APPENDIX TEN
A WAR POWERS BIBLIOGRAPHY

This document reflects due diligence done by the Commission’s staff, but not necessarily the views of the Commission.
There is a wealth of literature about the war powers. For those who are interested in further reading, the Commission staff has assembled the following list of references to books, reports, scholarly articles, congressional documents, and court opinions. These materials represent a non-exhaustive variety of viewpoints over a broad swath of time.


**SELECTED BOOKS AND REPORTS**


Thomas E. Baker and John F. Stack, Jr., *At War with Civil Rights and Civil Liberties* (2006).


Michael Barnhart, *Congress and United States Foreign Policy: Controlling the Use of Force in the Nuclear Age* (1987).


Edward Corwin, *The President’s Control of Foreign Relations* (1917).


Louis Fisher, Constitutional Conflicts between Congress, and the President (1997).
Leon Friedman and Burt Neuborne, Unquestioning Obedience to the President (1972).


J. F. Maurice, *Hostilities Without Declaration of War: An Historical Abstract of the Cases in Which Hostilities Have occurred between Civilized Powers Prior to Declaration or Warning From 1700 to 1870* (1883).


SELECTED ACADEMIC ARTICLES


Authority of the President to Repel the Attack in Korea, 23 Dep’t. of State Bulletin 173 (1950).

Simeon E. Baldwin, The Share of the President of the United States in a Declaration of War, 12 Am. J. Int’l L. 1 (1918).


Forrest R. Black, The Theory of the War Power under the Constitution, 60 Am. L. Rev. 31 (1926).


Harold M. Bowman, *Constitution in the War*, 2 B.U. L. Rev. 22 (1922)


William P. Rogers, *Congress, the President and the Power to Commit Forces to Combat,* 81 Harv. L. Rev. 1771 (1968).


William M. Treanor, *Fame, the Founding and the Power to Declare War*, 82 Cornell L. Rev. 695 (1997).


SELECTED CONGRESSIONAL DOCUMENTS


Applying the War Powers Resolution to the War on Terrorism: Hearings Before the Senate Comm. on the Judiciary, 107th Cong. (2002).


Preparing for the War on Terrorism: Hearing Before the House Comm. on Government Reform, 107th Congress (2001).


The War Power After 200 Years: Congress and the President at a Constitutional Impasse: Hearings Before the Special Subcomm. on War Powers of the Senate Comm. on Foreign Relations, 100th Cong. (1988).

Joint Hearings Before the House Select Comm. to Investigate Covert Arms Transactions with Iran and Senate Select Comm. on Secret Military Assistance to Iran and Nicaraguan Opposition, 100th Cong. (1987).


The U.S. Supreme Court Decision Concerning the Legislative Veto: Hearings Before the House Comm. on Foreign Affairs, 98th Cong. (1983).


The Situation in Iran: Hearing Before the Senate Comm. on Foreign Relations, 96th Cong. (1982).


Hearings on the Seizure of the Mayaguez Before the House Comm. on Int’l Relations, 94th Cong. (1975).

National Emergency Hearings Before the Senate Special Comm. on the Termination of the National Emergency, 93rd Cong. (1973).


Hearings on Fiscal Year 1972 Authorization for Military Procurement, Research and Development Before the Senate Comm. on Armed Services, 92nd Cong. (1971).


Hearings on S. Res. 151 Before the Senate Comm. on Foreign Relations, 90th Cong. (1967).


Hearings on the Military Situation in the Far East Before the House Comms. on Armed Services and Foreign Relations, 82nd Cong. (1951).

Hearings on Assignment of Ground Forces of the U.S. to Duty in the European Area Before the Senate Comms. on Foreign Relations and Armed Services, 82nd Cong. (1951).

SELECTED FEDERAL COURT CASES

U.S. Supreme Court

Bas v. Tingy, 4 U.S. 37 (1800).
Chae Chen Ping v. United States, 130 U.S. 581 (1889).
Endo, Ex parte, 323 U.S. 283 (1944).
Gibbons v. Ogden, 22 U.S. 1 (1824).
Glass v. The Sloop Betsey, 3 U.S. 6 (1794).
McCulloch v. Maryland, 17 U.S. 316 (1819).
Miller v. The Ship Resolution, 2 Dall. 19 (1792).
Milligan, Ex Parte, 71 U.S. 2 (1866).
Paquete Habana, The, 175 U.S. 677 (1900).
Prize Cases, The, 67 U.S. 635 (1863).
Quirin, Ex parte, 317 U.S. 1 (1942).
Reid v. Covert, 354 U.S. 1 (1957).
Scott v. Sandford, 60 U.S. 393 (1857).
APPENDIX TEN


*Ware v. Hylton*, 3 U.S. 199 (1796).


Circuit Courts of Appeals

*ACLU v. NSA*, 493 F.3d 644 (6th Cir. 2007).

*Al-Marri v. Wright*, 487 F.3d 160 (4th Cir. 2007).


*DaCosta v. Laird*, 448 F.2d 1368 (2nd Cir. 1971).


*Deutsch v. Turner Corp.*, 324 F.3d 692 (9th Cir. 2003).

*Doe v. Bush*, 323 F.3d 133 (1st Cir. 2003).


Holtzman v. Schlesinger, 484 F.2d 1307 (2nd Cir. 1973).
Koobi v. U.S., 976 F.2d 1328 (9th Cir. 1992).
Luftig v. McNamara, 373 F.2d 664 (D.C. Cir. 1967).
Massachusetts v. Laird, 451 F.2d 26 (1st Cir. 1971).
Merryman, Ex parte, 17 F. Cas. 144 (C.C. Md. 1861).
Orlando v. Laird, 443 F.2d 1039 (2nd Cir. 1971).
United States v. Bolton, 192 F.2d 805 (2nd Cir. 1951).
United States v. Smith, 27 F. Cas. 1192 (C.C.N.Y. 1806) (No. 16,342).

District Courts


Perrin v. United States, 4 Ct. Cl. 543 (1868).


