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Senate Votes to Limit War-making Powers of the President

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In a bipartisan vote on Thursday, the U.S. Senate voted 55-45 to limit the ability of President Donald Trump to go to war against Iran. The vote came several weeks after Trump's bold strike, killing an Iranian general. While it is not surprising that Democrats voted to limit Trump — some Democrats would vote against Trump any chance they had — it was noteworthy that eight Republicans joined in supporting the resolution authored by Senator Tim Kaine of Virginia.

Democrat Kaine was Hillary Clinton's running-mate in 2016 against Trump, but Kaine insisted that the resolution was not aimed at Trump or any other particular president. Kaine urged passage of his resolution because he said that Congress needed to reassert the power to declare war, a power given to Congress by the U.S. Constitution.

Article I, Section 8 of the Constitution explicitly gives *Congress*, not the president, the power to declare war, and to "grant letters of marque and reprisal."

The eight Republicans who voted in favor of restricting the war-making power of the president were Lamar Alexander, Bill Cassidy, Susan Collins, Mike Lee, Jerry Moran, Lisa Murkowski, Rand Paul, and Todd Young. All eight voted in opposition to convicting Trump of the impeachment charges leveled against him by the House of Representatives. Interestingly, the lone Republican who did support conviction, Mitt Romney, did not vote for the resolution.

Last month, Senator Lindsey Graham (R-S.C.) was quite upset at the idea of limiting Trump's power to take action against Iran, saying that his fellow senators who did so were supporting a resolution that was "unconstitutional," and that any such resolution was "empowering the enemy."

Senator Paul retorted, "I think it's sad when people have this fake sort of drape of patriotism and anybody that disagrees with them is not a patriot." Paul added, "The Constitution specifically says the war-making power resides in Congress."

In speaking for his resolution, Kaine said, "The bill getting to his desk is an indication that we're listening to our constituents, and we're telling him blundering into another war would be a bad idea." Even if the Senate cannot override a veto (which would take two-thirds, or 67 votes in the Senate), Kaine argued that it would perhaps cause Trump to hesitate in taking any future military action.

Republican Senator Todd Young (R-Ind.) lamented that it has become necessary to pass such a



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resolution, but it was because Congress had long “attempted to pass the buck” to the president any time a decision is made concerning military action. “It’s time to do our job.” Young stressed that he has appreciated Trump’s leadership in many other areas.

Young makes a good point. Congress tends to “pass the buck” to the president, the courts, or the federal bureaucracy in many matters, often leaving it to the president on whether to make or not make war; to the courts to decide on controversial issues; and to the bureaucracy to make the detailed regulations that Congress should be making themselves. In all of these cases, members of Congress can then simply blame one of the three when a constituent complains.

In regard to war-making power specifically, Young is absolutely correct that this is not a new thing for presidents when Trump takes a military action on his own without getting approval from Congress (or even consulting them). In fact, Trump has been generally more reluctant to take military action than most presidents in recent years.

Sadly, the only thing consistent about the Democrats on this issue is their inconsistency. When President Barack Obama took military action without approval from Congress, there was hardly a peep out of the Democrats. When President Bill Clinton likewise took military action repeatedly, including a multi-day action sending troops to Somalia, Democrats did not line up to condemn him. But recent Republicans have not been much better. When Texas Governor George W. Bush ran for president in 2000, he vowed to be less bellicose in his foreign policy than Clinton, promising a “more humble” foreign policy. He indicated that he would not be as quick to deploy our military forces as Clinton.

Of course, Bush *did* deploy troops in Iraq and Afghanistan, but he did get approval from Congress in authorizations of military force. This demonstrates the danger against such open-ended authorizations, rather than a formal declaration of war, as military actions in the Middle East are now routinely justified by a nearly 20-year-old authorization for a different war in a different country!

The House of Representatives passed a similar resolution recently, but because of differences in the two resolutions, the two houses would have to iron out differences in a conference committee and vote on them again. Assuming that the modified bill could muster passage again in both houses, it is very likely that President Trump would veto it, anyway.

Hopefully, however, beyond the specifics of Iran and Trump, it is hoped that this is a sign that the Democrats and the Republicans will begin to reassert the authority of Congress over the war issue, even if the president is of their political party. No one wants to leave the country defenseless if we were to be attacked, and no one is suggesting that the president not be allowed to take action that is truly defensive.

If Congress were serious about reining in presidents on this war issue, they could do so very easily by using their power of the purse. They could simply cut off funding for certain military actions. As they say, money talks, and such an action would speak louder than resolutions that cannot manage the required two-thirds vote to override a presidential veto.

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