



# Nixon and the War Powers Resolution

## Summary

Beginning in 1812 and for the next hundred years, U.S. presidents asked for and received congressional declarations of war against England, Mexico, Spain, Japan, and European powers. During the Cold War, President Harry Truman sent troops to Korea as part of a UN force without a congressional declaration of war. President John F. Kennedy sent troops to defend South Vietnam. Congress never declared war, but years later passed the Tonkin Resolution authorizing President Lyndon Johnson to use force against North Vietnam. In reaction to U.S. involvement in Vietnam, Congress passed the War Powers Act which limited the president's authority to commit American troops abroad without Congress's approval. The law was passed over the veto of President Richard Nixon, who argued the law was an abridgement of the president's authority as Commander in Chief. The Act raises the questions: How far does the president's power as Commander in Chief extend? And, how much of that power can be limited by Congress?

## Resources

- The Avalon Project  
([http://avalon.law.yale.edu/20th\\_century/warpower.asp](http://avalon.law.yale.edu/20th_century/warpower.asp)) – Text of the Joint War Powers Resolution

## Narrative

Congress declared war in the War of 1812, the Mexican-American War, Spanish-American War, World War I, and World War II. In 1947, President Harry Truman announced that the US would provide assistance to any nation in the world that was threatened by Communism. When communist North Korea invaded free South Korea

in 1950, Truman sent US troops as part of a combined United Nations force defending South Korea. Truman did not ask for a declaration of war, and described the troops' mission as a "police action." The undeclared war ended in an armistice in 1953 with both sides claiming victory.

In 1961, President John F. Kennedy continued the Truman Doctrine of assisting countries threatened by Communism by sending supplies and military advisors to South Vietnam in their fight against Communist North Vietnam. US troops were in combat less than a year later, though there had been no declaration of war from Congress. President Kennedy was assassinated in 1963 and President Lyndon Johnson took over the management of the war in Vietnam. Congress passed the Gulf of Tonkin Resolution, affirming that the US was "prepared, as the President determines, to take all necessary steps, including the use of armed force" to assist South Vietnam. Though there was no declaration of war, Johnson understood the Gulf of Tonkin Resolution as empowering him to escalate the fighting. The war became increasingly unpopular at home. Critics argued there was no clear objective, the US did not seem to be winning, and casualties were mounting. Under a barrage of criticism, President Johnson announced he would not run for a second term.

After President Richard Nixon was inaugurated in 1969, he began secret bombings in Cambodia. These missions were kept secret from Congress and the American people for more than a year. News of the My Lai massacre (where US troops killed unarmed civilians and children) broke in 1969. Distrust of government intensified when the Pentagon Papers (stolen secret documents revealing the government had misled the people about the Vietnam War) were published in 1971.

By 1973, all American troops had left Vietnam, and the Senate Armed Service Committee had begun hearings on the secret bombings in Cambodia. Congress ordered an immediate end to the bombing raids.

At this same time, Congress also drew up the War Powers Resolution. The Resolution required the President to consult Congress before the start of hostilities, and report regularly on the deployment of US troops. Further, the President would have to withdraw forces within sixty days if Congress has not declared war or authorized the use of force. When it came to his desk, Nixon vetoed the War Powers Resolution. In his veto message, he wrote that the Resolution “would attempt to take away, by a mere legislative act, authorities which the President has properly exercised under the Constitution for almost 200 years. ...The only way in which the constitutional powers of a branch of the Government can be altered is by amending the Constitution...” He noted that Congress already had a constitutional check on the President’s power with its appropriations (funding) power. Congress passed the law over President Nixon’s veto with the necessary two-thirds vote in both Houses.

Though Presidents have provided Congress with reports consistent with the War Powers Resolution since its passage, one former US Senator noted in 2008 that no President had ever submitted the precise kinds of reports to Congress required by the Act despite the US’s involvement in numerous armed conflicts since 1973. A bipartisan panel recommended the repeal of the War Powers Resolution in 2008, but debate over what kind of law should replace it, if any, continues.

## Questions

1. How does the Constitution distribute war powers between the President and Congress, and why did the Founders decide on this arrangement?
2. What was the War Powers Resolution of 1973?
3. Why did President Nixon veto it?
4. Keeping in mind the constitutional war powers of Congress and the President, how would you assess the constitutionality of the War Powers Resolution?
5. Why do you think there has been no declared war since World War II, yet the US has been almost constantly engaged in military action? What is the difference between Congress “authorizing the President to use force” and declaring war? Who bears more responsibility in each case? Which, if any, seems to lead to better outcomes for the US?

## Extension

Debate over the War Powers Act continues today. Critics want the law repealed for apparently contradictory constitutional reasons—some argue it takes too much power away from the President and gives too much to Congress, while others believe the President retains too much power at the expense of Congress. Have students work in groups to research arguments on both sides and answer the following questions:

1. What are the strongest arguments on each side?
2. How do the different arguments against the War Powers Act reveal different ways of interpreting the Constitution?

<https://billofrightsinstitute.org/educate/educator-resources/lessons-plans/presidents-constitution/war-powers-resolution/>