



The Dynamics of War Powers

Time and Grade Level:

Three 50 minute class periods in a Grade 9-12 US history, government or civics classroom

Purpose of the Lesson:

This three-part lesson asks students to investigate and think critically about the nature of the War Powers identified by the Constitution. Beginning with the historical and philosophical foundations of the War Powers as they are written in the Constitution, students will be asked to explore why the Founders identified the War Powers as they did, using primary sources to back up their arguments. Students will then consider how War Powers have changed over time, evaluating the evolving dynamic of powers between the three branches of government.

Critical Engagement Questions & Lesson Objectives

1. What are the War Powers described by the Constitution?
 - Objective: Students will be able to list the War Powers described in the Constitutional and describe their historical development.
2. How are the War Powers divided among the three branches of government?
 - Objective: Students will be able to identify which power belongs to each branch of government.
3. How has the power to declare war and control the military been modified among the branches over time (the dynamic of the war powers)?
 - Objective: Students will be identify and describe at least two ways in which war powers have and have not changed over time. Students will be able to use specific examples of conflicts in American history to back up these statements.
4. Is it appropriate for the war power dynamic to change over time?
 - Objective: Students will be able to analyze historical and modern examples of the use of war powers to draw conclusions about their role in American democracy.

Standards:

[C3 Standards: Suggested k-12 Pathway for College, Career, and Civic Readiness Dimension 2, Historical Sources and Evidence & Causation and Argumentation](#)

D2. His.10.9-12. Detect possible limitations in various kinds of historical evidence and differing secondary interpretations.

D2.His.10.9-12. Critique the usefulness of historical sources for specific historical inquiry based on their maker, date, place of origin, intended audience, and purpose.

D2.His.17/9-12. Integrate evidence from multiple relevant historical sources and interpretations into a reasoned argument about the past.

[Common Core Standards: English Language Arts Standards-History/Social Studies-Grade 11-12](#)

CCSS.ELA-Literacy.RH.11-12.1 Cite specific textual evidence to support analysis of primary and secondary source, connecting insights gained from specific details to an understanding of the text as a whole.

CCSS.ELA-Literacy.RH.11-12.2 Determine the central ideas or information of a primary or secondary source; provide an accurate summary that makes clear the relationship among the key details and ideas.

CCSS.ELA-Literacy.RH.11-12.9 Integrate information from diverse sources, both primary and secondary, into a coherent understanding of an idea or event, noting discrepancies among sources.

Overview of the Lesson:

This lesson will take place over three days although it may be modified to fit two days.

Day One	Day Two	Day Three
<p>1. Teacher leads an interactive lecture using the provided prezi.</p> <ul style="list-style-type: none"> This lecture will explain and provide the historical foundations of the War Powers identified in the Constitution. This lecture will explore how the division of power and dynamics of the War Powers have changed over time. <p>2. Student completes “spectrum of power” activity using post-it notes.</p> <ul style="list-style-type: none"> Activity asks students to identify which branch they believe holds the greatest war powers <p>3. Teacher introduces in-class investigative assignment.</p>	<p>1. Student research day for the investigative assignment</p> <ul style="list-style-type: none"> Students will be given a research guide to aide their research. 	<p>1. Student presentations of investigative assignment</p> <p>2. Re-evaluation of “spectrum of power” activity from day one.</p> <p>3. Assignment of extension activities.</p>

Materials:

1. This lesson will require extensive use of internet sources. Students will require access to computers and the teacher will require a projector on Day 1.
2. Day 1 activities will be guided by a Prezi, accessible [here](#). Never used Prezi? Learn how to [here](#).
3. Students should acquire or be given pocket Constitutions.
4. ConSource primary sources related to the War Powers (See [Appendix A](#))
5. Printed or Virtual copies of the War Powers Act/Resolution (See [Appendix B](#))
6. Printed or Virtual copies of [“James Madison’s Notes of the Constitutional Convention \(August 17,1787”](#)
7. Printed or virtual copies of [CRS Report, “Instances of Use of United State Armed Forces Abroad, 1798-2013”](#)
8. Two colors of Post-it Notes, enough for each student.
9. One long sheet of butcher-block with “Presidential Authority,” “Congressional Authority” and “Judicial Authority” labeled on different sides of the paper.

10. A printed copy of the ConSource timeline of US Conflicts with each conflict cut out and folded into individual envelopes (See [Appendix C](#)).
11. Copies of “War Power in Past and Present U.S. Military Conflicts” student worksheet (See [Appendix D](#)).

Warm-Up for the Lesson:

Prior to the first class of the lesson, students should be assigned a reading of the War Powers Resolution. Students should also be asked to highlight the portions of their pocket Constitutions which they believe constitute the federal war powers. Assigning these readings eliminates the need to spend too much time dissecting the War Powers Resolution; allowing for more discussion of the historical significance and foundation of war powers prior to the introduction of the modern application activity.

Activity:

DAY ONE

1. Warm-up Activity (reading of the War Powers Resolution and highlighting activity with the Constitutional War Powers). Teachers will need to prepare the “Spectrum of Power” by placing the Butcher-block pieces.
2. Use the Prezi to guide a discussion about the War Powers and how they might be evolving. Be sure to flesh out the ideas of a spectrum of power created by the way that the War Powers are designated in the Constitution. Additionally, try to pull the idea of shifting dynamics into the discussion at all points. This will allow you to touch upon the historical and modern implications of War Powers and the idea of a shifting dynamic.
 1. When you get to the point in the lecture where students are prompted to identify War Powers on a spectrum of power, this is your cue to use the prepared butcher block paper. Distribute one color of the post-it notes to students and ask them to place that post-it on the spectrum of power. Post-its placed closer to the “Presidential Authority” side of the paper would indicate that the student believes that the Constitutional War Powers give the president more authority than Congress over deciding how we engage in conflict. Before placing their post-it on the Butcher-block, ask students to write a short justification of their decision.
 2. When you get to the “Breakout Session” in the Prezi--when discussing the historical foundations of War Powers--have students work in groups for 10-15 minutes to search the ConSource Constitutional Index for evidence of why the Founders added

each of the War Powers. You may want to divide the powers amongst the groups to encourage more careful research.

3. The final piece of the Day 1 activities will be the introduction of the War Powers Investigation Assignment. You will want to divide students into pairs or small groups and have them randomly select the past or present U.S. military conflict they will cover. Details of the assignment include:
 - Students will prepare for a 3-5 minutes presentation of their conflict, with an additional 2 minutes for Q&A from the class.
 - With their chosen conflict, students should prepare a summary of their conflict and an analysis about how the actions taken by each of the three branches (as applicable) during this conflict contribute to the discussion of war powers--using both modern and historical perspectives. They should be guided by the research question: Is it appropriate for the War Power dynamic to change over time?
 - Encourage students to use any medium to make their presentations as long as they provide plenty of evidence--including primary sources--to back up their arguments.

DAY TWO

1. This is a research and work day for students. Consider reserving a computer lab or a laptop cart for this day if possible.
2. Distribute the “War Powers in Past and Present U.S. Military Conflicts” worksheet to guide student research. See Appendix D for this worksheet.

DAY THREE

1. Students will take turns presenting on their findings today for each of the U.S. Military conflicts assigned on Day 1.
2. After their 3 minute presentations, facilitate a Q&A session for each student pair or group. Be sure to direct questioning toward the interplay between the three branches in War Powers for this conflict.
3. After all groups have completed their presentations, bring the class together for a fish bowl style discussion.
 1. Ask students their opinion on the assignment and how their Day 1 statements about the balance of War Powers (on the spectrum of power) has/has not changed with this assignment.

2. Time permitting, allow students to adjust the placement of their post-it notes on the spectrum of power while discussing the outcomes of their research. Distribute new post-its notes for the students to make this adjustment, with new reasons for their placement choices.

Homework:

Day Two: If students do not complete their research and presentation on Day 2, ask that they finish the work for homework.

Day Three: Assign one of the listed extension activities.

Extension Activities:

A. Consider presidential and congressional war powers in the context of Syria. Ask students to read [this article](#) posted on Constitution Daily blog about the debate over the president authorizing limited military action in Syria without first seeking congressional approval. Then, discuss as a class or ask students to write an essay considering how President Obama's action in Syria might be evaluated by the Founding generation with regard to their views of Executive War Powers.

B. Consider the Supreme Court's War Powers. Ask students to write an essay answering the question:

Executive and Congressional authorities are the only branches with War Powers explicitly identified in the Constitution. What authority does the Supreme Court have in determining war powers? Please evaluate the role of the Court in determining War Powers in one of the following cases.

Consider asking students to make this evaluation through the lens of the cases [Campbell v. Clinton](#), cases related to the [War on Terror](#), or [Lincoln's use of the War Powers](#) during the Civil War.

Appendix A. War Powers with ConSource Primary Sources

The following list presents the direct clauses from the Constitution that constitute Federal war powers. Each clause is linked to the ConSource Constitutional Index, which provides specific primary sources for each clause.

Article I, Section 8

1. [The Congress shall have Power to...provide for the common Defence and general Welfare of the United States](#)
2. [To define and punish Piracies and Felonies committed on the high Seas,](#)
3. [And Offences against the Law of Nations](#)
4. [To Declare War](#)
5. [Grant Letters of Marque and Reprisal](#)
6. [And make Rules concerning Captures on Land and Water](#)
7. [To raise and support Armies,](#)
8. [But no Appropriation of Money to that Use shall be for a longer Term than two Years](#)
9. [To provide and maintain a Navy](#)
10. [To make Rules for the government and Regulation of land and naval forces](#)
11. [To provide for the calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions](#)
12. [To provide for organizing, arming, and discipling, the Militia, and for governing such Part of them as may be employed to the Service of the United States, reserving to the State respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress.](#)
13. [...To exercise like authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazine, Arsenals, dock-Yards, and other needful Buildings](#)

Article II, Section 2

1. [The President shall be Commander in Chief of the Army and Navy of the United States](#)
2. [and of the Militia of the several States.](#)
3. [He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur](#)

Appendix B. War Powers Resolution

This document may be accessed online [here](#). An additional resource, summarizing and explaining the War Powers Resolution may also be found on the [Law Library of Congress' website](#)

War Powers Resolution 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,

SHORT TITLE

SECTION 1. This joint resolution may be cited as the "War Powers Resolution".

PURPOSE AND POLICY

SEC. 2. (a) 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 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

SEC. 3. 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

SEC. 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.

(b) The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad

(c) Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congress less often than once every six months.

CONGRESSIONAL ACTION

SEC. 5. (a) 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) 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) 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.

CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTION OR BILL

SEC. 6. (a) Any joint resolution or bill introduced pursuant to section 5(b) at least thirty calendar days before the expiration of the sixty-day period specified in such section shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than twenty-four calendar days before the expiration of the sixty-day period specified in such section, unless such House shall otherwise determine by the yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out not later than fourteen calendar days before the expiration of the sixty-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the

committee of conference shall make and file a report with respect to such resolution or bill not later than four calendar days before the expiration of the sixty-day period specified in section 5(b). In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such sixty-day period.

CONGRESSIONAL PRIORITY PROCEDURES FOR CONCURRENT RESOLUTION

SEC. 7. (a) Any concurrent resolution introduced pursuant to section 5(b) at least thirty calendar days before the expiration of the sixty-day period specified in such section shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days, unless such House shall otherwise determine by the yeas and nays.

(b) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a concurrent resolution passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement.

INTERPRETATION OF JOINT RESOLUTION

SEC. 8. (a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred--

(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution; or

(2) from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.

(b) Nothing in this joint resolution shall be construed to require any further specific statutory authorization to permit members of United States Armed Forces to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this joint resolution and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

(c) For purposes of this joint resolution, the term "introduction of United States Armed Forces" includes the assignment of member of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

(d) Nothing in this joint resolution--

(1) is intended to alter the constitutional authority of the Congress or of the President, or the provision of existing treaties; or

(2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEPARABILITY CLAUSE

SEC. 9. If any provision of this joint resolution or the application thereof to any person or circumstance is held invalid, the remainder of the joint resolution and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

SEC. 10. This joint resolution shall take effect on the date of its enactment.

CARL ALBERT

Speaker of the House of Representatives.

JAMES O. EASTLAND

President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U.S.,

November 7, 1973.

The House of Representatives having proceeded to reconsider the resolution (H. J. Res 542) entitled "Joint resolution concerning the war powers of Congress and the President", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said resolution pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

W. PAT JENNINGS

Clerk.

I certify that this Joint Resolution originated in the House of Representatives.

W. PAT JENNINGS

Clerk.

IN THE SENATE OF THE UNITED STATES

November 7, 1973

The Senate having proceeded to reconsider the joint resolution (H. J. Res. 542) entitled "Joint resolution concerning the war powers of Congress and the President", returned by the President of the United States with his objections to the House of Representatives, in which it originate, it was

Resolved, That the said joint resolution pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

FRANCIS R. VALEO

Secretary.

Appendix C. U.S. Conflicts & Wars Fact Sheet

Find the ConSource timeline of U.S. Conflicts and Wars listed on the Primary Source page as a part of this lesson plan. The document includes: the timeline, a conclusion discussing the War Powers implications of these conflicts, a set of newspaper articles related to these conflicts and the war powers at stake, and a bibliography.

Appendix D. Student Guide for War Powers Investigation Activity

Name _____

War Powers in Past and Present U.S. Military Conflicts
Student Research Guide

Is it appropriate for the War Power dynamic to change over time?

Conflict _____

Summary of the Conflict

Who was involved and who responded (what was the military response).

What happened? What are the facts of the case that demanded military involvement? Use your evaluation of these facts of the case when discussing the merits or flaws of War Power use in this case.

Where did this conflict originate on U.S. or foreign soil?

When did the conflict occur? Consider that what else was happening around the world at the time that might have influenced the ways that War Powers were used in this case.

Why did this conflict happen and why did we (the U.S.) get involved? How would these circumstances effect the application of War Powers?

How: Give us a basic timeline of the events that shaped this conflict, paying special attention to the responses from the three branches.

Constitutional War Powers at Play

Who expressed power first? What were the key issues or questions about the War Powers during this conflict, if any? How did the other branches react to this expression of power and/or how did their War Powers fit into this conflict? Explain how the three branches expressed their War Powers during this conflict.

Founding Perspective

Take a look at the primary sources in the ConSource Constitutional Index related to the War Powers. Look for instances where the founders discussed or touched upon war power issues at play in your conflict. What did they say? What was the Founder's intent for the War Powers? Were they followed in this case? Is this a good thing or bad thing?