of a President seeking Congressional approval before significant military involvement, but war was still not declared.

IV. Do you feel the War Powers Act follows the Constitution? Explain your answer.

- A. The War Powers Act, I feel, is in line with the Constitution, if only just, as it does not restrict the ability of the President to exercise his power to wage war, but provides a check on it so as to prevent the President from bypassing the legislative branch. In writing the Constitution, the Framers thought about many possibilities, and they felt it necessary to give the Executive Branch the power to swiftly move to protect the country and its interests, but they divided the power of warmaking between the Executive Branch and the Legislative Branch. The War Powers Act serves to strengthen the check that the Legislative Branch has on the behavior of the Executive Branch in this case, limiting power and staying in line with a vision of preventing tyranny.
- V. With supportive evidence, do you feel the U.S. needs to develop a new process for deciding to make war?
 - A. There is no need for change in the way that the U.S. declares war, as current legislation in tandem with the Constitution has served as well enough for the past century or more. The War Powers Act has served to place a check on the power of the President to engage in military combat without approval, and subsequent military engagements have not experienced issues getting the President and Congress to agree on U.S. Armed Forces intervention. Since our last formal declaration of war, the U.S. has still been able to enter into conflicts without much issue, avoiding official declarations for reasons of politics. Functionally, everything seems fine. There are potentially foreseeable issues with the War Power Act, for example, if Congress is particularly combative despite a clear and pressing need for military engagement, but in that case, it is likely that a change in government would be forced by the people if it had grown that disconnected, fragmented, and overbearing.

Submit your completed assignment when you are finished.