

THE WHITE HOUSE HISTORICAL ASSOCIATION

Classroom: Grades 9-12

President and War Powers: "Lincoln and the Civil War"

Activity - The War Powers Tug of War

President Abraham Lincoln's use of war powers during the undeclared Civil War has been questioned. But historians argue that military actions in circumstances short of declared war are not unusual. There have been more than two hundred situations in American history in which the armed forces have been used, and only five when war was actually declared: the War of 1812, the Mexican-American War, the Spanish-American War, World War I, and World War II. In all other cases presidents have used the armed forces on their own authority, without getting approval from Congress.⁸ Though the framers of the Constitution seemed to have expected that decisions about peace or war would be made by Congress, increasingly presidents have taken the United States into serious military confrontations without specific authorization. This tendency appeared most pronounced in the escalation of the Vietnam War under President Lyndon Johnson. Doris Kearns Goodwin takes note of this situation in *Lyndon Johnson and the American Dream*:

So it happened that in 1965 Johnson was able to take the American people into a war that turned out to be the longest in its history, without a declaration of war or even a specific resolution of support from the U.S. Congress. Advisers led to bombs and bombs led to troops and gradually America was at war with North Vietnam. And the Congress was called upon simply to recognize the situation and support the President's actions.⁹

When Lyndon Johnson left office and President Richard Nixon began the de-escalation of American troops in Vietnam, some 540,000 U.S. soldiers were there, certainly numbers suggesting a serious military commitment. In the Nixon presidency, members of Congress were troubled by Nixon's potential for expanding the war into other theaters. They were particularly disturbed when they found that he had ordered secret bombing raids on Cambodia, attacks that continued for some fourteen months prior to the open incursion in May 1970 to "destroy staging areas" of the North Vietnamese Army. Apparently the Cambodian government had been cooperative with the bombing missions, despite a position of neutrality. Nixon had privately notified a few "hawkish" congressman whose approval could be expected.

Congressional Tug

The "doves" in Congress had long opposed the expansion of these war-making powers by Presidents Johnson and Nixon. After failing eight times to override Nixon's presidential veto, Congress finally mustered enough votes to pass its own restriction on the war-making powers of the president in November 1973. It was called the *War Powers Resolution* (see appendix)

The War Powers Resolution was enacted to "insure that the collective judgment of both the Congress and the president would apply to the introduction of United States armed forces into hostilities." According to the resolution, the president is restricted in war making to situations in which (1) Congress has declared war; (2) Congress has given the president specific statutory permission to use armed forces; or (3), the territories, armed forces, or possessions of the United States have been attacked.¹⁰

Further, the president is required "in every possible instance" to consult with Congress before sending U.S. armed forces into hostilities. After he has done so, he is to consult Congress on a regular basis until the forces have been removed. He is required to report to Congress within forty-eight hours of committing troops. Under the law, the president is given a maximum of sixty days to use the forces with congressional approval, and then he has to obtain either a declaration of war or some other means of approval from the legislative body.¹¹



President Reagan meets with Congress on the invasion of Grenada.

Ronald Reagan Library

Presidential Tug

Most presidents since the War Powers Resolution was enacted have opposed it on some grounds, including these:

Presidents claim that they can make these military decisions based on their own constitutional authority as commander in chief;

They argue that their duty to see that the laws are faithfully executed gives them an "international police power" to make sure other nations pay their debts, protect U.S. lives and property abroad (including ensuring the safety of embassies), and abide by international law.

They argue the president has specific power to put down insurrection within the United States.

They point out that the president executes treaty commitments, and some treaties require the United States to guarantee the security of other nations (the NATO agreement, for example).

They argue that in a nuclear age, split-second timing makes it unrealistic to assume that Congress could participate in a decision to use nuclear weapons.

Activity:

Below are situations in which U.S. presidents used their war powers to send or withdraw troops since the passage of the War Powers Resolution in 1973. Your task is to:

1. Find as much information about the president's role in one of these military actions. (A good place to check is a full-length biography of one of these presidents, since there you are likely to get better coverage of the events mentioned below. Click on the bibliography [link] for some examples.) Also, since these are fairly recent events, you may find information about them in the Guide to Periodical Literature in your library.
2. Determine if the president did in fact invoke the War Powers Resolution in this situation.
3. Make a judgment based on your study of the War Powers Resolution, relevant Constitutional provisions, and the arguments stated above, as to whether you think the president's action was constitutional and appropriate.

4. Prepare a presentation that includes the elements listed below. So your classmates can use this information for a follow-up activity, if possible provide them with a briefing sheet that includes information on each of the following:

The date and circumstance of the action

The president's stated reason for the action

The president's use of the War Powers Resolution

The extent of the action, in time, money, and personnel

The success of the action (both militarily and politically)

The public's response to the action

Your opinion as to whether the president's action was justified

A follow-up

1. Using what you have learned from your study of the president's use of war powers and the briefing sheets provided by your classmates, write an essay assessing the validity of the following statement:

Although the Constitution grants Congress the power to declare war and to raise and support armies, the president, as commander in chief, has the exclusive power to wage war and to command and control the armed forces in both peace and war. Since one power is incomplete without the other, the Framers of the Constitution must have intended that military action represent the collective judgment of the Congress and the President.¹²

2. Keep in mind that two congressional committees receive any communications from the president when he invokes the War Powers Resolution: the House Committee on Foreign Affairs and the Senate Foreign Relations Committee. Visit the Senate or House website (www.senate.gov or www.house.gov) to determine the name of the current chair of one of those committees. Write to that senator or congressman and ask for information regarding how the War Powers Resolution has affected the work of his or her committee. Ask specific questions relating to the presidential actions reviewed in the class presentations.

When you hear from the senator or congressman, share your findings with the class.

3. In a culminating discussion consider this question: What is the future of the War Powers Resolution?

Presidential Military Commitments: Examples

President Gerald Ford

- April 1975: President Ford directed U.S. participation in an international humanitarian effort to transport refugees from Danang and other seaports to safer areas in Vietnam. He also used armed forces to assist in the evacuation of Cambodia and South Vietnam.
- May 15, 1975: President Ford ordered U.S. armed forces to recapture the SS Mayaguez, a merchant vessel en route from Hong Kong to Thailand with a U.S. citizen crew, after it was seized by Cambodian communists in international waters.

President Jimmy Carter

- April 26, 1980 President Carter approved what proved to be an unsuccessful mission to rescue the American hostages held in Tehran, Iran.

President Ronald Reagan

- 1981 After a guerilla offensive against the government of El Salvador, President Reagan sent additional U.S. military advisers there, bringing the total to approximately fifty-five. They were to offer training in counterinsurgency.
- March 1982 President Reagan authorized U.S. military personnel to be used in the Sinai as part of the multinational forces and observers helping execute the peace treaty between Egypt and Israel, a product of the 1979 Camp David Accord.
- August 1982 President Reagan deployed eight hundred marines to serve in the multinational force to assist the Palestine Liberation Front in withdrawing from Lebanon.
- September 1982 President Reagan authorized a marine contingent of 1,200 men to be used as part of a temporary multinational force to help restore

the Lebanese government. The marines were to serve for an unspecified time as an "interposition force" that would not "engage in combat."

October 1983 President Reagan deployed approximately 1,900 marines and army airborne troops into Grenada at the request of five members of the Organization of Eastern Caribbean States. Approximately 1,000 U.S. citizens, mostly students, were reported to be on the island and some U.S. officials were concerned that they might be harmed or taken hostage.

Spring 1986 President Reagan ordered American naval forces to stage exercises in the Mediterranean, off the coast of Libya, whose radical leader, Muammar Quaddafi, was generally believed to be a principal sponsor of terrorism. When Libyan forces apparently harassed the Americans, U.S. bombers launched a series of retaliatory attacks on Libyan positions. A few weeks later a more extensive bombing raid was ordered on the Libyan capital.

President George Bush

1989 President Bush sent an invasion force of 14,000 troops into Panama, where 13,000 American troops were already based. The invasion attained its goal of ousting Manuel Noriega, a leader once favored by the United States but now in trouble for drug-trafficking and repressive methods of governing, and putting into power the opposition leader Guillermo Endara.

December 1989 President Bush reported that on December 1, U.S. fighter planes from Clark Air Base in the Philippines had assisted the pro-American Aquino government to repel a coup attempt. In addition, 100 marines were sent from the U.S. Navy base at Subic Bay to protect the U.S. embassy in Manila.

January 1991 In August 1990, Iraqi troops, at the order of dictator Saddam Hussein, invaded Kuwait and annexed it into Iraq. The United Nations voted strong sanctions against Iraq. The U.S. Navy was authorized to institute a blockade of Iraq to cut off oil exports. When Hussein would not reverse his actions, at President Bush's request, Congress voted on January 16, 1991, to support a military action against Iraq, called Operation Desert Storm.

May 1991 President Bush stated in a status report to Congress that the Iraqi repression of the Kurdish people had necessitated a limited

introduction of U.S. forces into northern Iraq for emergency relief purposes.

December 1992 President Bush reported that he had deployed U.S. armed forces to Somalia in response to a humanitarian crisis and a UN Security Council Resolution determining that the situation constituted a threat to international peace.

President Bill Clinton

April 1993 President Clinton reported that U.S. forces were participating in a NATO air action to enforce a UN ban on all unauthorized military flights over Bosnia-Herzegovina.

June 1993 President Clinton reported that in response to attacks against UN forces in Somalia by a factional leader, the U.S. Quick Reaction Force in the area had participated in military action to end the violence.

June 1993 President Clinton reported that on June 26 U.S. naval forces had launched missiles against the Iraqi Intelligence Service's headquarters in Baghdad in response to an unsuccessful effort to assassinate former President Bush in Kuwait in April 1993.

Note: The source of information for the military commitments is Ellen C. Collier's "Instances of Use of United States Forces Abroad, 1789-1993," found at:

http://sun00781.dn.net/man/crs/crs_931007.htm.

THE WAR POWERS RESOLUTION— AN ACT

Public Law 93-148 November 7, 1973

93rd Congress, H. J. Res. 542

Joint Resolution concerning the War Powers of Congress and the President.

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,

PURPOSE AND POLICY

SEC. 2. (a) Congressional declaration. It is the purpose of this joint resolution to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgement of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicate by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Congressional legislative power under necessary and proper clause. Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

(c) Presidential executive power as Commander-in-Chief; limitation. The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

CONSULTATION

SEC. 3. Initial and regular consultations. The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situation where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

REPORTING REQUIREMENT

SEC. 4. (a) Written report; time of submission; circumstances necessitating submission; information reported. In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation; the president shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth--

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

CONGRESSIONAL ACTION

SEC. 5. (a) Transmittal of report and referral to Congressional Committee; joint request for convening Congress. Each report submitted pursuant to section 4(a)(1) shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable (or if petitioned by at least 30 percent of the membership of their respective Houses) shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to this section.

(b) Termination of use of United States Armed Forces; exceptions; extension period. Within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States. Such sixty-day period shall be extended for not more than an additional

thirty days if the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of United States Armed Forces requires the continued use of such armed forces in the course of bringing about a prompt removal of such forces.

(c) Concurrent resolution for removal by President of the United States Armed Forces. Notwithstanding subsection (b), at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs by concurrent resolution.