

Sec. 2—Powers, Duties of the President

Cl. 1—Commander-In-Chiefship

not congressional authorization but a United Nations Security Council resolution authorizing the use of force by member Nations. Only at the last moment did the President seek authorization from Congress, he and his officials contending that he had the power to act unilaterally.¹⁸⁰ After intensive debate, Congress voted, 250 to 183 in the House of Representatives and 53 to 46 in the Senate, to authorize the President to use United States troops pursuant to the U.N. resolution and purporting to bring the act within the context of the War Powers Resolution.¹⁸¹

By contrast, President George W. Bush sought a resolution from Congress in 2002 to approve the eventual invasion of Iraq before seeking a U.N. Security Council resolution, all the while denying that express authorization from Congress, or for that matter, the U.N. Security Council, was necessary to renew hostilities in Iraq. Prior to adjourning for its midterm elections, Congress passed the Authorization for Use of Military Force against Iraq Resolution of 2002,¹⁸² which it styled as “specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.” On signing the measure, the President noted that he had sought “an additional resolution of support” from Congress, and expressed appreciation for receiving that support, but stated, “my request for it did not, and my signing this resolution does not, constitute any change in the long-standing positions of the executive branch on either the President’s constitutional authority to use force to deter, prevent, or respond to aggression or other threats to U.S. interests or on the constitutionality of the War Powers Resolution.”¹⁸³ In the Bush administration’s view, the primary benefit of receiving authorization from Congress seems to have been the message of political unity it conveyed to the rest of the world rather than the fulfillment of any constitutional requirements.

Although there is recurrent talk within Congress and without as to amending the War Powers Resolution to strengthen it, no con-

¹⁸⁰ See *Crisis in the Persian Gulf Region: U.S. Policy Options and Implications: Hearings Before the Senate Committee on Armed Services*, 101st Cong., 2d Sess. (1990), 701 (Secretary Cheney) (President did not require “any additional authorization from the Congress” before attacking Iraq). On the day following his request for supporting legislation from Congress, President Bush, in answer to a question about the requested action, stated: “I don’t think I need it. . . . I feel that I have the authority to fully implement the United Nations resolutions.” 27 WEEKLY COMP. PRES. DOC. 25 (Jan. 8, 1991).

¹⁸¹ Pub. L. 102–1, 105 Stat. 3 (1991).

¹⁸² Pub. L. 107–243; 116 Stat. 1498 (2002). The House approved the resolution by a vote of 296–133. The Senate passed the House version of H.J. Res. 114 by a vote of 77–23.

¹⁸³ See President’s Statement on Signing H.J. Res. 114, Oct. 16, 2002, available at [<http://usinfo.state.gov/dhr/Archive/2003/Oct/09-906028.html>].