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**William G. Howell & Jon C. Pevehouse: While Dangers Gather**

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## Possibilities of Congressional Influence

THE FEDERAL GOVERNMENT exerts no greater power than when it places American men and women in harm's way. In sending troops off to kill and die in the service of some principle, high or low, the state exhibits all of its authority, wholly displacing individual wants and interests with collective purposes and ends. Rather than acting as some benign force, state leaders in these moments consciously and deliberately reshape the world around them. By constitutional design, therefore, the Founders prudently dispersed control over the military across the various branches of government, assigning presidents the mantle of commander in chief while granting Congress the more substantial responsibilities of raising armies and declaring war.

For much of American history, the system seemed to work. From the founding of the Republic to the mid twentieth century, most major uses of force received formal sanctioning by both Congress and the president. While presidents occasionally pressed outward on the boundaries of their constitutional authority—James Polk orchestrated a series of military provocations along the Texas border that would launch the Mexican-American War, and Lincoln wielded extraordinary extra-constitutional powers during the Civil War—Congress's rightful place in deliberations over war appeared reasonably well established. With Harry Truman, however, this would change. By declaring the Korean War a "police action" that did not require a declaration of war, Truman established a precedent for subsequent presidents to strike out on their own, deploying the military on prolonged tours of duty, humanitarian ventures, and targeted strikes without ever securing Congress's formal consent.

Truman's presidency coincided with the nation's emergence as a genuine superpower. At the close of World War II, the United States stood as the world's strongest military and economic power, with new interests to protect and promote in even the most distant reaches of the globe. Isolationists no longer ruled U.S. foreign policy. Indeed, the Founders could hardly have imagined the awesome influence that America would wield in international affairs, and the pressures that this would place on the commander in chief. A dangerous new world, many would argue, required powerful, determined, and rapid responses that only a president could manufacture.

By Richard Nixon's second term, the White House war machinery seemed out of control. Presidents had long initiated military operations without a formal declaration of war, but now they were doing so without the faintest recognition of Congress's rightful authority. Faced with dubious claims about North Vietnamese attacks on U.S. ships in the Gulf of Tonkin, the conduct of a secret war in Laos, and the persistence of an illegal bombing campaign in Cambodia, political observers at the time began to cry foul. In a celebrated indictment of what he called an "imperial presidency," Arthur Schlesinger noted that "by the early 1970s the American President had become on issues of war and peace the most absolute monarch (with the possible exception of Mao Tse-tung of China) among the great powers of the world."<sup>1</sup> Plainly, something needed to be done.

The 1973 War Powers Resolution was supposed to rein in a presidency run amok and to reassert congressional prerogatives over foreign policy making. It required that presidents "in every possible instance" consult with Congress before introducing military forces into foreign hostilities, secure formal authorization within sixty to ninety days or withdraw troops, and if the military engagement was approved by Congress, submit regular reports to that body. The resolution, its advocates claimed, would correct the decades-long presidential incursions into congressional war powers and put members of Congress back in charge of deliberations involving the use of military force, as the Framers intended them to be. At its signing, cosponsor senator Jacob Javits (R-NY) announced that "never in the history of this country has an effort been made to restrain the war powers in the hands of the president . . . [This bill] will make history in this country such as has never been made before."<sup>2</sup> With this resolution, congressional aspirations to reclaim lost ground in an age-old struggle over who has the right to declare war had peaked.

Instead of firmly reasserting congressional prerogatives, however, the resolution brought disappointment. Every president since Nixon, Democrat and Republican, has refused to recognize its constitutionality. In the last three decades, presidents have launched one military initiative after another—in Grenada and Haiti and Lebanon and Panama and Kosovo and Liberia—without ever securing congressional authorization. Only once, for Lebanon in 1983, has the War Powers clock even been started, and then the president was granted an eighteen-month grace period. And when launching smaller-scale military operations, presidents frequently have dodged the resolution's reporting requirements. Rather than correcting for gross imbalances in the nation's system of separated powers, the War Powers Resolution, astonishingly, turned bad to worse.

On this, almost everyone agrees. According to Robert Katzman, "A growing consensus maintains that the War Powers Resolution has not

worked as Congress envisioned. Presidents have refused to invoke the law in ways that could limit their freedoms of action; indeed, they have not even conceded its constitutionality. Congress, for its part, has been reluctant to challenge the president.”<sup>3</sup> According to John Hart Ely, “Thanks to a combination of presidential defiance, congressional irresolution, and judicial abstention, the War Powers Resolution has not worked.”<sup>4</sup> Observes Peter Irons, “Every president since Nixon has disregarded—and in some cases flatly disobeyed—the provisions of what has become a monument to legislative futility.”<sup>5</sup> The resolution, says Louis Fisher, “was a sellout, a surrender.”<sup>6</sup>

As Congress’s best effort to reclaim control over military affairs, the resolution’s failings would seem to reflect all of the inadequacies of the institution that enacted it. According to Stephen Weissman, in matters involving war, Congress is infected by a “culture of deference: a distinct set of norms and beliefs, customs and institutions, that confine it to the margins of power.”<sup>7</sup> And this culture of deference—if indeed it is a “culture”—sabotages the machinery of government more generally. Ely rails against “the disappearance of the separation of powers, the system of checks and balances, as it applies to decisions to go to war.”<sup>8</sup> Claiming that “legislative abdication is the reigning *modus operandi*” in foreign affairs, and that Congress’s involvement in decisions involving war has been “decimated,” Neal Katyal suggests that we abandon our focus on Congress and instead look to independent executive agencies to check presidential war powers.<sup>9</sup> According to Joanne Gowa on matters involving war, Congress and the president adhere “to a tacit truce [as] a means to escape rather than a reflection of accountability,” the result of which is “a subversion of a checks-and-balance system.”<sup>10</sup> In their indictment of Congress’s failures to oversee the president’s prosecution of foreign wars, Norman Ornstein and Thomas Mann conclude that, “In the past six years . . . congressional oversight of the executive across a range of policies, but especially on foreign and national security policy, has virtually collapsed.”<sup>11</sup>

With the erosion of congressional checks on presidential war powers, these scholars note, comes the erosion of our system of separated powers. There emerges, then, an unconstrained president who launches military forces at will, perhaps attentive to his place in history or to the international balance of powers, but liberated from the congressional interference that so often foils his domestic policy initiatives. As Louis Fisher characterizes the post-Truman presidency, “On matters of war, we have what the framers thought they had put behind them: a monarchy. Checks and balances? Try to find them.”<sup>12</sup>

This book accepts Fisher’s challenge. It searches for congressional efforts to constrain presidential war powers during the post–World War II

era, and in so doing, it discovers considerable evidence that checks and balances, though diminished, persist nonetheless. There is no denying that Congress has abdicated considerable responsibilities over war making, or that presidents have stepped into the fray and claimed powers and rights that the Framers never intended them to hold. But a closer look reveals more activity and more influence than scholars have been willing to admit. By broadening the scope of inquiry, and by distinguishing what is from what should be, one discovers evidence that Congress—imperfectly, intermittently, but remarkably predictably—continues to monitor the presidential use of force. More than occasionally, its members do things, or threaten to do things, that materially affect presidential decisions about war. And perhaps not surprisingly, those members who do the most to check presidential war powers consistently come from the ranks of the opposition party.

Using a variety of original datasets and drawing from diverse literatures within political science, this book demonstrates that Congress continues to play an important role in shaping the domestic politics that precede military action, and in influencing the willingness of presidents to embark on new ventures abroad. While the power its members wield may not satisfy every interested party, Congress's mark is readily detectible. By staying attuned to partisan divisions between the legislative and executive branches, the efforts of each to anticipate and accommodate the other's future actions, the challenges of coordinating a military venture, and the uncertainty and devastation wrought by war, we find considerable evidence of congressional influence. After exploring the roots and dimensions of presidential dominance in matters of war, the remainder of this chapter characterizes the various means by which members of Congress influence presidential decisions regarding military action; the subsequent chapter, then, identifies the conditions under which Congress most effectively employs them.

## THE EXECUTIVE *Is* CHIEF

Scholars who argue that presidents dominate the politics of war do so with good reason. In political struggles over military deployments during the past half century, Congress has ceded to the president considerable ground—so much, in fact, that its members no longer meet even basic standards of responsibility set by the Constitution.<sup>13</sup> Before we examine the influence Congress continues to wield, we must recognize the historical trends and institutional advantages that have catapulted the president to the forefront of decisions involving the use of force. This section briefly

outlines some of the more important reasons presidents predominate in debates over war and in the making of foreign policy more generally.

There is, at present, a burgeoning body of work within American politics that documents the strategic advantages presidents enjoy when they exercise their unilateral powers, or what elsewhere we have called “power without persuasion,” which very much embodies the deployment of troops abroad.<sup>14</sup> Two features of this unilateral politics literature are worth noting. The first concerns sequence. When presidents act unilaterally, they stand at the front end of the policy-making process and thereby place on Congress and the courts the burden of revising a new political landscape. If adjoining branches of government choose not to retaliate, either by passing a law or ruling against the president, then the president’s order stands. Only by taking (or credibly threatening to take) positive action can either adjoining institution limit the president’s unilateral powers.

Members of Congress often do confront presidents when their military orders prove misguided or ill-informed. They do so, however, under less than ideal circumstances. For starters, when debating the merits of an ongoing military venture, members of Congress are vulnerable to the accusation that they are undermining troop morale and catering to the enemy. As James Lindsay recognizes, members often avoid putting themselves in “the politically and morally difficult position of allowing funds to be cut off to troops who may be fighting for their lives.”<sup>15</sup> By way of example, recall Clinton’s deployment of troops to Haiti in 1994. Before the action, a majority of senators opposed the plan, but once troops were deployed, Congress did not attempt to force their immediate return. One political commentator surmised, “There’s bipartisan criticism of going into Haiti. There’s also bipartisan support, at least, in supporting the troops now that they’re there.”<sup>16</sup> Though members can, and do, take on the president during the ongoing course of a military venture, they do so under conditions that hardly foster open and critical debate.<sup>17</sup> Instead, members proceed cautiously, ever aware of how their actions and words are likely to be interpreted by a public wary of any criticism directed at troops who have willingly placed their lives on the line.

Some military actions, meanwhile, are sufficiently limited in scope and duration that Congress has little if any opportunity to coordinate an effective response, either before or during the actual intervention. In the spring of 1986, for instance, Reagan “consulted” with congressional party leaders on planned air strikes against Libya while U.S. planes were en route to Northern Africa. Obviously, there was little that these members could do to curb these attacks. As one Democrat attending the meeting noted, “What could we have done? . . . Told [the president] to turn the planes around?”<sup>18</sup> The military completed its bombing campaign long before members of Congress could possibly have resolved their differences and

enacted authorizing legislation. Though Congress might have passed legislation either supporting or condemning the president's action after the fact, its members could do precious little to redirect the course of this particular targeted military strike. By seizing the initiative and unilaterally deploying the military to perform short and small attacks, presidents often elude the checks that Congress might otherwise place on them.

The second feature of unilateral powers that deserves attention is that when the president acts, he acts alone. Of course, he relies on numerous advisors to formulate the policy, to devise ways of protecting it against congressional or judicial encroachment, and to oversee its implementation. But to issue the actual policy, as either an executive order or memorandum or any other kind of directive, the president need not rally majorities, compromise with adversaries, or wait for some interest group to bring a case to court. The president, instead, can strike out on his own, placing on others the onus of coordinating an effective response. Doing so, the modern president is in a unique position to lead, break through the stasis that pervades the federal government, and impose his will in more and more areas of governance.

In foreign policy making generally, and on issues involving the use of force in particular, this feature of unilateral powers reaps special rewards. If presidents had to build broad-based consensus behind every deployment before any military planning could be executed, most ventures would never get off the ground. Imagine having to explain to members of Congress why events in Liberia this month or Ethiopia the next demand military action, and then having to secure the formal consent of a supermajority before any action could be taken. The federal government could not possibly keep pace with an increasingly interdependent world in which every region holds strategic interests for the United States. Because presidents, as a practical matter, can unilaterally launch ventures into distant locales without ever having to guide a proposal through a circuitous and uncertain legislative process, they can more effectively manage these responsibilities and take action when congressional deliberations often result in gridlock. It is no wonder, then, that in virtually every system of governance, executives (not legislatures or courts) mobilize their nations through wars and foreign crises. Ultimately, it is their ability to act unilaterally that enables them to do so. In sum, the advantages of unilateral action are significant: they allow the president to move first and move alone.

All of the institutional features of Congress that impede consensus building around a military venture *ex ante* also make it equally if not more difficult, later, to dismantle an operation that is up and running. This is what makes the president's unilateral powers so potent. Multiple veto points, high transaction costs, and collective action problems regularly conspire against the president when he tries to guide his legislative

agenda through Congress. Each, though, works to his advantage when he issues a unilateral directive, as each cripples Congress's capacity to muster an effective response. To be sure, congressional checks on presidential war powers do not disappear entirely—this book is based on the premise that under well-specified conditions (see chapter 2) they remain operative. But in an era when presidents unilaterally deploy troops with greater and greater frequency, Congress often trips over the same institutional features that undermine its capacity to govern more generally.

Beyond the strategic advantages that unilateral powers impart, presidents also benefit from the substantial information imbalance that characterizes executive-legislative relations. When a conflict erupts abroad, more often than not the president is the first to know, has access to the most accurate and current information about it, and is best situated to evaluate the relative costs and benefits of different courses of action. A massive network of national security advisors, an entire intelligence community, and diplomats and ambassadors stationed all over the globe report more or less directly to the president. Nothing comparable supports members of Congress. For the most part, they count on the president and those within his administration to share information that might bear on contemporary foreign policy debates. When the president refuses to disclose all relevant information, or he tailors the presentation of facts to suit his own strategic interests, members have a difficult time prying from the administration the information they claim to need.<sup>19</sup>

Should the president decide that it is in the nation's best interest to send troops into Grenada, Lebanon, Haiti, or Somalia, at least initially Congress often lacks the information required to offer a substantive objection. Instead its members are left to raise questions about the potential costs of a military venture, to worry aloud about the potential loss of human life, or to criticize the president for not having made his case to the American people. As Robert Dahl recognized over a half century ago, "Of all the alternative methods of dealing with a given crisis in foreign affairs, the executive-administrative selects that one which appears soundest to it, and henceforth its pressures are mobilized behind that alternative. What this really means is that the executive, by and large, determines the scope and nature of the debate. Congressmen may support, or they may oppose the executive proposals. But they are rarely in a position to examine the full range of alternatives that may be open to them."<sup>20</sup>

Strong informational advantages coupled with the unique ability to act unilaterally in the international arena make the president, by Paul Peterson's account, "the most potent political force in the making of foreign policy," while Congress remains "a secondary political player."<sup>21</sup> There is no escaping this fact. The primary questions that this book intends to answer are not whether congressional power effectively matches presidential

power, or whether Congress has met its constitutional obligations over foreign policy making. On both of these fronts, answers obviously assume the negative. Rather, the interesting questions are uncovered when we examine those interbranch struggles that persist, when we try to determine whether Congress, in any material fashion, constrains the presidential use of force.

### CONGRESS, STILL RELEVANT

Endowed with powers of unilateral action and immense informational advantages, why should the president worry about Congress? What can its members really do that has any bearing on his assessments of the potential risks and rewards of military action? A fair amount, we think. Its actions will not convince every president, every time, to change course. But through both legislative enactments and public appeals, Congress can increase the likely costs, financial and otherwise, of a planned military venture. The bills Congress introduces, the resolutions it passes, the hearings it holds, and the public declarations its members make can establish legal constraints on presidential war powers and increase the political costs of battlefield failures. In this section, we summarize past congressional efforts to influence presidential decision making through both legislative processes and public appeals: We then offer some lessons about how these activities shape the larger politics that precede military action.

#### OPPOSITION THROUGH LEGISLATION/APPROPRIATIONS

Should the president embark on a misguided or unexpectedly costly military venture, members of Congress can actively work against him, by either restricting the scope or duration of a conflict or by establishing firm reporting requirements. Members also oversee the appropriations process, which, according to James Lindsay, “gives Congress tremendous say over the budgets, structures, and duties of the armed forces.”<sup>22</sup> Though no specific remedy negates the vast arsenal of powers available to the president during times of war, each goes some distance toward checking presidential war powers—and collectively, they may materially affect the course of a military campaign, and the probability that the American public and international allies continue to support the president along the way. Surveying the past seventy years of American history, one discovers numerous instances when Congress asserted its prerogatives over matters involving war, and presidents promptly, though to varying degrees, adjusted their behavior.

Few stronger examples of congressional influence on foreign policy exist than the period preceding American entry into World War II. Advancing the long-standing tradition of American isolationism, as well as a pre-

occupation with depression-related economic policies, Congress passed Neutrality Acts in 1935 and 1937 that restricted the president's ability to direct military or financial aid to Allied powers engaged in war. Although he staunchly opposed legislative efforts to keep America out of European hostilities, Roosevelt also recognized the extent to which congressional views resonated in the public, and he feared that Congress might derail his domestic agenda if he pushed for American involvement.<sup>23</sup> Hence, in the late 1930s and early 1940s, Roosevelt moved haltingly—from Winston Churchill's perspective, perilously so—to provide vital aid needed to stall the Nazi expansion.

Nearly two years would pass before Roosevelt formally attempted to repeal aspects of the 1937 Neutrality Act. These efforts had an inauspicious start when it was revealed that a French officer had been allowed to fly in a newly designed American fighter plane, which subsequently crashed. Undeterred, Roosevelt called secret congressional hearings on French attempts to purchase American-built advanced fighters. By mid March 1939, in response to Hitler's annexation of Czechoslovakia, Roosevelt publicly appealed for the lifting of the Neutrality Act's mandatory arms embargo to belligerents. Hitler's subsequent invasion of Poland then assured some congressional concession. Still, though, isolationist sentiments remained strong. Charles Lindbergh, Father Charles Coughlin, and a number of senators publicly denounced Roosevelt's request and thereby unleashed "a torrent of letters and telegrams . . . in Washington" counseling against lifting the arms embargo.<sup>24</sup> As a compromise, Congress did agree to repeal the arms embargo later that year, but it also insisted that cash alone be paid for war materials and that foreign vessels be used to collect the shipments.

Recognizing the seemingly implacable spirit of isolationism, Roosevelt began to take the message of defending against the Axis powers directly to the public. As he wrote in a December 1939 letter, "What worries me is that public opinion over here is patting itself on the back every morning and thanking God for the Atlantic Ocean (and the Pacific Ocean). We greatly underestimate the serious implications to our future. . . . Therefore . . . my problem is to get the American people to think of conceivable consequences without scaring the American people into thinking that they are going to be dragged into this war."<sup>25</sup> Midwestern conservatives and left-leaning pacifists, however, worked assiduously to undermine presidential pleas, retorting at every instance that any grant of aid to Britain further guaranteed U.S. involvement in what was properly understood to be a European war.

The world itself would have to change before Roosevelt would gain any advantage over his adversaries in Congress. The fall of France, the Battle of Britain, and continued Japanese expansion in Asia all helped to

whittle away at isolationist claims that Axis powers posed no threat to the United States. In March 1941, Roosevelt managed to persuade members of Congress to pass the Lend-Lease Act, which directed armaments to Britain. The fall of that same year, the president convinced Congress to repeal those parts of the Neutrality Act that forbade merchant ships from arming and traveling in hostile sea lanes. It is worth noting, though, that the president still lacked the confidence to seek outright repeal of the act, despite the fact that 70 percent of Americans then agreed that it was “more important to defeat Hitler than stay out of the war.” As the *New York Times* noted, “Mr. Roosevelt is reported to be anxious to avoid a two-month debate in Congress on the Neutrality Act, and that is why modification, rather than repeal, may be decided upon.”<sup>26</sup>

In the face of continued Italian, German, and Japanese aggression, and despite continued calls by the president and the State Department to be the “arsenal of democracy,” Congress publicly repudiated presidential efforts to aid France and Britain. Not until the morning of December 7, 1941—when the Japanese struck Pearl Harbor, killing 2,335 soldiers and 68 civilians, destroying 164 U.S. planes, and sinking or disabling 19 ships—were isolationist sentiments in Congress and the public finally quashed, and did the president secure the domestic political support needed to lead the nation headlong into war.

Though future congresses, and future historians, would soon renounce this era of isolationism, members continued to challenge the presidential use of force. Within a decade, in fact, the two branches of government would once again square off against one another. According to many historians, the Korean War ushered in the modern presidential era, one wherein presidents regularly deploy troops abroad without first acquiring any kind of congressional authorization. By calling the deployment a police action rather than a war, Truman effectively abjured constitutional requirements and established precedent for all subsequent presidents to circumvent Congress when sending the military abroad. What is often forgotten, though, is that Congress hounded Truman throughout the Korean War, driving his approval ratings down into the twenties and paving the way for a 1952 Republican electoral victory. Rattling off a litany of complaints, from the president’s firing of General MacArthur to his meager progress toward ending the war, Senator and then-presidential candidate Robert Taft (R-OH) announced that “the greatest failure of foreign policy is an unnecessary war, and we have been involved in such a war now for more than a year. . . . As a matter of fact, every purpose of the war has now failed. We are exactly where we were three years ago, and where we could have stayed.”<sup>27</sup> Unfortunately for Taft, it was General Eisenhower who could credibly promise to end the war in Korea, and by so doing secure the Republican nomination and win the White House.

Taft's comments, nonetheless, reflected growing congressional and public discontent with the president's foreign policy.

During this period, Congress grew increasingly vocal, largely along partisan lines, on a variety of defense-related issues. For starters, Truman's seizure of steel mills was roundly criticized by both Democrats and Republicans within Congress. The Senate voted to withhold funds needed to run the mills, several House Republicans attempted to have Truman impeached, and a number of GOP senators extended the debate on West Germany's inclusion into NATO in an attempt to stop Truman from expanding the western alliance. Republicans also attempted to attach an amendment to the bill barring the president from using U.S. troops to defend West Germany without congressional authorization. After an extended debate over the amendment, congressional Democrats rallied in a unified front to Truman's side, defeating the amendment. The amendment can be viewed as an attempt, by Republicans, to wrestle commander in chief powers from Truman as punishment for Korea. Because the amendment would have required Congress to approve a troop deployment to defend West Germany, consultations and a vote would be needed, even during the heat of an international crisis in Europe. Finally, in 1952 Congress slashed Truman's proposed defense budget by more than 20 percent. Despite lobbying from the administration and defense officials, Congress held firm on the cuts.

During the early 1960s, tensions between the White House and Congress centered on Cuba. From the beginning, congressional Republicans chided Kennedy over the Bay of Pigs fiasco. But it was Republican senator Kenneth Keating's continued claims of Soviet nuclear expansion that led to increased surveillance of the island and, in time, to the discovery of Soviet missiles and the Cuban Missile Crisis. Even in the immediate aftermath of this nuclear brinkmanship, Republican opponents of Kennedy escalated their criticism, charging the administration with damaging U.S. prestige by showing "ineptness in foreign affairs."<sup>28</sup> Indeed, the *New York Times* wondered how, after what was "widely regarded as one of the most adroit uses of power and diplomacy since the last war," it came to be that "this achievement has been blurred in the last three months . . . over Republican charges that the Kennedy administration has been 'managing the news' and misleading the American people."<sup>29</sup> Kennedy hardly enjoyed a rally effect or a postcrisis period of calm—rather, partisan politics returned with a vengeance, buoyed by calls from Senator Barry Goldwater to reblockade Cuba and accusations from Senator Keating that the administration continued to underestimate the number of Soviet advisors that remained in Cuba.<sup>30</sup>

It was the Vietnam War, however, that brought congressional opposition to the presidential use of force to a fever pitch. As the war dragged

on and casualties mounted, Congress and the public grew increasingly wary of the larger purposes served, and of the 1964 Gulf of Tonkin Resolution's empowerment of the president "to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." In 1970, with upward of 350,000 U.S. troops in the field and the war spilling over into Cambodia, Congress formally repealed that resolution. And over the next several years, legislators enacted a series of appropriations bills intended to restrict the war's scope and duration. In December 1970, for instance, Congress enacted a supplemental foreign assistance appropriations act that prohibited the use or diversion of any monies to fund either the introduction of U.S. troops into Cambodia or the provisions of U.S. "advisors" to the Cambodian army.<sup>31</sup> Then in June 1973, after the Treaty of Paris had been signed, Congress enacted a supplemental appropriations act that cut off all funding for additional military affairs in Indochina—including Cambodia, Laos, North Vietnam, and South Vietnam—after August 15, 1973.<sup>32</sup> In December 1974, Congress enacted a foreign assistance act that restricted the number of U.S. personnel allowed in Vietnam to just four thousand within six months, and three thousand within twelve.<sup>33</sup> Finally, when South Vietnam fell in the spring of 1975, despite desperate calls from President Gerald Ford and Secretary of State Henry Kissinger, Congress forbade American troops from enforcing the Paris peace accords.

The memoirs of Henry Kissinger exude frustration with Congress for having repeatedly sought to trim American troop levels, halt military operations within Cambodia, and end the Vietnam War prematurely. Kissinger, of course, objected to any meddling in the president's war planning. But according to the secretary of state, congressional involvement in tactical decisions about the war had other consequences. Legislative activity, Kissinger believed, fundamentally compromised the president's ability to negotiate reasonable terms for the war's resolution. As Kissinger explained, "The pattern was clear. Senate opponents of the war would introduce one amendment after another, forcing the Administration into unending rear-guard actions to preserve a minimum of flexibility for negotiations. Hanoi could only be encouraged to stall, waiting to harvest the results of our domestic dissent."<sup>34</sup> That most of Congress's efforts to limit the continued use of force failed in one chamber or another does not negate the basic point—that is, by repeatedly trying to force the withdrawal of American troops, Congress undermined the president's bargaining position and, perhaps, inadvertently prolonged the actual conflict.

Three years later, Congress again forbade the use of funds for military actions supported by the president—this time, covert aid for non-U.S. paramilitary forces in Angola. The 1976 defense department appropria-

tions act stipulated that no monies would be used “for any activities involving Angola other than intelligence gathering.”<sup>35</sup> Then, four months later, Congress enacted separate legislation that made the ban permanent, noting that “no assistance of any kind may be provided for the purpose, or which would have the effect, of promoting, augmenting, directly or indirectly, the capacity of any nation, group, organization, movement, or individual to conduct military or paramilitary operation in Angola.”<sup>36</sup> Facing such staunch congressional opposition, Ford suspended military action and aid in Angola, sniping that Congress, with regard to foreign policy, had “lost its guts.”<sup>37</sup>

During the 1980s, no foreign policy issue captivated members of Congress as much as aid to Nicaraguan contras, a band of rebels engaged in an ongoing guerrilla war against the nation’s Sandinista government. In 1984, Congress enacted a continuing appropriations bill that forbade Reagan from supporting the contras, either financially or militarily. Leaving little doubt about their position on the matter, members of Congress wrote into the law the following language: “No funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement or individual.”<sup>38</sup> Reagan appeared undeterred. Rather than abandon the project, the more prudent course of action, Reagan instead opted to divert funds from Iranian arms sales to support the contras, establishing the basis for the most serious presidential scandal since Watergate. Absent congressional opposition on this issue, Reagan might well have intervened directly, or at least directed greater, and more transparent, aid to the contra rebels fighting the communist government.

In just one instance, the case of Lebanon in 1982–83, Congress formally invoked the War Powers Resolution to influence the nation’s involvement in a military venture.<sup>39</sup> Most scholars who call Congress to task for having failed to fulfill its constitutional responsibilities make much of the fact that it authorized the use of force for a full eighteen months, rather than the sixty days required under the resolution. What critics often overlook is that Congress simultaneously forbade the president from unilaterally altering the scope, target, or mission of the military’s participation in the United Nations Multinational Force; asserted its right to terminate, at any time, the venture with a one-chamber majority vote or a joint resolution; and established firm reporting requirements as the occupation continued.<sup>40</sup> Thus, when marine headquarters were bombed and the president expanded the theater of operations to include Syrian anti-aircraft emplacements, Congress mobilized to end the nation’s involvement

in the United Nations operation. Though conditions on the ground worsened, and though Lebanon subsequently rejected a formal peace treaty with Israel, congressional and public opposition helped convince Reagan to abandon the nation's military commitments. Four months after the marine-barrack bombing, Reagan ordered marines redeployed to U.S. ships in the Mediterranean Sea; one month later, the president withdrew from the operation.

A similar sequence of events played out in 1993 and 1994, when a joint United Nations humanitarian venture in Somalia devolved into urban warfare, and the grisly deaths of U.S. soldiers played out on television sets across the nation. Though Congress had publicly declared its support for the president's actions in Somalia, opposition mounted as the costs of the war escalated and the scope of the mission expanded to include the training of a civilian police force and the disarming of factions within the country.<sup>41</sup> When United Nations troops clashed with supporters of the Somali warlord Mahommed Farah Aideed and images of a United States soldier being dragged through the streets of Mogadishu filled nightly newscasts, Congress moved quickly to curb presidential efforts to bolster the number of troops and supplies in the region. In November 1993, legislators enacted a Department of Defense appropriations act that simultaneously authorized the use of force in Somalia to protect United Nations units and also required that forces be withdrawn by March 31, 1994.<sup>42</sup> In the next year's defense appropriations bill, in an amendment introduced by Dirk Kempthorne (R-ID), Congress reaffirmed its past stance by including provisions that "none of the funds appropriated by this Act may be used for the continuous presence in Somalia of United States military personnel after September 30, 1994."<sup>43</sup> As a result of these congressional actions and growing public opposition to the continued presence of U.S. troops in Somalia, Clinton abandoned the venture long before he was able to achieve any of the strategic or humanitarian objectives identified by Bush, who had launched the original deployment in December 1992.

In 1994, another African country witnessed killings that, by sheer volume, eclipsed those in Somalia. Over a three-month period, Hutus in Rwanda butchered roughly 800,000 Tutsis, while the United Nations and Western nations did little to stem the killings. Clinton's failure to recognize the slaughter early on, and to intervene, is well documented—and by Clinton's own account, it was his single greatest regret about his presidency.<sup>44</sup> Less noticed, though, is Congress's complicity in this unfortunate history. Congress slashed humanitarian assistance to Rwanda from \$270 million to \$170 million and sought to ensure that the United States did not become entangled in another African nation's domestic troubles—as Robert Byrd (D-VA) explained, "We had enough of that in Somalia."<sup>45</sup> And so, in the same 1994 defense appropriations act that forbade the ongoing presence

of military personnel in Somalia, Congress declared that United States troops would not enter the region, stipulating that “no funds provided in this Act are available for United States military participation to continue Operation Support Hope in or around Rwanda after October 7, 1994, except for any action that is necessary to protect the lives of United States citizens.”<sup>46</sup> This was preceded in May by the signing of Presidential Decision Directive (PDD) 25, which restricted the involvement of U.S. forces in peacekeeping operations. In response to congressional outrage over Somalia, Clinton took it upon himself to tie his own hands in Rwanda.

Just as Congress restricted funding for a military venture conducted under the auspices of the United Nations in 1994, it took steps to restrict the use of funds for a humanitarian crisis occurring in Kosovo under the direction of the North Atlantic Treaty Organization (NATO). Responding to the Yugoslav government’s persecution of ethnic Albanians in Kosovo, on March 24, 1999, the president, in alliance with NATO, launched a massive air strike campaign. One month later, the House passed a bill that would have forbidden the use of defense department funds to introduce U.S. ground troops into the conflict,<sup>47</sup> at least until Congress subsequently authorized the use of force, which it never got around to doing.<sup>48</sup> The Senate, however, did not follow through and pass funding restrictions of its own. Instead, the more hawkish Democrats and Republicans in Congress seized on the opportunity to attach additional monies for unrelated defense programs, military personnel policies, aid to farmers, and federal relief for citizens affected by Hurricanes Mitch and Georges and passed a supplemental appropriations bill that was considerably larger than the amount requested by the president.<sup>49</sup> The mixed messages sent by Republicans were not lost on Clinton’s Democratic allies. As Martin Frost (D-TX) noted, “I am at a loss to explain how the Republican Party can, on one hand, be so irresponsible as to abandon our troops in the midst of a military action to demonstrate its visceral hostility toward the commander in chief, and then, on the other, turn around and double his request for money for what they call ‘Clinton’s war.’”<sup>50</sup>

There is, of course, something superficial about any running count of the times that the War Powers Resolution has been invoked or that appropriations have been cut or that resolutions either authorizing a use of force or forbidding military action have been enacted. For these overt actions say very little about the strength of congressional checks on presidential war powers. Indeed, if Congress was all powerful (which it plainly is not) and the president only pursued military options that a majority of members support (which he obviously does not do), then we would never witness any bills or appropriations that were intended to rebuke or restrain the exercise of presidential power since each side could anticipate the outcome.

We are not suggesting that the absence of congressional action is appropriately interpreted as evidence of the institution's prepotency. Instead, we mean only to raise a cautionary point: the observed behaviors of either branch of government do not necessarily reveal who was in charge, or whose interests were best represented, when the military was deployed. As John Ferejohn and Frances Rosenbluth point out, "Depending on the distribution of costs and benefits associated with the use of power, heterogeneous interests might be inclined to exercise veto points built into American political institutions; *and even if their use is not often observed to block military aggression, their influence is likely to be incorporated in anticipation of their use.*"<sup>51</sup> When trying to gauge congressional influence over presidential war powers, it simply will not do to count the number of times that the War Powers Resolution has, or has not, been invoked. For as Ferejohn and Rosenbluth aptly note, one branch of government may wield considerable influence over another even when the historical record is quite sparse. Knowing that members of Congress will rail against what they perceive to be a seriously misguided military venture, presidents may scale back, or even abandon, their plans. In such instances, however, the proof of congressional influence is not to be found in the corpus of law that members enact. Rather, it is to be located in the silence accompanying a president who would like to respond militarily to some foreign conflagration, but who prudently abstains.

Reflecting on congressional involvement in the Vietnam War, David Mayhew noted, "Often the voicing of public opinion has policy effects without any laws being passed: presidents, bureaucrats, and judges, anticipating trouble with Congress, take action to avoid it. Thus the congressional uprising during the Tet Offensive of 1968 (no legislation was passed) was a contributing element in President Johnson's decision to stop escalating the Vietnam War."<sup>52</sup> A simple count of the number of times Congress intervened legislatively into the Vietnam War reveals very little about the actual influence that any branch of government ultimately wielded over the writing or implementation of foreign policy about Southeast Asia in the 1960s and 1970s. Nor does it now. And because legislative inactivity does not necessarily connote congressional abdication, a resumption of congressional activity need not allay the deeper concerns that so many critics of Congress justifiably raise about the appropriate balance of policy powers across the legislative and executive branches of government.

From our vantage point, this is a vitally important point, and one that helps explain why previous scholars have overlooked evidence of congressional influence on presidential war making. When trying to discern power, analysts must look beyond actions taken and reactions made and instead

infer how each reflects underlying dynamics that cannot be observed directly. That they have come out in opposition to certain military actions and have passed appropriations that cut funding for the use of force, and that they have demanded an end to certain campaigns, does suggest that members of Congress were attuned to what the president was doing.<sup>53</sup> In order to assess the actual checks Congress places on presidential power, however, we will need to dig deeper and construct a set of empirical tests that go beyond a mere accounting of the actions that each branch of government takes. This is the primary objective of chapters 3 through 5.

Recent congressional efforts to directly influence military operations directly nonetheless yield several important lessons about interbranch dynamics in matters involving war. For starters, Congress almost always reacted to a foreign policy agenda set by the president. For institutional reasons that we outlined previously, the president usually determined whether a military response to an observed foreign crisis was even a possibility. Criticizing Clinton's initial lack of attention to foreign affairs, Jim Hoagland of the *Washington Post* recognized that "Congress can never lead on foreign policy. It can only react, criticize and restrict when that suits congressional self-interest."<sup>54</sup> Though "never" is probably too strong, the basic point remains: in matters involving the use of force, Congress has been largely a reactive institution. While Congress has occasionally voted to authorize a presidential use of force, in almost every instance members have cast their support for, or opposition to, initiatives advanced by the president.

Second, Congress has usually acted to restrain, rather than stimulate, military action. By design, Congress is meant to "clog the road to combat," to slow and sometimes silence calls for military action.<sup>55</sup> Hence, when it has chosen to participate in decisions involving war, Congress has usually enacted legislation intended to reduce, or even terminate, offshore troop deployments. Rarely has Congress openly contradicted a president and insisted that more personnel be sent abroad, that ground troops be introduced where the president launched only an air campaign, that the scope of a venture be broadened, or its duration extended. Of course, Congress often does accede to presidential demands—authorizing certain deployments, providing funds for others, and issuing resolutions that affirm their support for the troops.<sup>56</sup> But not since the Spanish-American War has a unified Congress arisen to publicly advocate on behalf of a major military venture on which the president was inclined to take a pass.<sup>57</sup> Nor should this come as much of a surprise, for Congress typically lacks the most basic information to put before the president a firm foreign policy agenda. Members generally cannot participate in tactical decisions about the optimal course of action simply because they lack the most essential information about ground-level operations. Hence, they

can articulate only the vaguest of concerns to spur presidential action. The impetus for military action almost always originates from within the executive branch.

The view that Congress principally restrains, rather than impels, the use of force is occasionally challenged. Contemplating military action, presidents may anticipate the domestic political fallout of failing to redress a mounting foreign crisis. By this account, then, Lyndon Johnson sent increasing numbers of advisors first, and troops second, to South Vietnam not because he himself felt a strong obligation to contain communism in Southeast Asia, but instead because others, including key members of Congress, did. Fearing a congressional backlash if he did not demonstrate leadership in the face of Northern Vietnamese aggression, especially a backlash against his beloved Great Society legislation, Johnson reluctantly responded militarily to a foreign crisis that he otherwise would have preferred to ignore.

Obviously, a full recounting of the lead-up to the Vietnam War is not possible here. If only to support our basic characterization of Congress, it is worth noting several important limitations to this particular historical account of Johnson's thinking about South Vietnam. For starters, the account ignores: the fact that Johnson's initial Vietnam policy was essentially a continuation of Kennedy's and Eisenhower's; the strong endorsements within the president's own administration of the "domino theory," which stipulated that Vietnamese surrender to communism would prompt the fall of Cambodia, Thailand, and Indonesia; Johnson's willingness, indeed eagerness, to pursue the North Vietnamese in the aftermath of purported attacks on the U.S.S. *Maddox* in the Gulf of Tonkin; Johnson's genuine concerns about Chinese aggression in the region; congressional divisions about the efficacy of military action in South Vietnam during the first year of Johnson's administration; and Johnson's fear of provoking domestic doves, especially from within his own party.<sup>58</sup> Indeed, it was not until the Gulf of Tonkin that members uniformly supported the presidential use of force; and it was the massive escalation of war with the Tet Offensive in early 1968, rather than inattention to a perceived foreign crisis, that ultimately led to Johnson's undoing. At some level, Johnson probably did fear the political costs of abandoning Vietnam to the communists. But it overstates matters considerably to claim that it was Congress, rather than concerns about his place in history, personal convictions, or counsel from members of his own administration, that ultimately convinced Johnson to launch military strikes against the North Vietnamese. In Vietnam, as in most every other use of force in the modern era, congressional influence eventually registered—when it registered most clearly—as a constraint on military action.

Our brief review of interbranch relations also suggests important lessons

concerning the timing of congressional action. With the Neutrality acts of the 1930s and the 1976 defense department appropriations being important exceptions, Congress has rarely used legislation or appropriations to limit presidential power before a conflict actually began. Congressional meddling in presidential plans has usually erupted, if it erupted, after troops were in the field. During the lead-up to a military venture, Congress has been notably silent, rarely considering legislation or appropriations that would limit the president's capacity to fulfill a stated mission.

Even after the president's launching of troops, moreover, Congress has not always sprung to action. Typically, members only punished the president when a military venture subsequently became protracted or costly. As long as a military initiative accomplished its objectives in short order and with relatively little expense, presidents usually could rest assured that Congress would remain reasonably quiet. With the president in the limelight of success, having settled a foreign conflagration expeditiously, and having secured American interests abroad, little could be heard from the halls of Congress.

The trouble, of course, is that the president cannot be sure that all will go according to plan, which raises the final, and most central, point to be made about interbranch dynamics involving the use of force. The periods that lead up to war are rife with uncertainty and doubt: about how quickly the U.S. military can fulfill its objectives, about how adversaries and allies will respond to U.S. actions, about the resilience of the enemy's troops and the capabilities of its military command, about the willingness of foreign civilian populations to cooperate in a protracted military venture, and about the quality of the intelligence gathered. What start out as small-scale initiatives may rapidly escalate into larger and longer military commitments; intelligence reports may, on further investigation, prove to be woefully misguided; what appear to be foolproof military plans may, on execution, fail miserably; and other travesties—the killing of civilians or the accidental deaths of U.S. soldiers—can have devastating consequences, both domestically and abroad.

Reflecting on Great Britain's Boer War of 1899–1902, Winton Churchill offered the following admonition:

Let us learn our lessons. Never, never, never believe any war will be smooth and easy, or that anyone who embarks on the strange voyage can measure the tides and hurricanes he will encounter. The statesman who yields to war fever must realize that once the signal is given, he is no longer the master of policy but the slave of unforeseeable and uncontrollable events. Antiquated War Offices, weak, incompetent or arrogant Commanders, untrustworthy allies, hostile neutrals, malignant Fortune, ugly surprises, awful miscalculations all take their seat at the Council

Board on the morrow of a declaration of war. Always remember, however sure you are that you can easily win, that there would not be a war if the other man did not think he also had a chance.<sup>59</sup>

Or, going back even further in history, Thucydides proffered similar advice:

Think, too, of the great part that is played by the unpredictable in war: think of it now, before you are actually committed to war. The longer a war lasts, the more things tend to depend on accidents. Neither you nor we can see into them; we have to abide their outcome in the dark.<sup>60</sup>

Or, propelling back to the present, when reflecting on the experiences of recent American presidents at war, historian Michael Barone concluded,

Wars are chancy things. The friction of war, as the Prussian military philosopher Carl von Clausewitz wrote, is inevitable and its effects unpredictable. The responsibility for sending men to their deaths has weighed heavily on our commanders in chief . . . who, relying on imperfect information, must make and have often made, life-and-death decisions without being able to know for certain what effects they will have.<sup>61</sup>

Be forewarned, Churchill, Thucydides, and Barone counsel. When making that fateful decision to launch the military abroad, and to send troops into battle, the head of state unleashes forces that escape his, and his government's, mastery. For always, the possibility lingers that even the grandest, most carefully planned military strategies will collapse on execution.

And herein lies the rub. Should things go badly, some members of Congress can be expected to pile on, expressing public opposition while also taking concrete steps to curtail presidential discretion to continue to wage war. At least two presidents during the modern era (Truman and Johnson) were run out of office when initially smaller-scale military initiatives expanded in scope while showing few signs of progress.<sup>62</sup> No president wants a Bay of Pigs or a USS *Pueblo* or a "Black Hawk Down" or a USS *Cole* or an Abu Ghraib on his watch. Even the best laid plans, those of Robert Burns's "mice and men," can be thrown asunder—and the stakes are never higher than when the plans center on war.

Of course, when things have gone awry, Congress has not always excoriated the president or his administration. Quite the opposite, members have, in some instances, turned around and appropriated even more funds so that he could adequately address new challenges in the field. And just as important, members have gone out of their way to declare publicly their support for the president. They have explained to the American people that though losses have been incurred and missteps have been taken, the president pursues a noble cause, and one whose costs are well

worth paying. In war, after all, mishaps are unavoidable, and adjustments are always required. In the face of adversity, members have insisted, the nation must gather its resources, dispense with criticism, and recommit itself to the fundamental principles and objectives that the commander in chief stands to advance.

Immersed in all of the uncertainty that precedes war, presidents struggle mightily to assess the possibility that the military's plans will fail, and to evaluate whether Congress in due course either will publicly condemn him and actively work to dismantle the engagement or will affirm its allegiance to him and give him the money and delegated authority he needs to proceed. If Congress will come to the president's aid and provide him with political cover, then he may have the assurances he needs to incur the risks involved. On the other hand, if the president looks up at Capitol Hill and sees a swarm of representatives poised to pounce at the first misstep taken, he may instead choose to abandon military options altogether. In chapter 2 of this book, we discuss in some detail how presidents make this calculation.

#### OPPOSITION THROUGH PUBLIC APPEALS/DISSENT

At the front end of a military venture, members of Congress usually do not enact laws that either endorse or oppose the president's plans. Instead, members more often effect change indirectly, participating in larger debates about the efficacy of military action, raising concerns about the costs involved, and expressing doubts about the plans laid before the American public. Doing so, they put the president on notice. For should a military venture subsequently go awry, the opposition party, in public appearances and electioneering and hearings, may level due criticism; and if the opposition speaks with one voice and holds large majorities in Congress, it may sway a significant number of citizens to vote against the president and his party.<sup>63</sup> To right the ship, the president not only must make all necessary midcourse corrections to the military venture itself, he must explain to the American public why he did not heed the early advice and warnings of Congress.<sup>64</sup>

Although the United States would become heavily involved in a ground war in Southeast Asia throughout much of the 1960s and early 1970s, the fact that we refer to the conflict as the Vietnam War rather than the Indochina War is, in part, testament to Congress's public appeals and vocal dissent. As its position in Indochina became precarious in the early 1950s, France began to push its stronger Western ally, the United States, for money and materiel. The requests initially fell on sympathetic ears, as the Eisenhower administration offered significant resources, especially military aid. As a part of the administration's "new look" defense policy, outlined in NSC 162/2 in October 1953, "Indochina was listed as an area of

‘strategic importance’ to the United States. An attack on such important areas ‘probably would compel the United States to react with military force either locally at the point of attack or generally against the military power of the aggressor.’”<sup>65</sup>

When the French asked for a commitment of U.S. troops in January 1954, however, Eisenhower balked. Ike’s now famous statement that he “could conceive of no greater tragedy than for the United States to become involved in an all-out war in Indo-China” arose in part from the fight he anticipated would arise with Congress over such a war.<sup>66</sup> Indeed, congressional leaders demanded a personal meeting with the president in reaction to his positive response to send U.S. B-26 bombers and air force technicians to Indochina. Soon afterward, responding to continued public criticism from key members of Congress, Eisenhower promised to withdraw the air force personnel by June 15, replacing them with civilian contractors if necessary.

As the French position became even more tenuous that spring, members of Congress actively made their preferences known to Eisenhower, publicly laying out conditions under which American involvement in Indochina would occur. Rather than passing legislation, however, congressional leaders were continually in the news, on the radio, and holding hearings, taking every opportunity to make their concerns known to the American people. As an Armed Services Committee report later stipulated, “Congressional opposition put the brake on a possible unilateral U.S. intervention.”<sup>67</sup> Historian Melanie Billings-Yun draws an even stronger conclusion:

The congressional leaders’ initial hostility to France’s aid request served as a pointed reminder to Eisenhower, though he hardly needed one, that the nation’s wounds were still fresh from the Korean War. If the legislature raised such fearsome objections to dispatching a couple of hundred mechanics to relatively low-risk areas in Indochina, it certainly would not sit passively while the president ordered bombing strikes or otherwise intervened in the war. Eisenhower’s instinct was to steer clear of French Indochina. The hackles raised in Congress and the press by the mechanics deal reaffirmed his belief that Vietnam could not be won for the price Americans were willing to pay.<sup>68</sup>

Another decade would pass before U.S. involvement would significantly escalate.

Fast forward, then, to the mid 1980s, when Iran and Iraq were embroiled in a long and costly war. So as to cut off a source of cash for its adversary, each side took oil tankers to be fair game—and this “tanker war” placed Kuwaiti oil exports in the crossfire. In early 1987, President Reagan suddenly announced that tankers carrying oil from the Persian Gulf to the United States would receive military protection. While the

U.S. Navy already maintained a significant presence in the Gulf, new surface missiles installed by Iran threatened to escalate the tanker war, requiring larger and more active U.S. combat forces in the region. Soon after the administration announced its plans to increase the U.S. naval presence in a matter of weeks, Iraq accidentally attacked a U.S. naval frigate in the Gulf, killing thirty-seven sailors.

This attack spurred a fierce congressional backlash and legislation attempting to stop Reagan from increasing U.S. forces in the region. In the immediate aftermath of the attack, the Senate overwhelmingly passed a resolution requiring the administration to tell Congress how navy ships would defend themselves against future attacks. Even within Reagan's own party, key members openly questioned the planning behind a proposed reflagging of Kuwaiti tankers as American ships. Senator Bob Dole argued, "We need to rethink exactly what we are doing in the Persian Gulf. What are our goals? What is our strategy? What are the risks? And how much cost are we willing to pay?"<sup>69</sup> California Congressman Tom Lantos similarly argued in a *New York Times* editorial that "the Administration had failed to persuade Congress or the public that it has thought through the far-reaching ramifications of its proposed action."<sup>70</sup> Ultimately, Congress acquiesced, and Kuwaiti tankers were reflagged. Reagan, however, was required to report regularly to Congress threats faced by U.S. forces, including a discussion of U.S. protection and security measures. Congressional debate, moreover, effectively delayed the military deployment for several months.

President Clinton discovered additional ways in which public debate can complicate a planned use of force. As a candidate for president in 1992, Clinton had deplored the Bush administration's Haiti policy, which involved the forced and immediate repatriation of refugees fleeing the island on the most rickety of vessels. Yet when he became president, Clinton struggled to find an acceptable solution to the Haitian refugee crisis. As political and economic conditions in Haiti deteriorated in the early 1990s, Clinton began to pressure the nation's military junta to allow the return of civilian rule. Armed with UN Security Council Resolution 940, in 1994 Clinton threatened military action should the junta refuse to cede power. Congressional leaders, however, were not so anxious to see U.S. forces support democracy in the Caribbean.

Soon, the airwaves filled with debates concerning the appropriate use of U.S. forces to spread democracy and to enforce UN Security Council resolutions. Senator Dole argued against the use of "United States forces for a UN army without congressional approval."<sup>71</sup> Throughout the spring and into the summer, editorial pages, television broadcasts, and both floors of Congress railed with criticisms at U.S. intervention in Haiti. Representative Porter Goss summed up the feelings of congressional Republicans

and many Democrats rather succinctly: “As members of Congress, we have to confront the very real possibility of American soldiers being put in harm’s way. . . . At this juncture, it seems appropriate that Congress take an active role in the debate.”<sup>72</sup> This debate forced Clinton to justify continually his plans for coping with the Haiti crisis. Deployment of U.S. forces finally did come in September 1994, but only after the military junta had agreed to step aside and allow Jean-Bertrand Aristide to return to power peacefully. U.S. forces were sent to ensure a peaceful transition of power rather than to be front-line fighters for democracy. And so, with peace established on the ground, Congress acquiesced and the debate over Haiti faded.

Two features of the public debates that preceded military action deserve emphasis. First, the probability that Congress lodged complaints against a use of force depended on its perceived costs. Lower-level deployments were unlikely to attract widespread attention, but large initiatives (measured in terms of sheer manpower and financial investment) stood some chance of eliciting Congress’s organized opposition—for larger deployments required the most planning, were the most difficult to execute, and involved the greatest risk. When the president launched a small-scale, retaliatory strike in the immediate aftermath of some foreign conflagration, it was unlikely that the military would become bogged down in war, and hence unlikely that Congress would have the opportunity, much less the incentive, to work against the president. It was when the stakes rose, and the scope and duration of a conflict expanded, that Congress stirred to action.

Second—and most importantly—much of the action was anticipatory. Rather than going head-to-head with Congress at the front end of a military campaign, presidents anticipated what members of Congress would do once they had a chance to observe evidence of the campaign’s success or failure. When Congress appeared likely to extend sympathy and support throughout the course of a military venture, presidents usually were more willing to deploy the troops. But when early disappointments seemed likely to trigger congressional reprisals, presidents, from the beginning, appeared more risk-averse. Early congressional discussions about an impending military action sent valuable signals to the president about the reception he would likely receive when, and if, military actions did not beget immediate success.

Finally, as we approach our empirical investigation of congressional influence on use-of-force politics, it is worth reflecting on the necessary proof of congressional influence over presidential decision making. Though they may persuade a president to back down altogether, members of Congress also may exercise influence over more subtle aspects of a

planned us of force. Members may affect the timing of a deployment, its size and scope, and the terms under which the president eventually executes it. The chapters that follow present a wide assortment of evidence of different congressional checks on presidential war powers.

#### THE IMPORTANCE OF CONGRESSIONAL APPEALS/DISSENT

Because they are legally binding, legislation and appropriations passed by Congress directly impinge on a president's discretion to wage war. Not surprisingly, then, opponents of a president's war typically call on Congress to pass laws and cut appropriations. But the public debates that precede military actions also have important consequences for presidential power. Two stand out. By expressing dissent, members of Congress can weaken the president's ability to credibly convey resolve to foreign allies and adversaries, and they can turn public opinion against him.<sup>73</sup> Here, we briefly summarize both of these avenues of congressional influence.

##### SIGNALING RESOLVE

To the extent that congressional discontent signals domestic irresolution to other nations, the job of resolving a foreign crisis is made all the more difficult. As Kenneth Schultz shows, an "opposition party can undermine the credibility of some challenges by publicly opposing them. Since this strategy threatens to increase the probability of resistance from the rival state, it forces the government to be more selective about making threats"—and, concomitantly, more cautious about actually using military force.<sup>74</sup> When members of Congress openly object to a planned military operation, would-be adversaries of the United States may feel emboldened, believing that the president lacks the domestic support required to see a military venture through. Such nations, it stands to reason, will be more willing to enter conflict, and if convinced that the United States will back down once the costs of conflict are revealed, they may fight longer and make fewer concessions. Domestic political strife, as it were, weakens the ability of presidents to bargain effectively with foreign states, while increasing the chances that military entanglements abroad will become protracted and unwieldy.

A large body of work within the field of international relations supports the contention that a nation's ability to achieve strategic military objectives in short order depends, in part, on the head of state's credibility in conveying political resolve. Indeed, a substantial game theoretic literature underscores the importance of domestic political institutions and public opinion as state leaders attempt to credibly commit to war.<sup>75</sup> Confronting widespread and vocal domestic opposition, the president may have a

difficult time signaling his willingness to see a military campaign to its end. While congressional opposition may embolden foreign enemies, the perception on the part of allies that the president lacks support may make them wary of committing any troops at all.

The dangers of domestic political dissent are not lost on presidents and members of Congress. Indeed, for Bush (43) it constituted an important reason for seeking congressional authorization to use force against Iraq in the fall of 2002. In a Rose Garden ceremony on October 2, the president noted, “The statement of support from the Congress will show to friend and enemy alike the resolve of the United States. In Baghdad, the regime will know that full compliance with all U.N. security demands is the only choice and that time remaining for that choice is limited.”<sup>76</sup> Then, in remarks eight days later on the House’s vote to authorize the use of force, the president proclaimed, “The House of Representatives has spoken clearly to the world and to the United Nations Security Council: The gathering threat of Iraq must be confronted fully and finally. Today’s vote also sends a clear message to the Iraqi regime: It must disarm and comply with all existing U.N. resolutions, or it will be forced to comply. There are no other options for the Iraqi regime. There can be no negotiations. The days of Iraq acting as an outlaw state are coming to an end.”<sup>77</sup> By securing congressional authorization, it was supposed, the president could communicate his views and intentions more effectively to the international community that Iraq’s defiance of United Nations resolutions would no longer pass unnoticed.<sup>78</sup> In doing so, it was hoped, Saddam Hussein would finally relent to Bush’s demands.

Imagine what might have happened during the lead-up to and execution of the Iraq War had Congress not authorized the use of force. Two outcomes seem plausible, even likely. First, the president would have had an even more difficult time assembling an international coalition in support of military action. Recall, after all, that the president expressly sought congressional authorization in the hopes that it would improve the chances of later securing a UN Resolution in support of military action. Second, and in a more speculative vein, had Congress not authorized the use of force, the military operation itself might not have gone so smoothly. During the early stages of the Iraq War, the U.S. military took pains to persuade the enemy to lay down its arms and surrender, rather than fight and face certain death. Accompanying these claims were regular assurances that the United States would see this war through to the end, that it would not stop until the entire Hussein regime was dismantled. To substantiate these claims, Congress’s authorization was critical.

For a moment, put yourself in the place of an Iraqi field officer in the spring of 2003. On the one hand, the United States military is bearing down upon you, threatening to kill you and every one of your comrades

unless you abandon the fight. On the other hand, should you surrender prematurely, and should the United States fail to depose the Hussein regime, then you can expect to face the wrath of a spurned and spiteful ruler—as the southern Shi'a did a decade prior, after they had risen up in defiance of the Hussein regime only to be persecuted the moment that U.S. troops withdrew. Which option seems preferable critically depends on the likelihood that the United States will see the campaign to its end. For if you have reason to doubt the nation's resolve, and Congress's refusal to authorize the use of force would buoy this concern, then the latter option might be the right one—producing a longer, bloodier military conflict and raising the cost to an invading army.

Similar concerns arose in subsequent years when the United States contemplated troop withdrawals from Iraq. Though the insurgency continued to take its toll on U.S. forces, the president's popularity waned, and calls for the Iraqi government to police its own state intensified, Bush nonetheless refused to set a firm timetable for troops to leave. And his reasons for doing so were plain enough. The president insisted that insurgents were watching U.S. politics closely and that a timetable would encourage the insurgents to “just go ahead and wait us out.” Setting a fixed withdrawal date, Bush concluded, simply “concedes too much to the enemy.”<sup>79</sup> Whether this prediction was accurate or not, its logic relied on the realization that others monitor U.S. politics generally, and Congress in particular, to gauge the nation's resolve.

#### PUBLIC OPINION

Congressional dissent also may influence the public's willingness to back the president during the lead-up to war. By regularly using the media to air arguments against military action, and by underscoring the risks involved, Congress may temper any rally effects the president would otherwise enjoy.<sup>80</sup> And to the extent that Congress can stoke public opposition, earlier concerns about signaling only intensify. Public discontent confirms the belief of would-be adversaries that the United States will eventually back down, thereby encouraging them to drag out a conflict and to commit and publicize atrocities intended to signal their own commitments.<sup>81</sup> To the extent that Congress is able to sway public opinion, it secures an important avenue of influence over presidential decision making.

In 1984, Secretary of Defense Casper Weinberger gave a major address on the uses of military power before the National Press Club in Washington, D.C. In it, he laid out the conditions under which presidents ought to deploy the military to curb a perceived foreign threat. Repeatedly, Weinberger underscored the importance of securing a united and unflappable “national will,” both to buoy the morale of troops in the field and

to convey to enemies and allies alike a spirited determination to see a conflict through to the end. In this view, the support of Congress and the public are prerequisites for exercising military force. As Weinberger put it, “Before the U.S. commits combat forces abroad, there must be some reasonable assurance we will have the support of the American people and their elected representatives in Congress. . . . We cannot fight a battle with the Congress at home while asking our troops to win a war overseas.”<sup>82</sup> To be sure, Weinberger did not claim that presidents needed to secure a formal authorization before exercising military force. And he was quick to criticize Congress for “interfer[ing]” in what is at heart an executive decision, and for refusing to accept “responsibility” for the outcomes of military deployments. Still, for Weinberger the prospects of facing a hostile Congress or public during the ongoing course of a military venture warranted sufficient concern as to make “some reasonable assurance” of their support a precondition for using force at all.<sup>83</sup>

Weinberger’s recommendations are not without foundation. Political scientists have assembled rich empirical literatures that scrutinize the influence of public opinion on foreign policy generally, and presidential deliberations about the use of force in particular.<sup>84</sup> Ole Holsti has conducted one of the most thorough examinations of the topic.<sup>85</sup> Drawing from extensive surveys on the public’s foreign policy attitudes and surveying a large historical literature on uses of force, Holsti finds that the public is reasonably well informed about matters involving war, especially when the nation stands to confront the most calamitous of foreign disasters. While recognizing the temporal and structural instabilities of American public opinion, and while admitting that the public is eminently susceptible to persuasion by political elites, Holsti nonetheless finds that citizens appear reasonably competent when evaluating the military’s efforts to quell foreign crises.

Moreover, the judgments that citizens formulate about foreign affairs and the use of force have important policy ramifications. Both quantitative research and case studies call into question the “impotence” thesis, which argues that public opinion is a “shapeless lump” and that “the processes by which foreign policy is made are essentially impervious to public influence.”<sup>86</sup> Quite the contrary, during the lead-up to World Wars I and II, French military disasters at Dien Bien Phu, the nation’s confrontation with China over the islands of Quemoy and Matsu, the long buildup to the Vietnam War, the insurgencies in Nicaragua in the 1980s, and the Balkan crises of the 1990s, public opinion’s imprint—in particular, its aversion to casualties, its isolationist tendencies, and its insistence that force be used only when vital national interests are at stake—on U.S. foreign policy is readily detectible.<sup>87</sup> According to John Aldrich and his colleagues, “A mounting body of evidence suggests that the foreign policies of

American presidents—and democratic leaders more generally—have been influenced by their understanding of the public’s foreign policy views.”<sup>88</sup> Though public opinion is not always coherent or well informed, public support for (or opposition to) a planned military action would appear to be a prize well worth capturing.

In his detailed study of public opinion and foreign policy during the post-Vietnam era, Richard Sobel demonstrates that presidents regularly heeded public opinion when formulating policy on Nicaragua during the 1980s, the Persian Gulf War in 1991, and the Bosnia conflict in the 1990s.<sup>89</sup> By Sobel’s account, public opinion acts as an “intervention constraint”—and one that presidents ought to mind when contemplating the use of military force. The way in which the public influences presidential decision making has much in common with Congress’s efforts to do so—that is, by reacting to, rather than leading, a set of initiatives that come out of the White House. As Sobel puts it, “Public opinion constrained but did not set American foreign intervention policy. . . . The public’s attitudes set the parameters within which policymakers operated.”<sup>90</sup> As public opinion defines boundaries to permissive conduct, it invites congressional attention. For if members of Congress can shape public opinion, they gain an important foothold in affecting presidential decision making.

In a similar vein, Matthew Baum argues that public scrutiny raises the potential costs of a military venture and thereby exerts considerable influence over use-of-force decisions.<sup>91</sup> When missteps occur, they are advertised widely and the “domestic audience costs”—code words for electoral retribution and other kinds of political punishment—that are featured in the diplomacy literature rise, often significantly. Public attentiveness, as such, can dissuade presidents from engaging in particularly risky military ventures. As Baum puts it, “Unless a president is highly confident of success, an attentive public can, when the strategic stakes are relatively modest, inhibit him from undertaking risky foreign policy initiatives, including using military force.”<sup>92</sup> Baum differentiates between current public opinion, which is volatile and often disengaged, and the more stable and informed future public opinion, which “creates politically relevant domestic audience costs” and figures prominently in presidential decision making.<sup>93</sup> Then, in an extensive case study of the 1993–94 Somalia intervention, Baum details the ways in which the Clinton administration struggled to maintain public support for the operation and adjusted its strategic decision making to minimize public backlash.

Much of the literature on foreign policy and public opinion attempts, in various ways, to dissemble an undifferentiated “public” into different groupings and then assess the variable influence of each group. In a recent paper, Lawrence Jacobs and Benjamin Page compare the relative influence of average citizens, business leaders, labor leaders, and “experts” on the

expressed foreign policy preferences of members of Congress and presidential administrations.<sup>94</sup> Perhaps not surprisingly, Jacobs and Page find that business and labor leaders and experts exert more influence than do average citizens on the full range of government officials' foreign policy views. Still, the authors suggest that on the specific issue of war, as compared to more arcane matters of trade and foreign aid, the views of average citizens might well matter greatly. As they put it, "The public may play a substantial part in the highly salient questions of war and peace."<sup>95</sup> Still, for our purposes, their analysis serves as a useful reminder that the views of all citizens, on all foreign policy issues, may not always matter. Indeed, when the profile of a military deployment declines, so may the engagement of average citizens and the influence their views have on political elites.

Because the president speaks with one voice while Congress chimes in with many, because of the profound informational asymmetries that define executive-legislative relations, and because the ability to act unilaterally yields significant agenda-setting powers, presidents obviously have the advantage in campaigns to mobilize public support for a planned military venture. Just because the president dominates these proceedings, however, does not mean that Congress is wholly irrelevant. Quite the contrary, there is considerable cause for believing that Congress can be a major player in public debates over foreign policy initiatives. And to the extent that congressional views determine the tone and content of media coverage and thereby influence public opinion—and in chapters 6 and 7, we demonstrate that they can—it gains an important entrée into executive decision making on matters involving war.

Collectively, then, congressional dissent may matter greatly. To the extent that it reduces the president's capacity to signal resolve to allies and enemies and influences the content of public opinion, opposition from Capitol Hill constitutes something more than idle chatter. In the next chapter, we identify the political conditions and types of foreign conflicts that are most likely to engender congressional dissent, and the implications this dissent may have for the president's discretion to wage war.