



# Congressional Hearing Simulation

Should the War Powers Act of 1973 be repealed?

**Learning Objective:** The student will

- Participate in a role-play dealing with decision-making.
- Examine different points of view.
- Think critically

**TEKS:** USH 19A, 28A-B, 28E, 31

**Materials Needed:** Copy of roles for students, Copies of Constitution and War Powers Resolution excerpts for each student, Table tents for each group, exit slip.

**Review:** Explain to students that the War Powers Resolution of 1973 was passed by Congress over the veto of President Richard Nixon. The teacher may wish to review elements of the Vietnam War before beginning the simulation, including: Gulf of Tonkin incident and resolution, Pentagon Papers, Bombing in Cambodia. Note: The Bill of Rights Institute has a good background reading (see links at end of lesson).

**Teaching Strategy:**

### ***Introduction***

1. Introduce the simulation by explaining to students that they will have the opportunity to take on roles of individuals that have a perspective to offer in a discussion on whether or not the War Powers Act of 1973 should be repealed. They should consider both the history behind the act and present day events.
2. Explain to students that they will be participating in a mock Congressional hearing where they will present arguments regarding the appeal of this law before the class. They need to be prepared to give a one minute presentation to the teacher and the class as to their position on the question. They also need to be prepared to answer follow up questions related to their testimony.

### ***Primary Source Analysis***

3. Provide each student with a copy of the War Powers Act and relevant sections of the U.S. Constitution. Have students review these two primary sources to determine what might be the issue associated with this piece of legislation. Allow opportunities for students to work together or ask questions.

### ***Assignment of Roles***

4. Assign each student one of the roles in the simulation. There are a total of eight. You may wish to have already divided the class into eight groups.
5. Ask student to read their role silently and consider their perspective along with what they have already learned from the primary sources.
6. Once students have read their role, allow students with the same role to research and/or discuss how their role would feel about the War Powers Act of 1973.

### **Optional Jigsaw**

7. It might be helpful to have students' jigsaw into groups so that each group has one of the roles represented. This would help them get a sense of other individual's interest in the issue.

### **Preparation of Statements**

8. After students have had a chance to discuss their perspective, provide time for them to develop their one minute presentation as to their point of view on the issue.

### **Statements and Follow Up**

9. Arrange the room so that there is a spot for each group to present to the class.
10. Explain to students that as they listen to their fellow classmates present that they need to be prepared to ask a question of the group presenting. The teacher should require each group to ask a question at least once during the presentations. For example, if the Defense Secretary is testifying and the Vietnam Veteran group asks a question then they have met the expectations.
11. Call upon each group to give their position. As each group finishes their presentation, the teacher asks follow up questions as needed. The teacher then calls upon other groups in the class to ask the group questions to gain a clearer understanding of their position.
12. After all groups have presented, have students individually complete the exit ticket where they explain how they would have answered the question:

#### ***Should the War Powers Resolution of 1973 be repealed?***

13. Once all groups have finished the teacher could allow for a class vote on the topic.

**Suggested sides for each role.** (Note: Students could take a different side based on their interpretation of their assigned role).

#### **Repeal the War Powers Act Roles:**

Secretary of Defense

Member of Congress on the Appropriations Committee

Korean War Veteran

American Citizen Living Overseas

#### **Don't repeal the War Powers Act - we need to limit the President**

Vietnam Veteran

Member of Congress on the Foreign Relations Committee

Constitutional Scholar who studied the Vietnam Conflict and the Gulf of Tonkin Act

Representative of Spouses of Soldiers

# **United States Constitution**

## **Ratified, 1787**

### **Article I, Section 8**

The Congress shall have power to...

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

### **Article II, Section 2**

The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States;

## **Gulf of Tonkin Resolution**

### **Approved by Congress, August 7, 1964**

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.*

Section 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Section 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

# War Powers Resolution (1973)

## Purpose and Policy

Section 2. **(a) It is the purpose of this chapter to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment 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 indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) 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) 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

Section 3. **The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities** or into situations 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

Section 4. (a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

- (1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;
- (2) 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

Section 5. **(b) Within sixty calendar days after a report is submitted** or is required to be submitted pursuant to section 1543(a)(1) of this title, 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.

**Read through this person's perspective and prepare to become this person as your role in the Congressional Hearing.**

## **Secretary of Defense**

As the Secretary of Defense you support the executive branches ability to respond immediately to events that affect our nation. You feel that the government has learned lessons from the Vietnam War era and that you and the President should be able to make decisions under your roles which are based on the U.S. Constitution. You feel that your department will work with Congress concerning issues of military and national importance. As a representative of the President of the United States you are concerned about this act and how it impacts your boss's constitutional role. You understand that the act was passed during the Vietnam War because many distrusted the role the U.S. was playing in this conflict. However, under Nixon's predecessor, Congress had passed the Gulf of Tonkin Resolution that said the U.S. was "prepared, as the President determines, to take all necessary steps, including the use of armed force" to end the fight against the North Vietnamese. You believe that President Nixon was following Congress' direction and applying the Gulf of Tonkin Resolution to the conflict.

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## **Member of Congress on the Appropriations Committee**

As a member of this committee in the U.S. House of Representatives you know that Congress has the power to check the President's power through the appropriations (funding) process. You believe that Congress can limit the power of the President with regards to military conflict by refusing to fund conflicts. Because of your ability to regulate policy through the appropriations process, you believe that Congress will be consulted regarding ongoing conflicts. You also feel that you should be consulted about these actions rather than focusing attention as to whether or not the President followed certain procedures. You are a strong supporter of the U.S. Constitution.

**Read through this person's perspective and prepare to become this person as your role in the Congressional Hearing.**

## **Korean War Veteran**

As a veteran of the Korean War, you believe the President should be able to commit troops into battle in order to support the priorities of our nation. You proudly served under President Truman's leadership as part of the United Nations force that was protecting South Korea from communist North Korea. Having fought in the first "undeclared" war you believe that the country can be involved in foreign conflicts without having to define every single aspect of U.S. involvement.

**Read through this person's perspective and prepare to become this person as your role in the Congressional Hearing.**

## **American Citizen Living Overseas**

You are an American citizen living and working overseas coordinating multiple government contracts. You have witnessed increasing tensions in the region and you are concerned that limitations on the President's ability to commit troops by this act might be a threat to your security. If additional time for troops is not approved, adversaries might simply choose to wait out the time before increasing their hostilities.



**Read through this person's perspective and prepare to become this person as your role in the Congressional Hearing.**

## **Vietnam Veteran**

As a veteran of the Vietnam War you are concerned about extended armed conflicts without a declaration of war. You experienced firsthand the death and destruction of a prolonged armed conflict. You are also concerned about what you heard during the conflict about secret bombings in Cambodia that had not been shared with the American public or with Congress. While you are a proud veteran and support the U.S. armed forces, you want to make sure that conflicts that are being fought are done so with transparency.

**Read through this person's perspective and prepare to become this person as your role in the Congressional Hearing.**

## **Member of Congress on the Foreign Relations Committee**

As a member on the Foreign Relations committee you support Congressional checks and balances on the executive branch. You believe that the Founding Fathers were correct in separating foreign policy between two branches and you aim to protect this balance. Given historical evidence that President Nixon had not shared significant information with Congress about the Vietnam conflict, you want to require that the President continue to consult with Congress. You feel that the many men and women in Congress that have served in the military add a unique perspective to this issue.

**Read through this person's perspective and prepare to become this person as your role in the Congressional Hearing.**

## **Constitutional Scholar who studied the Vietnam Conflict and the Gulf of Tonkin Resolution**

Your research into the conflict in Vietnam has provided evidence that U.S. presidents had been involved in one way or another with the fight in Vietnam going back to President Harry S. Truman when he provided military support to the French as they were dealing with Vietnam (a French colony). Your research into the Pentagon Papers showed the level of U.S. involvement in Vietnam over the years. This papers were the product of a study commissioned by President Nixon's Secretary of Defense, Robert McNamara, and were secretly leaked to the New York Times and the Washington Post. The Times ended up in a court battle concerning freedom of the press in its desire to continue publishing the papers. The U.S. government challenged the publishing of the document saying that the information contained in the document was classified.

**Read through this person's perspective and prepare to become this person as your role in the Congressional Hearing.**

## **Spouse of a Career Soldier**

You are representing spouses of those currently serving in the military. Those that support our men and women in uniform want to make sure that, anytime our soldiers are asked to engage in a military action, they are doing so for the best interests of our country and not for political reasons. You feel that Congress best represents the people and that they should be involved in helping to monitor any use of force.

## Resources Used

Nixon and the War Powers Resolution

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

House and Senate Override Veto by Nixon on curb of War Powers: Backers of Bill win 3-year fight

<https://www.nytimes.com/1973/11/08/archives/house-and-senate-override-veto-by-nixon-on-curb-of-war-powers.html>

War Powers

<https://www.loc.gov/law/help/war-powers.php>

Fixing the War Powers Act

<https://www.heritage.org/defense/report/fixing-the-war-powers-act>

War Powers Resolution: A Brief Summary of Pro and Con Arguments

[https://www.everycrsreport.com/files/19960605\\_96-494\\_07bd9e1961fb2d35eb331d0a01a25a2fbda620eb.pdf](https://www.everycrsreport.com/files/19960605_96-494_07bd9e1961fb2d35eb331d0a01a25a2fbda620eb.pdf)

War Powers Resolution: Concepts and Practices

<https://fas.org/sqp/crs/natsec/R42699.pdf>

Pentagon Papers

<https://www.britannica.com/topic/Pentagon-Papers>