The Power to Make War: The War on Terror
Guiding Question:
Has the War on Terror changed war powers in the American Government?
Discussion Questions:

1. How does the Constitution assign the powers of war to the government?

2. What reasons should we have for going to war?

3. Should Congress be the final arbiter of war powers?
Issue 1: How does the Constitution assign the powers of war to the government?

Document 1: U.S. Constitution, Article I, Section 8

What powers does Article I, Section 8 give to Congress on the matter of war?
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Document 1: U.S. Constitution, Article I, Section 8

What powers does Article I, Section 8 give to Congress on the matter of war?

- declare war
- raise and support armies
- provide and maintain a navy
- make rules regulating land and naval forces
- call forth the militia to execute laws, suppress insurrections, repel invasions
- provide resources for the militia
Issue 1: How does the Constitution assign the powers of war to the government?

Document 2: U.S. Constitution, Article II, Section 2

What powers does Article II, Section 2 give to the President on the matter of war?
Issue 1: How does the Constitution assign the powers of war to the government?

Document 2: U.S. Constitution, Article II, Section 2

What powers does Article II, Section 2 give to the President on the matter of war?

- President is the Commander in Chief
- Make treaties with advice and consent of the Senate
Issue 1: How does the Constitution assign the powers of war to the government?

Which branch of government did the writers of the Constitution intend to have the most authority over matters of war?

What points of confusion arise from these articles?
What do you see occurring in this cartoon?
The War Powers Resolution was passed by Congress in 1973, overriding a veto from President Nixon.

Congress was responding to what it saw as overreach on the President’s part in the war in Vietnam.

The War Powers Resolution strengthened Congress’ role in declaring and governing wars.
Issue 1: How does the Constitution assign the powers of war to the government?
Issue 2: What reasons should we have for going to war?
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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.
On September 11, 2001, terrorist group al-Qaeda hijacked four commercial airliners and directed them to attack the Twin Towers of the World Trade Center in New York City, the Pentagon in Washington, DC, and an unknown target which was thwarted when passengers overtook the hijackers and downed the plane in rural Pennsylvania.

Three days later, the U.S. Congress passed an authorization for use of military force, beginning a series of military conflicts which President George W. Bush termed “the War on Terror.”
Issue 2: What reasons should we have for going to war?

Document 5

2001 Resolution

Why are we going to war?
Issue 2: What reasons should we have for going to war?

Whereas, on September 11, 2001, acts of treacherous violence were committed against the United States and its citizens; and
Whereas, such acts render it both necessary and appropriate that the United States exercise its rights to self-defense and to protect United States citizens both at home and abroad; and

Why are we going to war?
Issue 2: What reasons should we have for going to war?

Who is our enemy in this conflict?

Public Law 107–40
107th Congress
Joint Resolution

To authorize the use of United States Armed Forces against those responsible for the recent attacks launched against the United States.

Whereas, on September 11, 2001, acts of treacherous violence were committed against the United States and its citizens; and
Whereas, such acts render it both necessary and appropriate that the United States exercise its rights to self-defense and to protect United States citizens both at home and abroad; and
Whereas, in light of the threat to the national security and foreign policy of the United States posed by these grave acts of violence; and
Whereas, such acts continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States; and
Whereas, the President has authority under the Constitution to take action to deter and prevent acts of international terrorism against the United States. 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”.

SEC. 2. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

(a) IN GENERAL.—That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.

(b) 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.
Issue 2: What reasons should we have for going to war?

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107th Congress

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Who is our enemy in this conflict?
What is different about this resolution when compared to the 1941 resolution against Japan?
How did the War on Terror redefine our rationale for going to war?
Issue 3: Should Congress be the final arbiter of war powers?

Since the adoption of the 2001 authorization to use U.S. Armed Forces in the war against terrorism, the United States has entered numerous conflicts.

One of the most controversial was Iraq. The Congress passed an authorization of use of force against Iraq in October 2002, but unlike the 2001 resolution, the vote was more divided, 23 senators voting against the bill. Senator Byrd was among the most outspoken of the resolution’s opponents.
Who does Senator Byrd believe should be a part of the decision to go to war?
This decision should be studied and discussed by all Americans.

Every West Virginian should play a role in the national debate concerning...
What does Senator Byrd think is wrong about our decision to go to war in Iraq?
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Issue 3: Should Congress be the final arbiter of war powers?

5 December 2003

Dear Senator [Redacted]:

I am writing to commend you for your continued questioning concerning the purpose and consequences of the United States' actions in Iraq during recent months. While many other public representatives supported all-out war, urging on the emotional distress which has plagued the American people since September 11, you instead called for prudence and caution, logic and intelligence.

In the spirit of poet John Milton, I have enclosed a sonnet which I composed addressing your role in recent political debate. I hope you enjoy reading it.

Thank You,

[Redacted]
Issue 3: Should Congress be the final arbiter of war powers?

Document 7
Constituent Letter

What does this document represent in the conversation of war powers?
What are Senator Byrd's concerns about the war in Iraq?
Issue 3: Should Congress be the final arbiter of war powers?

**Document 8**

**On the Brink of War Speech**

- **No timeline for the war**
- **Lack of clear mission**
- **We are acting preemptively**
- **Threats to our alliances and global standing**

What are Senator Byrd’s concerns about the war in Iraq?

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**CONGRESSIONAL RECORD — SENATE**

February 12, 2003

We stand persistently near the brink of war. We do not wish to think about a possible military conflict in Iraq, but neither can we wish it to go away. Do we wish to think about a possible military conflict in Iraq, but neither can we wish it to go away. The war in Iraq is in the context, as a question, of whether the United States and its allies, together with the United Nations, should or should not go to war.

We are acting preemptively. We are acting preemptively. We are acting preemptively.

- **No timeline for the war**
- **Lack of clear mission**
- **We are acting preemptively**
- **Threats to our alliances and global standing**

What are Senator Byrd’s concerns about the war in Iraq?
Who is Senator Byrd criticizing in this speech and what does that suggest about war powers?
What are Senator Byrd's concerns about the war in Iraq?

The Executive Branch for pushing a preemptive war

The Legislative Branch for not thoroughly debating
Takeaways:

How has the War on Terror change war powers in the American Government?
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How has the War on Terror change war powers in the American Government?

- The balance of power between the Legislative and Executive Branches on the subject of war has been fluid throughout American history.
- The government’s first response to a provocation of war from a terrorist organization required a new approach to responding and debating war.
Takeaways:

Responding to crisis, the American system of government has demonstrated a capacity to change and evolve.

Think back to where we began yesterday with the Bill of Rights and the idea (which was not included) to prohibit the transfer of powers between the branches.

Moments of crisis have necessitated a rethinking of where power is most effectively exercised.