# Chapter 11 - War Powers Resolution

## The War Powers Resolution

### Parse each provision of the War Powers Resolution - figure out what each part means and be prepared to explain it.

### What is the purpose of the Resolution?

### What is Congress claiming about its right to control presidential powers?

### When can the president use troops?

### What is the ambiguity in #3?

### What does Congress want consultation to mean?

### What do presidents think it means?

### What triggers reporting?

### Who does the president report to?

### What must the report contain?

### Is this a continuing duty to report?

### What does Congress do with the report?

### What is the clock that the report starts ticking?

### How long is it?

### What is supposed to happen if Congress does not act before the clock runs out?

### What tolls the clock, allowing the troops to stay?

### What does the resolution say Congress can do by concurrent resolution?

### What does section 8, INTERPRETATION OF JOINT RESOLUTION, try to do to limit the president's actions?

### Who is the Rule of Construction section aimed at?

### Is this a proper role for Congress?

### Is this binding on subsequent laws?

### Why or why not?

### How does it attempt to turn all mutual defense treaties into non-self-executing treaties?

### What is the constitutional problem with this?

### What treaty required military actions did it leave unaffected?

## Why did Nixon veto the War Powers Resolution?

## Did it pass anyway?

## Why did Nixon's veto undermine the original intent of the resolution?

## Have any subsequent presidents agreed to be bound by it?

## What did Clinton do that violated it?

## Why did Nixon say it would undermine the president's ability to conduct foreign policy?

## How might it encourage an enemy to keep fighting?

## Why is the 60 day clock a constitutional problem?

## Why is this exactly why Congress wanted it?

## Why doesn't Congress want to vote on cutting off presidential action?

## What was the first WPR report?

## What was the "tanker war"?

## *Lowry v. Reagan*, 676 F. Supp. 333 (D.D.C. 1987)

### Who did the plaintiffs represent?

### What did the plaintiff say was the effect of the president failing to file a report about the tanker war?

### Why did the court dodge deciding if there was consequences of the president failing to file the report?

### What did the court say it was waiting for?

### Why is this unlikely?

## *Koohi v. United States*, 976 F.2d 1328 (9th Cir. 1992)

### Who are the plaintiffs?

### What law are the claiming under?

### Why aren't they blocked by the provisions that prevent claims based on intentional actions?

### Why doesn't the US claim it was a discretionary action?

### What exception is the court reviewing?

### What did Lowry say about the court deciding if there were hostilities going on?

### What did this court say?

### Why?

### How can you reconcile these holdings?

### Are they answering the same question?

## *Crockett v. Reagan*, 558 F. Supp. 893, 901 (D.D.C. 1982), aff’d, 720 F.2d 1355 (D.C. Cir. 1983)

### What did the court say about whether courts should be ordering the president to pull out troops?

### What are the problems with a court-ordered troop withdrawal?

## What is the "free pass" theory?

## Should/Could Congress revise the War Powers Resolution to make it more effective?

## The WPR in practice

### Why didn’t President Obama cite WPR §4(a)(1) when he had deployed aircraft to conduct ‘‘a series of strikes against air defense systems and military airfields. . . .’’?

### \Weren’t these ‘‘imminent hostilities,’’ if anything is?

### Did the report and its timing comply with the letter of the WPR? Its spirit?