

## **War Making: Executive and Legislative Powers**

### **Grade Level**

High School

### **Discipline**

US Government

American History

### **National Standards for Civics and Government:**

*The Center for Civic Education developed these standards to align with the National Education Goals stated in the Goals 2000: Educate America Act of 1994 with support from the Office of Educational Research and Improvement of the U.S. Department of Education and The Pew Charitable Trusts.*

Standard III - How does the Government Established by the Constitution Embody the Purposes, Values, and Principles of American Democracy?

Section A - How are power and responsibility distributed, shared, and limited in the government established by the United States Constitution?  
Content Standard 1 - Distributing governmental power and preventing its abuse.

Section B - How is the national government organized and what does it do?  
Content Standard 1 - The institutions of the national government.  
Content Standard 2 - Major responsibilities of the national government in domestic and foreign policy.

### **Recommended Time**

Two 90-minute class sessions or three 60-minute class sessions.

### **Lesson Overview**

The recent war in Iraq has precipitated a nationwide debate on a longstanding Constitutional and political question: What are the respective roles and responsibilities of the executive and legislative branches in making war? In the course of this lesson, students will examine the constitutional, legal, political and historical sources of this debate and apply them to the current conflict in Iraq and to other situations both past and present.

## Objectives

Students will:

- Examine what the Constitution says about the war-making power.
- Contrast the roles and responsibilities of the executive and legislative branches of government when it comes to making war.
- Become familiar with important 20<sup>th</sup> and 21<sup>st</sup> century Congressional resolutions and acts, including the 1941 Declaration of War on Japan; the Tonkin Gulf Resolution of 1964; the 1973 War Powers Act; and the 2002 Iraq War Resolution.
- Analyze and evaluate contrasting opinions concerning the respective roles that should be played by the executive and legislative branches when it comes to making war.

## Materials

- Handout 1: U.S. Constitution (Article I, Section 8 and Article II, Section 2)
- Handout 2: President Franklin D. Roosevelt's Message to Congress, December 8, 1941
- Handout 3: War Resolution, December 11, 1941
- Handout 4: President Lyndon B. Johnson's Message to the American People, August 4, 1964
- Handout 5: Gulf of Tonkin Resolution, August 10, 1964
- Handout 6: War Powers Act, 1973
- Handout 7: President George W. Bush's Letter to House Speaker Dennis Hastert, September 4, 2002
- Handout 8: Iraq War Resolution, October 10, 2002

## Procedures

Day One – 90 minutes

- Students will locate the relevant sections of the Constitution in **Handout 1** related to war-making powers. They will individually compare the powers of each branch and then share their findings with a partner. The partners will summarize the war making powers of each branch.
- The partners will describe the procedure and sequence of events followed in 1941 for declaring war as described in **Handout 2: President Franklin D. Roosevelt's Message to Congress**; and **Handout 3: War Resolution**. They will then compare/contrast that procedures in **Handout 4: President Lyndon B. Johnson's Message to the American People** with the one described in **Handout 5: Gulf of Tonkin Resolution**. Students will make inferences regarding the relationship between the President and Congress in making war.

- Students will engage in a discussion centered on the following questions:
  1. How were the actions taken by President Roosevelt similar to and different from those taken by President Johnson?
  2. How were the actions taken by Congress in 1941 similar to and different from the actions taken by Congress in 1964?
  3. In what ways was the bombing of Pearl Harbor similar to and different from the events in the Gulf of Tonkin?
  4. Was the Gulf of Tonkin Resolution an implied declaration of war, or was it something different?
  5. What Constitutional issues arise as a result of the events of 1964?
  6. What might have happened if the Congress had not passed the Gulf of Tonkin Resolution?
  7. How have the nature of war and the role of the United States in the world changed since World War Two?

#### Day Two – 90 minutes

- By 1973, increasing numbers of Americans and their elected representatives had turned against the war in Vietnam and came to believe that the president should be limited in his ability to wage war without the expressed approval of Congress.
- Students will brainstorm a list of possible limitations on the president's role as Commander-in-Chief that are consistent with the Constitution.
- Students will use **Handout 6: War Powers Act** to compare/contrast their list with the provisions of the War Powers Act of 1973 and discuss the following questions:
  1. Is the War Powers Act consistent with the Constitution?
  2. Why do you think President Nixon vetoed the act? (Congress subsequently overturned his veto.)
- Students will read **Handout 7: President Bush's Letter to House Speaker Hastert** about his plans regarding possible war with Iraq and Handout 8: Iraq War Resolution that was passed the following month. They will discuss the following questions:
  1. Is the Iraq War Resolution consistent with the Constitution?
  2. Is the Iraq War Resolution consistent with the War Powers Act?
  3. What might have happened if the Congress had not passed the Iraq War Resolution?
  4. What recourse is left to Congress should it decide that the war in Iraq should be brought to an end?

5. What Constitutional and political challenges would Congress face should it decide to make use of its “power of the purse?”
  6. How have the nature of war and the role of the United States in the world changed since Vietnam?
- Students will stage a roundtable discussion on how the roles and responsibilities of the executive and legislative branches in the making of war have changed from 1941 to the present. The discussion should focus on the following set of questions:
    1. Is the war-making power balanced between the executive and legislative branches of government?
    2. If not, which branch possesses the greater power?
    3. Should it be more balanced?

Teachers may assign research regarding other conflicts in which the United States has been involved during these years, including the Korean War, the incursion into Cambodia, the invasion of Granada, the bombing of Kosovo, and the first Gulf War.

### **Evaluation**

Defend or reject the following statement: The United States needs to develop a new and better-balanced way of deciding whether to make war?

## **Handout 1: Constitution of the United States of America**

### Article I

#### Section 8

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

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;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and 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, Magazines, Arsenals, dock-Yards and other needful Buildings;-And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

## Article I

### Section 2

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

[Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.]\* The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence

Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

\*Changed by Section 2 of the Fourteenth Amendment.

**Handout 2: President Franklin D. Roosevelt's Message to Congress  
December 8, 1941**

Mr. Vice President, Mr. Speaker, members of the Senate and the House of Representatives

Yesterday, December 7, 1941 - a date which will live in infamy - the United States of America was suddenly and deliberately attacked by naval and air forces of the Empire of Japan.

The United States was at peace with that nation, and, at the solicitation of Japan, was still in conversation with its government and its Emperor looking toward the maintenance of peace in the Pacific.

Indeed, one hour after Japanese air squadrons had commenced bombing in the American island of Oahu, the Japanese Ambassador to the United States and his colleague delivered to our Secretary of State a formal reply to a recent American message. And, while this reply stated that it seemed useless to continue the existing diplomatic negotiations, it contained no threat or hint of war or of armed attack.

It will be recorded that the distance of Hawaii from Japan makes it obvious that the attack was deliberately planned many days or even weeks ago. During the intervening time the Japanese Government has deliberately sought to deceive the United States by false statements and expressions of hope for continued peace.

The attack yesterday on the Hawaiian Islands has caused severe damage to American naval and military forces. I regret to tell you that very many American lives have been lost. In addition, American ships have been reported torpedoed on the high seas between San Francisco and Honolulu.

Yesterday the Japanese Government also launched an attack against Malaya.  
Last night Japanese forces attacked Hong Kong.  
Last night Japanese forces attacked Guam.  
Last night Japanese forces attacked the Philippine Islands.  
Last night the Japanese attacked Wake Island.  
And this morning the Japanese attacked Midway Island.

Japan has therefore undertaken a surprise offensive extending throughout the Pacific area. The facts of yesterday and today speak for themselves. The people of the United States have already formed their opinions and well understand the implications to the very life and safety of our nation.

As Commander-in-Chief of the Army and Navy I have directed that all measures be taken for our defense, that always will our whole nation remember the character of the onslaught against us.

No matter how long it may take us to overcome this premeditated invasion, the American people, in their righteous might, will win through to absolute victory.

I believe that I interpret the will of the Congress and of the people when I assert that we will not only defend ourselves to the uttermost but will make it very certain that this form of treachery shall never again endanger us.

Hostilities exist. There is no blinking at the fact that our people, our territory and our interests are in grave danger.

With confidence in our armed forces, with the unbounding determination of our people, we will gain the inevitable triumph. So help us God.

I ask that the Congress declare that since the unprovoked and dastardly attack by Japan on Sunday, December 7, 1941, a state of war has existed between the United States and the Japanese Empire.

### **Handout 3: Congressional Declaration of War on Japan**

December 8, 1941

JOINT RESOLUTION Declaring that a state of war exists between the Imperial Government of Japan and the Government and the people of the United States and making provisions to prosecute the same.

Whereas the Imperial Government of Japan has committed unprovoked acts of war against the Government and the people of the United States of America: Therefore be it Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the state of war between the United States and the Imperial Government of Japan which has thus been thrust upon the United States is hereby formally declared; and the President is hereby authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Imperial Government of Japan; and, to bring the conflict to a successful termination, all of the resources of the country are hereby pledged by the Congress of the United States.

Approved, December 8, 1941, 4:10 p.m. E.S.T.

## **Handout 4: Gulf of Tonkin Resolution**

### **Joint Resolution of Congress H.J. RES 1145 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.

## **Handout 5: President Lyndon B. Johnson's Message to Congress**

August 5, 1964

Last night I announced to the American people that the North Vietnamese regime had conducted further deliberate attacks against U.S. naval vessels operating in international waters, and I had therefore directed air action against gunboats and supporting facilities used in these hostile operations. This air action has now been carried out with substantial damage to the boats and facilities. Two U.S. aircraft were lost in the action.

After consultation with the leaders of both parties in the Congress, I further announced a decision to ask the Congress for a resolution expressing the unity and determination of the United States in supporting freedom and in protecting peace in southeast Asia.

These latest actions of the North Vietnamese regime has given a new and grave turn to the already serious situation in southeast Asia. Our commitments in that area are well known to the Congress. They were first made in 1954 by President Eisenhower. They were further defined in the Southeast Asia Collective Defense Treaty approved by the Senate in February 1955.

This treaty with its accompanying protocol obligates the United States and other members to act in accordance with their constitutional processes to meet Communist aggression against any of the parties or protocol states.

Our policy in southeast Asia has been consistent and unchanged since 1955. I summarized it on June 2 in four simple propositions:

1. America keeps her word. Here as elsewhere, we must and shall honor our commitments.
2. The issue is the future of southeast Asia as a whole. A threat to any nation in that region is a threat to all, and a threat to us.
3. Our purpose is peace. We have no military, political, or territorial ambitions in the area.
4. This is not just a jungle war, but a struggle for freedom on every front of human activity. Our military and economic assistance to South Vietnam and Laos in particular has the purpose of helping these countries to repel aggression and strengthen their independence.

The threat to the free nations of southeast Asia has long been clear. The North Vietnamese regime has constantly sought to take over South Vietnam and Laos. This Communist regime has violated the Geneva accords for Vietnam. It has systematically conducted a campaign of subversion, which includes the direction, training, and supply of personnel

and arms for the conduct of guerrilla warfare in South Vietnamese territory. In Laos, the North Vietnamese regime has maintained military forces, used Laotian territory for infiltration into South Vietnam, and most recently carried out combat operations - all in direct violation of the Geneva Agreements of 1962.

In recent months, the actions of the North Vietnamese regime have become steadily more threatening...

As President of the United States I have concluded that I should now ask the Congress, on its part, to join in affirming the national determination that all such attacks will be met, and that the United States will continue in its basic policy of assisting the free nations of the area to defend their freedom.

As I have repeatedly made clear, the United States intends no rashness, and seeks no wider war. We must make it clear to all that the United States is united in its determination to bring about the end of Communist subversion and aggression in the area. We seek the full and effective restoration of the international agreements signed in Geneva in 1954, with respect to South Vietnam, and again in Geneva in 1962, with respect to Laos...

## **Handout 6: The War Powers Act of 1973**

**Public Law 93-148**

**93rd Congress, H. J. Res. 542**

**November 7, 1973**

**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 indicate by the circumstances, and to the continued use of such forces in hostilities or in such situations.

#### **SEC. 2. (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.

#### **SEC. 2. (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)

(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.

### **Sec. 4. (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.

### **Sec. 4. (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.

### SEC. 5. (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.**

### SEC. 5. (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.

SEC. 6. (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.

SEC. 6. (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.

SEC. 6. (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.

SEC. 7. (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.

SEC. 7. (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.

SEC. 7. (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.

SEC. 8. (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.

SEC 8. (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.

SEC. 8. (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.

**Handout 7: President George W. Bush's Letter  
to House Speaker Dennis Hastert  
September 4, 2002**

Dear Mr. Speaker:

America and the civilized world face a critical decision in the months ahead. The decision is how to disarm an outlaw regime that continues to possess and develop weapons of mass destruction, despite its own promises over the last decade and despite the condemnation of the world. Since September 11, we have been tragically reminded that we are vulnerable to evil people. And this vulnerability increases dramatically when evil people have access to weapons of mass destruction.

I know Members of Congress agree that Saddam Hussein's regime is still a threat to peace, as it was when you passed the Iraq Liberation Act of 1998. I also know members of the United Nations are angry that this regime continues to thumb its nose at the world, defying at least 16 U.N. Security Council resolutions adopted between 1990 and 1999 that require Iraq to disarm and give up weapons of mass destruction, to stop threatening its neighbors and to stop oppressing the Iraqi people. America intends to lead the way to make certain that the Saddam Hussein regime is not able to threaten anyone in the world with the world's most devastating weapons.

I am in the process of deciding how to proceed. This is an important decision that must be made with great thought and care. Therefore, I welcome and encourage discussion and debate. The Congress will hold hearings on Iraq this month, and I have asked members of my Administration to participate fully.

Doing nothing in the face of a grave threat to the world is not an option. At an appropriate time and after consultations with the leadership, I will seek congressional support for U.S. action to do whatever is necessary to deal with the threat posed by Saddam Hussein's regime. The Congress can play an important role in building a national consensus for action.

The international community must also be involved. I have asked Prime Minister Blair to visit America this week to discuss Iraq. I will also reach out to President Chirac of France, President Putin of Russia, President Jiang of China, and other world leaders. I will have these discussions in advance of next week's meeting of the United Nations General Assembly in New York. At that meeting, I will discuss the challenge that the current Iraqi regime represents to the United Nations and the entire international community. My Administration remains committed to the regime change policy enshrined in the Iraq Liberation Act. The world must address how the Iraqi people can be liberated from the bondage in which the regime holds them and realize a better future for their children.

We must not allow an outlaw regime that incites and uses terror at home and abroad to threaten the world by developing the ultimate weapons of terror. The months ahead will be important ones and the civilized world must come together to deal with the threat posed by the Iraqi regime.

Sincerely,

George. W. Bush

## **Handout 8: IRAQ WAR RESOLUTION**

**107th CONGRESS**

**2d Session**

**H. J. RES. 114**

**October 10, 2002**

### **JOINT RESOLUTION**

#### **To authorize the use of United States Armed Forces against Iraq.**

Whereas in 1990 in response to Iraq's war of aggression against and illegal occupation of Kuwait, the United States forged a coalition of nations to liberate Kuwait and its people in order to defend the national security of the United States and enforce United Nations Security Council resolutions relating to Iraq;

Whereas after the liberation of Kuwait in 1991, Iraq entered into a United Nations sponsored cease-fire agreement pursuant to which Iraq unequivocally agreed, among other things, to eliminate its nuclear, biological, and chemical weapons programs and the means to deliver and develop them, and to end its support for international terrorism;

Whereas the efforts of international weapons inspectors, United States intelligence agencies, and Iraqi defectors led to the discovery that Iraq had large stockpiles of chemical weapons and a large scale biological weapons program, and that Iraq had an advanced nuclear weapons development program that was much closer to producing a nuclear weapon than intelligence reporting had previously indicated;

Whereas Iraq, in direct and flagrant violation of the cease-fire, attempted to thwart the efforts of weapons inspectors to identify and destroy Iraq's weapons of mass destruction stockpiles and development capabilities, which finally resulted in the withdrawal of inspectors from Iraq on October 31, 1998;

Whereas in Public Law 105-235 (August 14, 1998), Congress concluded that Iraq's continuing weapons of mass destruction programs threatened vital United States interests and international peace and security, declared Iraq to be in 'material and unacceptable breach of its international obligations' and urged the President 'to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations';

Whereas Iraq both poses a continuing threat to the national security of the United States and international peace and security in the Persian Gulf region and remains in material and unacceptable breach of its international obligations by, among other things, continuing to possess and develop a significant chemical

and biological weapons capability, actively seeking a nuclear weapons capability, and supporting and harboring terrorist organizations; Whereas Iraq persists in violating resolution of the United Nations Security Council by continuing to engage in brutal repression of its civilian population thereby threatening international peace and security in the region, by refusing to release, repatriate, or account for non-Iraqi citizens wrongfully detained by Iraq, including an American serviceman, and by failing to return property wrongfully seized by Iraq from Kuwait;

Whereas the current Iraqi regime has demonstrated its capability and willingness to use weapons of mass destruction against other nations and its own people; Whereas the current Iraqi regime has demonstrated its continuing hostility toward, and willingness to attack, the United States, including by attempting in 1993 to assassinate former President Bush and by firing on many thousands of occasions on United States and Coalition Armed Forces engaged in enforcing the resolutions of the United Nations Security Council;

Whereas members of al Qaida, an organization bearing responsibility for attacks on the United States, its citizens, and interests, including the attacks that occurred on September 11, 2001, are known to be in Iraq; Whereas Iraq continues to aid and harbor other international terrorist organizations, including organizations that threaten the lives and safety of United States citizens;

Whereas the attacks on the United States of September 11, 2001, underscored the gravity of the threat posed by the acquisition of weapons of mass destruction by international terrorist organizations;

Whereas Iraq's demonstrated capability and willingness to use weapons of mass destruction, the risk that the current Iraqi regime will either employ those weapons to launch a surprise attack against the United States or its Armed Forces or provide them to international terrorists who would do so, and the extreme magnitude of harm that would result to the United States and its citizens from such an attack, combine to justify action by the United States to defend itself;

Whereas United Nations Security Council Resolution 678 (1990) authorizes the use of all necessary means to enforce United Nations Security Council Resolution 660 (1990) and subsequent relevant resolutions and to compel Iraq to cease certain activities that threaten international peace and security, including the development of weapons of mass destruction and refusal or obstruction of United Nations weapons inspections in violation of United Nations Security Council Resolution 687 (1991), repression of its civilian population in violation of United Nations Security Council Resolution 688 (1991), and threatening its neighbors or United Nations operations in Iraq in violation of United Nations Security Council Resolution 949 (1994);

Whereas in the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102-1), Congress has authorized the President to use United States Armed Forces pursuant to United Nations Security Council Resolution 678 (1990) in order to achieve implementation of Security Council Resolution 660, 661, 662, 664, 665, 666, 667, 669, 670, 674, and 677;

Whereas in December 1991, Congress expressed its sense that it supports the use of all necessary means to achieve the goals of United Nations Security Council Resolution 687 as being consistent with the Authorization of Use of Military Force Against Iraq Resolution (Public Law 102-1), that Iraq's repression of its civilian population violates United Nations Security Council Resolution 688 and constitutes a continuing threat to the peace, security, and stability of the Persian Gulf region, and that Congress supports the use of all necessary means to achieve the goals of United Nations Security Council Resolution 688;

Whereas the Iraq Liberation Act of 1998 (Public Law 105-338) expressed the sense of Congress that it should be the policy of the United States to support efforts to remove from power the current Iraqi regime and promote the emergence of a democratic government to replace that regime;

Whereas on September 12, 2002, President Bush committed the United States to work with the United Nations Security Council to meet our common challenge posed by Iraq and to work for the necessary resolutions, while also making clear that the Security Council resolutions will be enforced, and the just demands of peace and security will be met, or action will be unavoidable; Whereas the United States is determined to prosecute the war on terrorism and Iraq's ongoing support for international terrorist groups combined with its development of weapons of mass destruction in direct violation of its obligations under the 1991 cease-fire and other United Nations Security Council resolutions make clear that it is in the national security interests of the United States and in furtherance of the war on terrorism that all relevant United Nations Security Council resolutions be enforced, including through the use of force if necessary;

Whereas Congress has taken steps to pursue vigorously the war on terrorism through the provision of authorities and funding requested by the President to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such persons or organizations;

Whereas the President and Congress are determined to continue to take all appropriate actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such persons or organizations;

Whereas the President has authority under the Constitution to take action in order to deter and prevent acts of international terrorism against the United States, as Congress recognized in the joint resolution on Authorization for Use of Military Force (Public Law 107-40); and

Whereas it is in the national security interests of the United States to restore international peace and security to the Persian Gulf region: Now, therefore, be it Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

#### SECTION 1. SHORT TITLE.

This joint resolution may be cited as the 'Authorization for Use of Military Force Against Iraq Resolution of 2002'.

#### SEC. 2. SUPPORT FOR UNITED STATES DIPLOMATIC EFFORTS. The

Congress of the United States supports the efforts by the President to--

(1) strictly enforce through the United Nations Security Council all relevant Security Council resolutions regarding Iraq and encourages him in those efforts; and

(2) obtain prompt and decisive action by the Security Council to ensure that Iraq abandons its strategy of delay, evasion and noncompliance and promptly and strictly complies with all relevant Security Council resolutions regarding Iraq.

#### SEC. 3. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION- The President is authorized to use the Armed Forces of the United States as he determines to be necessary and appropriate in order to--

(1) defend the national security of the United States against the continuing threat posed by Iraq; and

(2) enforce all relevant United Nations Security Council resolutions regarding Iraq.

(b) PRESIDENTIAL DETERMINATION- In connection with the exercise of the authority granted in subsection (a) to use force the President shall, prior to such exercise or as soon thereafter as may be feasible, but no later than 48 hours after exercising such authority, make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that--

(1) reliance by the United States on further diplomatic or other peaceful means alone either (A) will not adequately protect the national security of the United States against the continuing threat posed by Iraq or (B) is not likely to lead to enforcement of all relevant United Nations Security Council resolutions regarding Iraq; and

(2) acting pursuant to this joint resolution is consistent with the United States and other countries continuing to take the necessary actions against international terrorist and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed or aided the terrorist attacks that occurred on September 11, 2001.

(c) War Powers Resolution Requirements-

(1) SPECIFIC STATUTORY AUTHORIZATION- Consistent with section 8(a)(1)

of the War Powers Resolution, the Congress declares that this section is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(2) APPLICABILITY OF OTHER REQUIREMENTS- Nothing in this joint resolution supersedes any requirement of the War Powers Resolution.

SEC. 4. REPORTS TO CONGRESS. (a) REPORTS- The President shall, at least once every 60 days, submit to the Congress a report on matters relevant to this joint resolution, including actions taken pursuant to the exercise of authority granted in section 3 and the status of planning for efforts that are expected to be required after such actions are completed, including those actions described in section 7 of the Iraq Liberation Act of 1998 (Public Law 105-338).

(b) SINGLE CONSOLIDATED REPORT- To the extent that the submission of any report described in subsection (a) coincides with the submission of any other report on matters relevant to this joint resolution otherwise required to be submitted to Congress pursuant to the reporting requirements of the War Powers Resolution (Public Law 93-148), all such reports may be submitted as a single consolidated report to the Congress.

(c) RULE OF CONSTRUCTION- To the extent that the information required by section 3 of the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102-1) is included in the report required by this section, such report shall be considered as meeting the requirements of section 3 of such resolution.