

The struggle between presidential and congressional powers



The process of passing legislation in the United States starts at with Congress and has to ultimately be approved by the president unless bypassed by with a two-thirds veto. The ability of an administration to pass or prevent legislation is one of the things that form the basis for an evaluation of a term's efficiency. However, what must be considered when evaluating a president's efficiency is the ability to influence Congress, the makeup of Congress itself, and the issue at hand. Another responsibility that both Congress and the Presidency both share is the making of foreign policy. A president dealing with having to pass legislation and dealing with war demonstrates how a president deals with a pressurized situation. These aspects of the government and the ongoing conflicts that occurred will be analyzed in this paper.

Analyzing the influence that the president has over Congress gives more information on how the president has to push past the limitations of his office in order to push a political agenda. The role of presidency and Congress regarding to the making of foreign policy illustrates whether the President or Congress truly has authority to act during times of conflict. Gaining a better understanding of these issues gives insight into which office better contemplates the long term welfare of our country, which has more understanding of the power of the U. S. military, and the statement it sends around the world when the military engages in conflict.

I was personally interested in this topic because of my own interest and lack of understanding of foreign policy procedure. This research project provided me with an opportunity to understand the authority and the history in foreign policy making. In this paper, I hope to gain the knowledge I desire in this

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topic to ensure issues of war or foreign policy will be much clearer to me in the next presidential election.

Literature Review

Separation of Powers:

According to American Government: Power and Purpose, the colonies needed to create a government in opposition to the tyrannical rule of King George after declaring their independence. The Articles of Confederation and Perpetual Union were the first written American Constitution as well as the weakest. Under the Articles of Confederation, there was no executive branch or judicial branch and Congress was the entire basis for central government. Congress at this time was given the power to declare war, make peace, treaties, alliances, and appoint the senior officers of the U. S Army, but the execution of those powers were diminished by the fact that the appointed army officers had no army they were in direct command of because the military was made up of state militias. With each state being in charge of their territory, this made the process of collective action that much harder (Lowi, 2002).

To strengthen the central government, and in turn strengthen the United States, the delegates met to initially reform the Articles of Confederation, but this would latter convene in Philadelphia in May 1787 to create a more efficient and effective government. The convention eventually led to the creation of the current U. S. constitution. Under this U. S Constitution, the government would utilize a constitutional principle known as the separation of powers to divide the government into three branches in an effort to

ensure that the new government wouldn't infringe the rights of the people, The judicial branch was created to guard against infringement of the rights of the people, legislative to make the laws that the people abide by, and the executive branch was created to counter the impasse formed by the other constitutional principles used to prevent excessive democracy (Lowi, 2002)

Unlike the Congress under the Articles of Confederation, Congress was made up of two chambers; the House of Representatives to be directly responsible for the people and the Senate to check the House and make it easier for the House not to completely conform to popular preferences (Lowi, 2002). Article I Section 8 of the U. S Constitution list the expressed powers of Congress, such as declaring war and maintaining military services (Lowi, 2002). Article II of the U. S Constitution states that the Executive Branch's power resides in the president. It also states that the president is indirectly elected, and how he is the Commander-in-Chief of the U. S Army and Navy (Lowi, 2002).

The separation of powers was established to ensure that three branches would be equal, but the struggle is most apparent between Congress and the Presidency (Lowi, 2002). Out of all the powers the president has, his job as Commander-in-Chief of the U. S Armed Services is one of the most important, yet the president is not solely responsible for the military in times of conflict. This power of military authority is a similar power to that of Congress to maintain military services and to declare war. It is these military powers that cause foreign policy to fluctuate and impacts how the executive branch influences congress to get their way.

President's Influence On Congress

A common misconception with the relationship between Congress and the Executive branch is that the president and Congress deal with each other directly on a constant basis, when in actuality, the president getting personally involved only occurs as a last resort (Collier, 1997). The center of Congress and President relations in the White House is the White House Office of Legislative Affairs whose role is to send administration lobbyist to Congress to gain information about legislation, persuading the reluctant, and to relay the information they've gathered back to the executive branch (Collier, 1997). The role of the executive office in regards to Congressional influence is demonstrated by both the George H. W. Bush and Clinton Administration.

As a former congressman, President George H. W. Bush understood the need for working with Congress to pass legislation and choose a staff with good congressional experience and welcomed members of Congress like friends and family. Bush said that he planned to Reagan's legislative strategy, but lacked in that regard because of his friendliness towards them (Collier, 1997). He was often criticized for not going over the heads of his friends and by the end of his administration Bush was frustrating to both parties because of his interest in foreign policy which wasn't shared by the people or lawmakers. He lacked both a strong domestic agenda and the Republican majority, yet he still chooses to focus on foreign policy (Collier, 1997). This would ultimately drive home the point of his lack of connection to the public and caused both the lost of public respect and his lack of respect of authority by Congress. Rather than being authoritative, Bush relied merely on the

friendships he established versus his position as president. President Bush's biggest foreign policy dilemma stemmed from the Persian Gulf War which compelled Iraq to withdraw from Kuwait (Peterson, 1994) which would ultimately lead to a victory.

President Bill Clinton was willing to associate with Congress, but after personally rallying bargaining for votes on his stimulus package, he had to learn how to not get too involved so as to not appear desperate. The president's communications skills in his 1996 state of the Union Address allowed him to convey his position and place the Republican congressman at a disadvantage (Collier, 1997). As the Republicans tried to implement their own plan to fix the economy, they underestimated Clinton and ultimately made it easier for him to implement his version of the plan to fix the economy. Regarding foreign policy, Clinton had to deal with the interest group campaign against the ratification of the North American Free Trade Agreement (NAFTA) which Congress disagreed with until the President implemented clauses that would protect American jobs.

Another foreign policy issue that would not be further evaluated until the terrorist attacks on September 11 was the threat of terrorism & Osama Bin Laden that Clinton faced during his administration. During August 7, 1998, Bin Laden's forces struck the United States embassies in Kenya and Tanzania; this would cause Clinton to respond with seventy nine missile strikes on Bin Laden's outposts. Clinton would also send a letter to Congress stating that his actions were justified by his authority in U. S. foreign relations and as the Commander-in-Chief (Hendrickson, 2002).

Rather than simply ignoring Congress altogether, he started to pull them into the decision making process more which ultimately helped him to not only gain support from the majority of Congressmen, but cause Newt Gingrich to help garner support through his Republican allies. It was President Clinton's decision to include Congress in the decision making that gained the trust of Congress, who in turn allowed President Clinton some leeway in making military decisions (Hendrickson, 2002).

After the terrorist attacks of September 11, President George W. Bush declared war on terror and was regarded as an "American" response when compared to the European perception that the attacks were matters of law enforcement (Ball, 2007). This assertion in the war on terror served to prove what both Bush and Dick Cheney believed; the powers of the U. S. President are limitless in the war on terror. This would also be reinforced by Congress passing a joint resolution drafted by the White House which allowed Bush to battle any nation, organization, or person he determined to have been involved in 9/11. This would also lead Congress passing the Iraq Joint Resolution which falsely claimed that Iraq was involved in 9/11 and that they were in possession of weapons of mass destruction (Ball, 2007).

Foreign Policy Powers

The foreign Policy Powers of the United States stem from the U. S. Constitution.

Although the president is the Commander-in-Chief of the U. S military, the Constitution was set up to prevent the president from being the sole authority on U. S foreign policy issues (Peterson, 1994). The president only

has the exclusive power to receive ambassadors, execute the laws that Congress passes, and to grant pardons (Lowi, 2002). The title of “Commander-in-Chief” doesn’t actually grant any specific powers. The expressed powers of foreign policy that lie with Congress are the authority to raise an army, prepare for the common defense, and to declare war.

Aside from the control already established, Congress has the ability to hinder the president’s power by their control over the budget which is referred to as the “power of the purse.” One of the things included in the budget is the military funding; meaning the president needs both the approval of Congress to go to war and the proper budget to go to war (Lowi, 2002). Even though it would appear that most if the control in foreign policy making is given to Congress, Congress rarely exercises these powers. The norm seems to be for Congress to just conform to the demands of the President. This is especially apparent when examining the legislation that was passed under the George W. Bush Administration.

The President also has its ways of circumventing Congress in terms of foreign policy by executive agreements. Of the two chambers of Congress, The Senate has the authority of forming treaties and alliances and if the President wishes to implement a treaty he must have it approved by Senate with a two-thirds majority vote, but executive agreements allow the president to make an agreement with another country that has the same effectiveness as a treaty, but doesn’t need the Senate’s approval.

Statement of Research

There are multitudes of ways in which Congress and the Executive branch can override each other and are forced to compromise. Making foreign policy is the issue that theses two branches seem to struggle with the most. The powers they have give them the potential to outrank each other in that regard. The president is the Commander-in-Chief of the U. S. and because of the broadness of this title, has no expressed powers he is bound to. Congress has the expressed power and the authority to raise an army, prepare for the common defense, and to declare war.

In times of crisis such as 9/11 and the Iraq war, the power of the U. S President tends to increase as Congress conforms to the President's agenda in an effort to make a stance for the country. This time of unity between the two branches of government appears to be at its best when regarding the "war on terror." The inquiry addresses the following:

How has the evolution of presidential influence correlated to the making of foreign policy during the Bush-Clinton Era?

How has the war on terror correlated to the foreign policy power balance between the Presidency and Congress?

These two questions are significant because they address the issues of divided government and the making of foreign policy. These two elements of our government are the most crucial aspects that can either encourage or strain relations between the White House and Capitol Hill. The two questions not only provide insight into the foreign policy, but an analysis of the events that led up to the Iraq invasion and the war on terror.

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Research Findings

Inquiry Question #1

The making of foreign policy is one of the main subjects in which Capitol Hill and the White House struggle to reach middle ground. As presidential administrations have passed, the executive branch's influence seems to fluctuate depending on the type of president and the different political parties that the president is a part of and whether or not Congress is of the same party. This fact leads back to the question of how the evolution of presidential influence correlated to the making of foreign policy during the Bush-Clinton Era. In order to find out how the evolution of presidential influence correlated to the making of foreign policy during the Bush-Clinton Era, the answer must come from an analysis of the three presidencies in question; George H. W. Bush, Bill Clinton, and George W. Bush.

President George H. W. Bush, who could have directly launched an attack on Iraq to deal with the Iraq invasion of Kuwait, went to Congress for authorization to use military force against Iraq (Tushnet, 2005). This political behavior was contrary to the quiet, behind the scenes approach to leading Congress which was ultimately was done not by the President himself, who as a former Congressman was very friendly in Congress, but by the staff (Collier, 1997). The Iraq war that President George W. Bush declared in 2002 stemmed from the basis of the congressional authorization of the Gulf War in 1991 (Peterson, 1994). The Gulf War finds similarities to the military actions of President Clinton in his use of the War Powers Resolution in Somalia & Bosnia.

The first foreign policy challenge under the Clinton administration came at the hands of the incident that was arising in Somalia with the chaos caused by wide-scale dissatisfaction with the leadership of Siad Barre and the clan violence that was increasing under men like Mohammed Aideed (Hendrickson, 2002). President Clinton and Congress supported Operation Restore Hope to use American forces abroad to restore order to the Somalia which Clinton did with both congressional approval and the U. N.'s approval as well. The situation in Haiti came from the oppressive rule of Lt. General Raoul Cedras who came into power by staging a coup against Catholic priest Jean Bertrand Aristide (Hendrickson, 2002). President responded by arguing that the instability that was occurring in Haiti was a direct threat to the national security interest of the U. S. This led to the U. N. authorizing the U. S. to end the dictatorship occurring in Haiti, but was initiated by President Clinton who made an effort to inform congress of the developing situation (Hendrickson, 2002).

President George W. Bush faced no greater foreign policy in his administration than he did after the terrorist attacks of September 11, 2001. In the face of the attacks by Al-Qaeda, President Bush announced a war on terrorism that sought not only to bring those responsible for the 9/11 terrorist attacks to justice, but demonstrated a very broad government action that would allow Bush to pass and enforce questionable legislation such as the Iraq Joint Resolution and The Authorization for Use of Military Force (AUMF) which gave President Bush the authority to fight anyone he thought was involved in the terrorists attacks of 9/11 (Ball, 2007).

After review this information, the only answer that can be concluded is that the president's influence on Congress has greatly affected the making of foreign policy as well as the tendency of Congress to give power to the president during the Bush-Clinton Era, even when the president's claims of threats of national security do not pan out, such as the example with the Iraq Joint Resolution which would later be very unnecessary and even a blatant case of mistaken identity regarding those who were involved with the terrorist attacks of 9/11. Whenever there is an issue regarding foreign policy involving military action, the president is given the power to do what he wishes within reason. However, this does not apply when the country has to make a stance on a subject such as terrorism.

Inquiry Question #2

Whenever the U. S. has to deal with acts of terrorism that threaten our safety as citizens, the presidents and Congress have been known to work together and pass legislation that at times of peace would take a much longer time to process and contemplate. Legislation like the Iraq Joint Resolution and AUMF would not have been passed in a time of peace. This one incident questions not only what America is willing to do bring terrorist organizations to justice, but how the war on terror correlated to the foreign policy power balance between the Presidency and Congress. This can only be analyzed by an in-depth look in the events that lead to the war on terror, but what was done after the war on terror was declared.

The problem with terrorism finds their beginnings in the George W. Bush administration, but the what lead to that were the terrorist attacks of 9/11 which were spearheaded by the leader of Al-Qaeda; Osama Bin Laden.
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President Clinton dealt with the terrorist attacks of Osama Bin Laden when they struck the embassies in Kenya and Tanzania. President Clinton would then strike Bin Laden's outpost with missiles and would work to gain more intelligence on Bin Laden's actions as well as authorizing the CIA to apprehend and interrogate Bin Laden or to kill him if capture was impossible (Hendrickson, 2002).

Congress supported his ideas in all instances in his efforts to stop Bin Laden and was especially supportive of him when he justified his initial actions as the commander-in-chief of the United States, yet still chose to include Congress in their decisions regarding him. Of course at the time, Osama Bin Laden and terrorism in general, was not regarded as one of the central threats to the U. S. (Hendrickson, 2002).

President George W. Bush responded to the 9/11 terrorists attacks with the declaration of the War on terror. The broad term would be followed by the AUMF which gave the president free reign to make any attack on anyone he perceived to be connected to the terrorist attacks of 9/11 (Ball, 2007). This idea of terrorist striking at anytime also allowed him to do things that could only be done with court approval like intercepting international calls and emails between people who were allegedly connected to Al-Qaeda, which is unconstitutional without a court order (Ball, 2007).

Congress initially agreed to majority of the bills that Bush wanted to sign into law to combat the terrorist threat. However, when this began to conflict with some of the rights of the people, both Congress tried to step in only to be usurped by Vice-President Cheney, who was the 1st president to use his

ability to expand theory of presidential authority by saying that Congress cannot limit the power the president has over the military nor can they pass laws that give government officials of the executive branch the power to act independently of the president (Ball, 2007).

Upon reviewing the information presented, it can only be concluded that the war on terror has shifted the power of foreign policy to the president.

President George W. Bush used the war on terror to not only attack all those who were allegedly involved with 9/11 but to expand it into a war that had nothing to do with the terrorist attacks of 9/11. The same power was also experience by President Clinton when he used his title as commander-and-chief to his advantage and tried his best to eliminate the threat that Osama Bin Laden posed towards the U. S.