

Bush vs. War Powers Act: Congress has the authority to end Iraq war - Claudia Nelson

While everyone is focusing on the question of sending more troops in Iraq, there still exist some congressional laws and sections of the U.S. Constitution that the Bush administration has not altered, for example the War Powers Resolution and Article I, section 8, of the Constitution.

The Constitution states that only Congress has the power to declare war. However, since World War II, the United States has been involved in many major conflicts without resorting to a war declaration. This led to some ambiguity over the extent to which the president is allowed to conduct military action under his constitutional authority as commander in chief of the armed forces, without prior congressional approval.

In Vietnam, this question was addressed through the Gulf of Tonkin Resolution, which was a 1964 resolution issued by Congress giving President Lyndon B. Johnson approval, without a formal declaration of war, “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.” Both Johnson and his successor, Richard Nixon used the Resolution as a justification for escalated involvement in Indochina.

In an attempt to clarify the issue further, Congress passed the War Powers Act in 1973. As stated in Section 2(a) of the act, it was passed to 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.”

While some have questioned the constitutionality of the War Powers Act, it is very precise in the conditions it sets out for military deployments. Section 5 (b) puts a time limit of no longer than 90 days for the use of United States Armed Forces in a foreign nation without a declaration of war or a joint resolution of Congress otherwise authorizing the use of force.

On the question as to who has ultimate say so, Section 5(c) of the War Power Resolution makes this crystal clear, stating, “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.” In other words, Congress can mandate the removal of troops at anytime, if there has not been a formal declaration of war.

The required formal resolution to allow the use of Armed Forces to go into Iraq was Public Law 107-243, passed by the 107th Congress on Oct. 16, 2002. The resolution accused Iraq of harboring people responsible for the Sept. 11, 2001, attacks. Congress also concluded that "Iraq's continuing weapons of mass destruction programs threatened vital United States interests and international peace and security," and 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."

In short, the authorization of force was based on the weapons of mass destruction theory, which was proven to be a lie based on old intelligence and Iraqi defectors. Even Bush has admitted this. No retraction of the resolution has been made; neither has an apology ever been issued by Congress or the Bush administration on behalf of the American people to the United Nations or Iraq.

The Iraq resolution invoked the War Powers Clause, therefore requiring the President of the United States to gain congressional approval for all troop deployment, as stated in Section 2(b) of the War Powers Act, which points to the Necessary and Proper Clause of the Constitution as the basis for legislation on the war powers. It provides that "Under Article I, section 8, of the Constitution it is specifically provided that 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."

Once the justification for the Iraq resolution was found to be inaccurate and unsubstantiated, a new resolution for the immediate removal of our troops should have been issued by Congress, and a congressional hearing and investigation for gross misconduct and even possible criminal charges against Rumsfeld, Powell, Cheney and Bush himself should have been started.

The framers of the Constitution made clear that the United States Congress has the ultimate say so, and the War Powers Act merely reinforces that authority.

Why are we as Americans not marching up to Washington and demanding the immediate impeachment of the whole Bush administration?