
THE CONGRESS PROJECT

Assignment Prompt Sheet

War Powers Resolution Act

Overview

Act Title: War Powers Resolution Act

Congress: 93rd Congress (1973-1974)

Session/Sessions: 1

Statute No: 87 Stat. 555-560

Public Law No: 93 -PL-148

Eid: 930148

Gid: 213-29

Bill: [HJR 542](#)

Sponsor: Rep. [Clement J. Zablocki \(D-WI\)](#)

House Committees: Committee on Foreign Affairs

Senate Committees: Foreign Relations

Companion Bill: [S 440](#)

Related Bills: HJR 96; HJR 21; HJR 71; HJR 72; HJR 89; HJR 2; HR 317; HR 2053; HJR 250; HJR 271; HR 4038; HJR 315; HR 4378; HR 4834; HJR 409; HR 5699; HJR 448; HR 6424; HJR 498; HR 3046

House Rules: [Hres 456](#)

Past Bills: 91 HJR 1355; 92 HJR 1; 92 S 2956

Introduced Date- Law Date: May 3-November 7, 1973

House Floor Days: 5

Senate Floor Days: 5

Roll Call Votes: 6 (5 House, 1 Senate)

Issues: defense; sop

Procedures: veto; override; conference; open rule

Last Updated: 2/19/22



(Above) Rep. Clement J. Zablocki (D-WI)

THE CONGRESS PROJECT

Legislative History Comments

The War Powers Resolution (93 PL 148) represented one of the most ambitious attempts by Congress to reassert its powers in foreign affairs. Among other things, it required the President to consult with Congress within 48 hours of committing troops, mandated troops be removed within 60 days if war was not declared and allowed Congress to withdraw troops by concurrent resolution if war was not declared. As the sponsor, Rep. Clement Zablocki (D-WI) put it, “[the measure was a] historic opportunity to reassert (Congress’s) constitutionally mandated obligation in the area of war powers.” It has had a famously limited impact and a number of scholars have written on why it’s been so unsuccessful (see e.g. Fisher and Adler 1998; Howell and Pevehouse 2011; Rubner 1987).

Following prolonged U.S. involvement in Vietnam and revelations about the Nixon Administration’s secret bombing of Cambodia (1969 -1970), Congress introduced and passed the measure to limit the President’s ability to engage in “[undeclared wars](#)” without Congressional approval. The Act [requires](#) the President to consult with and present to Congress about the scope and purpose of use of force when engaging in “hostilities”. The President then has 60 or 90 days to withdraw those forces without a formal declaration of war or congressional authorization.

As noted above, despite the Act’s intent to limit unilateral use of force by the President, the Resolution is widely considered to be a [failure](#) and has rarely been invoked to limit military interventions abroad. A lack of congressional enforcement, and unclear definitions of key terms and congressional reporting requirements have allowed Presidents to largely [circumvent](#) the Act.

From a process standpoint, this is a pretty easy measure. HJR 542 was initially considered in the House under an open rule. It passed on [July 18, 1973, 244-170](#). This was well short of a veto override. The measure, S 440, passed the Senate fairly handedly, 72-18. It then inserted S 440 into HJR 542. The conference report passed the House by [a much larger margin, 246-131](#) (the number of no-shows on this vote is a little surprising.) It [passed the Senate 76-22](#).

As [CQ \(1973\)](#) notes: “prospects for a successful override in the House, which had to act first on H J Res 542, remained uncertain until the vote was taken Nov. 7. After the veto, there appeared to be little chance the House would reverse its 1973 pattern sustaining the President on five consecutive occasions, but during the ensuing two-week period vigorous lobbying took place on both sides of the question, and world and domestic events, particularly the Middle East crisis and the continuing Watergate investigation, obscured the outlook. By the day of the vote, it appeared to be a toss-up with neither side confident of the outcome.” The House would eventually [override the veto by four votes, 284-136](#). The Senate [did so 77-20](#). I’ve linked the Voteview votes for you.

Don’t hesitate to e-mail me with questions!

THE CONGRESS PROJECT

Assignments

For the sections below, you're going to want to answer the questions and write-up the process sections that correspond to your assigned number. Here they are:

#1.

#2.

#3.

Background Questions

1. Discuss the broader political context this bill was considered in. Who controlled the House? The Senate? By how many? Who was President? Was this part of the President's agenda? What other pieces of legislation were being considered/passed in this Congress?

Additionally, address the Watergate Scandal here. What happened? How did it weaken the Nixon administration?

The Stathis (2014) piece might worth a citation here.

2. What does this act actually do? Who was pushing for it? Was it significantly altered during consideration? What were the problems it was trying to rectify? Specifically here, where does presidential authority over foreign powers stem from? Is it purely constitutional?
3. What motivated consideration of this legislation in this specific Congress? Was it in response to a specific event? Or was this a slower build over time? Specifically, address the Vietnam War and Cambodia here. What happened that motivated this measure's consideration? Additionally, attempts to pass this legislation were nothing new. What made it finally viable?

On the point above: It sounds like the measure was brought up in the two preceding Congresses. The House passed a war powers resolution, [HJR 1355 by a 288-39 in the 91st Congress](#), but the measure died without consideration in the Senate. The two chambers got closer in the 92nd Congress, with the House passing [HJR 1 by voice vote and the Senate passing S 2956 by a 68-16 margin](#). The Senate cast 15 roll calls on the bill. The House then passed an amended version of S 2956, but the bill died in conference. It looks like the two chambers differed over when the President needed to report to Congress before committing troops (as the Senate bill required) or afterwards (as the House-passed measure did).

THE CONGRESS PROJECT

Process Sections

Please write-up the sections that correspond to your number. Feel free to incorporate any notes I might have dumped in the margins.

#1. House Consideration of HJR 542 (June 25-27, July 18, 1973)

HJR 542 was initially considered in the House under an open rule. It passed on [July 18, 1973, 244-170](#).

#2. Senate Consideration of S 440 & HJR 552 (July 18-20, 1973)

S 440, passed the Senate fairly handedly, 72-18. It then inserted S 440 into HJR 542.

#2. Senate Consideration of the Conference Report on HJR 542 (October 10, 1973)

The conference report [passed the Senate 76-22](#).

#1. House Consideration of Conference Report (October 12, 1973)

The conference report passed the House by [a much larger margin, 246-131](#) (the number of no-shows on this vote is a little surprising.)

#3. House Consideration of the Veto of HJR 542 (November 7, 1973)

The House would eventually [override the veto by four votes, 284-136](#).

#3. Senate Consideration of the Veto of HJR 542 (November 7, 1973)

The Senate overrode the veto [77-20](#).

THE CONGRESS PROJECT

Member Spotlight

Choose one of the following for your member spotlight:

#1. Rep. Clement Zablocki, (D-WI); Rep. John Rhodes (R-AZ); Rep. Tip O’Neil (D-MA); Rep. Richard Hanna (D-CA); Rep. Gerald Ford (R-MI); Rep. Charles Whelan (R-OH)¹

#2. Sen. Jacob Javits (R-NY); Sen. Herman Talmadge (D-GA); Rep. Patricia Schroeder (D-CO); Sen. Robert Griffin (R-MI); Sen. Thomas Eagleton (R-MO)²; Sen. John Stennis (D-MS)

#3. Rep. Carl Albert (D-OK); Rep. Andrew Young (D-GA); Sen. John Tower (R-TX); Rep. Shirley Chisholm (D-NY); Rep. Claude Pepper (D-FL)

Aftermath Questions

1. How was this act viewed upon passage? What did the newspapers say? How did the final measure differ from the one reformers were pushing? Specifically, some argued the War Powers Act would actually expand executive power. Were they right? See a New York Times op-ed by former U.S. Senator Tom Eagleton (D-MO).³
2. How relevant is this law currently (see [War Powers Reform Act](#))? Are there additional issues related to it that reformers have been pushing to change? How has it evolved over time? Has it been featured in any major Supreme Court cases? Significantly altered by subsequent legislation?
3. How has this act been viewed by scholars? Did it achieve its stated goals? Do scholars highlight any major limitations? Are there aspects of the bill that are viewed more favorably than others? Discuss the relevance of this act as it pertains to contemporary policy.

Specifically, as noted above, the law is generally considered a failure by scholars. Why?

¹ Super interesting political figure. Whelan was basically on an island early in his career as the first Republican to voice opposition to Vietnam. By the end of his career he was voting with the Democrats more often than not. Instead of changing parties, Whelan retired in 1978.

² For your meet-your-member assignment, Eagleton would make sense. As would the bill sponsor, Zablocki and the Senate bill sponsor, Sen. Jacob Javits (R-NY). Two other outspoken opponents of the measure that are worth a look include the House minority leader, Rep. Gerald Ford (R-MI) and Sen. John Tower (R-TX). Both went on to have very interesting careers.

³ Eagleton, Thomas F. 1973. “A Dangerous Law.” The New York Times, December 3.

THE CONGRESS PROJECT

Suggested Sources

Scholarly Articles

Fisher, Louis, and David Gray Adler. "The war powers resolution: Time to say goodbye." *Political Science Quarterly* 113.1 (1998): 1-20.

Howell, William G., William G. Howell, and Jon C. Pevehouse. *While dangers gather: Congressional checks on presidential war powers*. Princeton University Press, 2007.

Rubner, Michael. "Antiterrorism and the withering of the 1973 war powers resolution." *Political Science Quarterly* 102.2 (1987): 193-215.

Fisher, Louis. "Congressional checks on military initiatives." *Political Science Quarterly* 109.5 (1994): 739-762.

Gartzke, Erik. "Congress and back seat driving: An information theory of the war powers resolution." *Policy Studies Journal* 24.2 (1996): 259-286.

Zeisberg, Mariah. *War Powers: The Politics of Constitutional Authority*. Princeton University Press, 2013.

Arzich, L. L. (2019). Anatomy of a failure: The War Powers Resolution as law on the books and law in action. *UALR L. Rev.*, 42, 425.

Böller, F., & Müller, M. (2018). Unleashing the watchdogs: explaining congressional assertiveness in the politics of US military interventions. *European Political Science Review*, 10(4), 637-662.

Hathaway, O. A., Kuehne, T., Michel, R., & Ng, N. (2021). Congressional Oversight of Modern Warfare: History, Pathologies, and Proposals for Reform. *William & Mary Law Review*, 63(1).

Gov/CRS Reports:

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

THE CONGRESS PROJECT

Newspaper Pieces:

- <https://www.thenation.com/article/world/national-security-powers-act/>
- https://www.washingtonpost.com/national-security/senate-war-powers-bill/2021/07/19/7515af7c-e8e1-11eb-8950-d73b3e93ff7f_story.html
- <https://www.e-ir.info/2020/12/15/rolling-back-the-imperial-presidency-joe-biden-and-the-future-of-u-s-war-powers/>
- <https://www.nixonlibrary.gov/news/war-powers-resolution-1973>
- <https://www.cnas.org/publications/reports/war-powers-what-are-they-good-for>
- http://library.cqpress.com/cqalmanac/document.php?id=cqal73-1227822#H2_1
- https://www.washingtonpost.com/powerpost/congress-ceded-the-power-to-wage-wars-to-the-president-after-sept-11-a-bipartisan-pair-of-senators-want-to-take-it-back/2021/09/11/ebd083be-1260-11ec-bc8a-8d9a5b534194_story.html
- <https://tnsr.org/roundtable/policy-roundtable-the-war-powers-resolution/>
- <https://www.politico.com/story/2019/09/19/trump-war-iran-1748552>
- <https://www.washingtonpost.com/opinions/2019/06/28/half-senate-trump-dont-abuse-war-powers-against-iran/>
- <https://www.washingtonpost.com/opinions/2019/04/17/trump-just-vetoed-war-powers-resolution-democrats-should-vow-do-better/>
- <https://www.vox.com/2019/5/27/18634590/nancy-pelosi-donald-trump-supreme-court-war-power>
- <https://www.cnn.com/2019/04/17/opinions/trump-veto-yemen-war-powers-resolution-supreme-court-cristol/index.html>