

Cato Institute Policy Analysis No. 71: Global Interventionism and a New Imperial Presidency

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Executive Summary

Recent debate about U.S. policy with respect to Lebanon, Central America, and South Africa suggests that the United States may be entering a new phase in the recurring conflict between Congress and the executive branch over the control of foreign affairs. This conflict does not merely involve constitutional or partisan political matters--as important as those might be--but reflects competing conceptions about substantive policy issues.

The current White House occupant is seeking to weaken or eliminate congressional restraints imposed on the executive during the 1970s, in order to regain the flexibility he believes is necessary to pursue America's cold war objectives. His congressional opponents are attempting to preserve those constraints not simply to enhance the power and prestige of the legislative branch, but because they fear that an unfettered president may pursue policies that would contravene fundamental American values or again plunge the United States into ill-advised military interventions. As before in our history, the conflict will likely determine the substance of American foreign policy, as well as which branch shall chart its course.

Constitutional Intent

During the last decade and a half, Americans have grappled frequently and intensely with the question of legislative versus executive power over foreign affairs. The aftermath of the disastrous and divisive Vietnam War triggered a reassessment of the executive-supremacy doctrine that had held sway throughout the previous three decades. This change, however, was only the most recent occasion when the locus of authority in foreign policy has shifted. Debates on the question have flared periodically since the founding of the American republic. Indeed, a measure of tension is built into the structure of the Constitution itself. The shared powers and overlapping responsibilities of the legislative and executive branches create what renowned constitutional scholar Edward S. Corwin has aptly termed "an invitation to struggle" over foreign policy.[1]

The Framers of the Constitution invested the president with a number of powers in the arena of foreign affairs. He was authorized to receive the diplomatic representatives of other nations and to appoint, with the consent of the Senate, America's own diplomatic representatives. He was given the authority to negotiate treaties with foreign states, subject to Senate concurrence in the result. The president was also invested with the power and responsibility of commander in chief of the nation's armed forces.

But the Founding Fathers also granted significant foreign policy powers to the legislative branch. They gave Congress, not the president, the authority to declare war. In addition, they declared that Congress would be responsible for authorizing the raising of military forces and providing funds for their continued operation. Furthermore, foreign commerce was made subject to regulation by Congress, and the Senate was accorded the right to ratify or reject treaties

negotiated by the president.

The delineation of power and responsibility between the two branches was less than precise. The delegates to the constitutional convention apparently envisioned a partnership between Congress and the president in foreign affairs, but they also applied the principle of checks and balances. What is clear is that the Founding Fathers did not invest the president with the vast array of unilateral foreign policy powers--particularly those involving U.S. armed forces--claimed by White House occupants during much of the 20th century, especially since World War II. One expert on constitutional history, W. Taylor Reveley III, muses, "If we could find a man in the state of nature and have him first scan the war-power provisions of the Constitution and then look at war-power practice since 1789, he would marvel at how much Presidents have spun out of so little." [2]

Ambitious presidents have relied upon allegedly "inherent" executive powers and the status of commander in chief to justify this vast expansion of presidential authority. However, the context in which the presidency was established fails to support claims to extensive executive power in foreign policy. Although the Founding Fathers did create several ambiguities regarding authority over foreign affairs (perhaps because foreign policy was not a priority concern at the time), where they did favor one branch, they favored Congress, not the president. This tilt was entirely consistent with their British Whig political bias, with its fear of excessive executive power. [3] While the president was to be the principal spokesman for the republic in foreign affairs and the focal point for diplomatic relations with other nations, the Framers had no desire to invest him with the foreign policy prerogatives of a monarch.

Even the president's powers as commander in chief are far less extensive than most recent presidents have alleged. The primary purpose of the constitutional provision was to assert civilian supremacy over the military, lest an aggressive general succumb to Cromwellian temptations during a wartime crisis. A subsidiary objective was to restrain legislative meddling in the day-to-day conduct of military strategy once hostilities were authorized--a concern stemming from congressional interference during the American Revolution. In addition, it implied that the president possessed the authority to repel attacks upon U.S. territory until Congress could act. But Congress alone was to declare war, and in the parlance of the times, "declare" essentially meant "authorize" or "begin." [4]

The Founders would likely be mystified at recent presidential contentions that although Congress "declares" wars, the president has the right to "wage" them with or without formal declarations. They would be astonished and probably appalled at the assertions of such chief executives as Harry Truman, Lyndon Johnson, and Richard Nixon that a president may conduct foreign policy and utilize the armed forces in any manner he deems necessary to foster his own conception of U.S. "interests." Executive supremacy in foreign affairs was not set forth in the Constitution. That doctrine evolved from particular historical circumstances, and it is directly connected to the rise of the United States as a global interventionist power.

Developments before World War II

War is not only "the health of the state," as social critic Randolph Bourne once observed; it has especially promoted the health of the American presidency. [5] It is no coincidence that the greatest expansions of executive power have taken place during wartime or when a military crisis seemed imminent. On those occasions, Congress has rarely shown an inclination or ability to restrain presidential power.

In the early stages of the Civil War, Abraham Lincoln called out state militias and usurped other congressional prerogatives. Later in the conflict, he even bypassed the state and federal courts, ordering the trials of civilians accused of certain wartime crimes to be held before military tribunals--an action the Supreme Court ultimately held to be unconstitutional.

America's flirtation with European-style imperialism in the late 1890s and early 1900s elicited another wave of executive activism. Presidents Theodore Roosevelt and William Howard Taft ordered American troops into action on several occasions without congressional approval to "restore order" in various Caribbean and Central American nations. Woodrow Wilson was equally brazen in that regard, on two occasions even employing military coercion against Mexico. When World War I erupted, Wilson resorted to unilateral decision making in foreign affairs still more, and at war's end he virtually ignored the wishes of Congress in negotiating provisions of the Treaty of Versailles.

From the founding of the republic until World War II, two definite patterns emerged with respect to executive power over foreign policy. First, both the degree of authority and the willingness to use it unilaterally expanded dramatically in times of war and when the United States has gone on interventionist binges, as it did in Latin America in the early 1900s.

Second, following wartime executive aggrandizement, Congress invariably reasserted itself and brought the presidency to heel. During the decade following James K. Polk's pursuit of aggressive Manifest Destiny, Congress dominated the scene, virtually dictating the substance and direction of U.S. foreign policy. A similar congressional resurgence occurred in the post-Civil War years following Lincoln's unprecedented use of executive authority. Woodrow Wilson's disregard of Congress during the peace negotiations ending World War I resulted in the Senate's rejection of his cherished Treaty of Versailles. Congressional reassertion continued thereafter, culminating in the Neutrality Acts of the mid-1930s, which (theoretically) prevented future presidents from pursuing policies that might involve the United States in unwanted and unnecessary wars.[6]

Throughout the first century and a half of the republic's existence, the foreign policy relationship between the president and Congress was like a pendulum. Sometimes it swung in the direction of greater executive power and sometimes it moved back toward Congress, thus maintaining a relative balance. Although the presidency did gradually acquire greater authority in foreign affairs during this period, the accretion was modest. By the mid-1930s, Franklin Roosevelt was only slightly more powerful in foreign policy vis-a-vis Congress than were his 19th-century predecessors.[7] World War II and the subsequent cold war shattered that equilibrium, producing several ominous changes.

The Birth of the Imperial Presidency

The outbreak of fighting in Europe in the autumn of 1939 created an atmosphere of crisis in the United States. Openly sympathizing with the Allied cause and fearing that an Axis victory would imperil U.S. security, Franklin Roosevelt sought to weaken or evade the neutrality legislation that constrained his foreign policy options. On a few occasions, most notably in the passage of the Lend-Lease Act in early 1941, Roosevelt did respect congressional prerogatives--although he employed the disingenuous argument that indirect support for the Allies reduced rather than increased the ultimate risk of U.S. involvement in the fighting. More often, however, Roosevelt simply bypassed Congress while maneuvering the nation ever closer to a state of war. Trading U.S. destroyers to Great Britain for base rights in the Caribbean, proclaiming the western half of the North Atlantic an American defense zone and ordering U.S. naval vessels to sink German ships in that area on sight, convoying British ships, and imposing a draconian trade embargo on Japan all constituted steps in that process. All were accomplished without congressional authorization or even participation.[8]

Following the Japanese attack on Pearl Harbor in December 1941, the executive's preeminence became even more pronounced. Congress's last significant act in the conflict was the formal declaration of war. Even more than previously, Congress deferred to presidential judgment and allowed the president great latitude. Roosevelt prosecuted the war largely as he and his military advisers saw fit, an approach that his successor Harry Truman continued. Major decisions reached with Great Britain and the Soviet Union on the conduct of the war, its objectives, and the nature of the postwar settlement were concluded by executive agreement rather than treaty. Congress was neither consulted about nor asked to approve the provisions of the Teheran, Yalta, or Potsdam agreements.

Roosevelt and Truman's example was followed well into the 1970s. Prior to World War II, virtually all important arrangements with foreign states were codified in treaties; executive agreements, which do not require Senate ratification, were reserved largely for minor and routine matters. Roosevelt and his successors turned this practice on its head: after 1940, presidents increasingly employed executive agreements on matters of vital import and invoked the treaty process primarily for routine and noncontroversial issues. By the mid-1970s, approximately 95 percent of all agreements between the United States and foreign governments during the previous three decades had been executive agreements.[9] It was indicative of how far this trend had progressed that the document ending U.S. involvement in the Vietnam War, signed in Paris in January 1973, was an executive agreement rather than a treaty. No development more graphically underscores the readiness of recent presidents to bypass Congress in the formulation of foreign policy.

The Cold War and the Imperial Presidency Triumphant

The historical ebb and flow of executive power in foreign affairs suggested the likelihood of a congressional resurgence following World War II. But that reaction was thwarted by cold war tensions and the failure of the United States to resume its prewar foreign policy of noninterventionism. For the first time, there existed a permanent state of crisis and an everpresent danger of war. Predictably, this situation strengthened the executive branch, perpetuating the artificially enhanced degree of presidential power that had evolved during the war. In time, the cold war environment enabled U.S. presidents to acquire foreign policy prerogatives exceeding even those exercised by their predecessors during wartime.

Initially, there were only faint signs that the cold war would further expand executive dominance over foreign policy. Although Truman outlined the so-called Truman Doctrine--wherein the United States pledged to aid "free peoples" resisting external aggression or internal "armed minorities"--as a unilateral declaration, the initial implementing measure, an aid package for Greece and Turkey, involved direct and substantial congressional participation. Likewise, Congress played an extensive role in the two subsequent major cold war steps, the creation of the Marshall Plan in 1948 and NATO the following year.

Nevertheless, the creation of the Central Intelligence Agency in 1947 was a disquieting sign, providing the executive branch with a potent new foreign policy tool. It also set in motion a cult of secrecy, a far more pervasive system of classifying information than had ever existed previously, and a growing executive determination to withhold sensitive information from the public and from Congress. Another indication of the nascent imperial presidency was the initial draft of Truman's proposed Mutual Defense Assistance Act in August 1949, which gave the chief executive virtually unlimited discretion in dispensing the military aid stipulated therein. Even Sen. Arthur Vandenberg, a vital supporter of Truman's earlier cold war initiatives, excoriated the administration's draft, asserting that it would make the president the "top warlord of the earth." [10]

It was the outbreak of the Korean War in 1951, however, that gave the budding doctrine of executive supremacy its greatest impetus. Although some of Truman's advisers urged him to request congressional authorization before sending U.S. military units to assist beleaguered South Korean forces, the president followed his own inclinations and the advice of Secretary of State Dean Acheson and declined to involve Congress. He stated that he would keep Congress "informed" of developments but emphasized that he would take that action solely out of courtesy, not from any constitutional or legal obligation. [11]

Truman and Acheson advanced the thesis that the president had the requisite authority to respond to a call from the United Nations to repel aggression against another member state without further congressional action because Congress had previously ratified the UN Charter. This thesis was extremely dubious-- there was no evidence that Congress had intended to give the chief executive a blank check to use the entire American military establishment to further UN objectives.

The Korean War was a crucial event in the evolution of the imperial presidency--even more important than the Vietnam War. Although presidents had previously used military force without explicit congressional authorization, virtually every incident had been minor, involving little or no chance of serious warfare. Indeed, most of the episodes had involved action against small nongovernmental forces, such as brigands. [12] The Korean intervention was vastly different: for the first time in U.S. history, a president presumed to conduct extensive combat operations while bypassing Congress. It was a dangerous precedent. Even worse, it was a precedent that went largely unchallenged.

The opposition that did arise was confined largely to rightist political elements, centered mainly in the conservative wing of the Republican party. Sen. Robert Taft, for example, asserted with his customary bluntness that the Korean intervention was "a complete usurpation by the President of authority to use the Armed Forces of this country," and he insisted that Truman should at least request a joint resolution from Congress to legitimize his actions. [13] Several of Taft's conservative colleagues, including Senate minority leader Kenneth Wherry, echoed those sentiments, but such critics constituted an ineffectual minority.

While some conservatives expressed grave misgivings about Truman's usurpation of congressional war powers, liberals vocally defended executive supremacy. It was a startling contrast to the ideological division that was to prevail two decades later. Congressional liberals vied with one another to insist that the legislative branch was too

decentralized, parochial, and uninformed about the nuances of foreign affairs to play any significant role in the formulation or execution of foreign policy. Vigorous congressional participation may have been acceptable during the placid days of 19th-century isolationism, they argued, but in the atomic age, when the United States possessed "vital interests" around the globe and aggression could occur with dramatic swiftness, the United States must be able to respond with speed and decisiveness. Only the president, the argument went, possessed the requisite information and flexibility to act with dispatch.[14]

It was a distressing case of congressional abdication and self-flagellation. Too many congressmen were haunted by the memory of Pearl Harbor, believing that congressional "interference" in foreign policy through such measures as the Neutrality Acts, rather than Roosevelt's violation of those acts, had led to that disaster. Liberals were also the victims of their own enthusiasm for "strong" presidents in domestic affairs, as epitomized by Franklin Roosevelt and his New Deal. It was but a small step to the notion that a vigorous president was equally desirable and necessary in the conduct of foreign policy. In any event, Congress not only countenanced but contributed to the growth of the imperial presidency.

The Truman administration carried the assertion of alleged executive prerogatives in foreign policy to a new high. Truman himself could not have been more direct: "Under the President's constitutional powers as Commander in Chief of the Armed Forces, he has the authority to send troops anywhere in the world." [15] A short time later, a State Department position paper produced under the auspices of Dean Acheson expanded that thesis: "Not only has the president the authority to use the Armed Forces in carrying out the broad foreign policy of the United States and implementing treaties but it is equally clear that this authority may not be interfered with by the Congress in the exercise of powers which it has under the Constitution." [16] The paper was implying that Congress could not even utilize its constitutional power over appropriations, for example, to terminate the funding of a foreign military intervention it opposed. It would be difficult to envision a more forceful assertion of presidential supremacy.

Opponents of unrestrained executive power in foreign affairs did make a last attempt to stem the tide in late 1950 and early 1951. Emboldened by his expansion of presidential power in the Korean War, Truman attempted to enhance the scope of U.S. obligations to NATO by dispatching four U.S. Army divisions to Europe as part of a new multilateral army. His decision coincided with a disastrous reversal of U.S. military fortunes in Korea as mainland China intervened in the conflict. This reversal roused opponents of executive preeminence to dispute Truman's latest assertion of it, thus precipitating the so-called Great Debate.

Senate minority leader Kenneth Wherry expressed the opposition case most passionately:

The wise, constitutional power of the President to order the armed services into action in defense of our country in the event of invasion . . . is being stretched into power for the President to order the armed services in peacetime anywhere in the world and into any situation.

If Congress surrenders its powers to determine whether American troops shall join an international army in Europe, it will have set a dangerous precedent for the President to assign American troops to any other spot on the vast perimeter of Russia.

Mr. Chairman, that is the road to encroachment on [other] prerogatives and responsibilities of Congress. . . . That is the road to absolute dictatorship.

It flies in the face of every precedent, every tradition and every principle upon which the United States has become the model for free men everywhere.[17]

Wherry's analysis was eloquent and prophetic, but he and his conservative allies lacked the political strength to derail the executive-supremacy juggernaut. The outcome of the Great Debate was an anemic, nonbinding Senate resolution admonishing Truman not to dispatch additional troops to Europe, beyond the four units he was already sending, without first consulting Congress. Thus ended the last serious congressional challenge to presidential preeminence in foreign policy until the 1970s.

The trend toward an imperial presidency gathered even greater momentum after the Great Debate. Truman's successor,

Dwight Eisenhower, avoided Korean-style military interventions but increasingly employed the CIA to conduct covert operations against hostile regimes. He did so successfully against Prime Minister Mohammed Mossadegh of Iran in 1953, President Jacobo Arbenz Guzman of Guatemala in 1954, and Premier Patrice Lumumba of the Congo (now Zaire) in 1960. The evidence indicates that Congress was largely unaware of these operations, and most members seemed to prefer it that way.[18]

Indeed, the magnitude of congressional deference to executive power was astonishing. In 1955, Congress passed a resolution giving Eisenhower virtually unlimited discretion to handle the Formosa Strait crisis. Two years later, it gave Eisenhower similar authorization to deal with alleged communist incursions in the Middle East.[19] These measures, allowing the president to use force as he deemed fit in some vague future contingency, constituted precisely the kind of action the Founding Fathers would have considered abhorrent. By 1960, it was becoming routine. Eisenhower's administration also repeatedly withheld vital information on foreign policy matters from the legislative branch under a dubious and broadly defined theory of "executive privilege."

Presidential disregard of Congress in the conduct of foreign affairs only increased after Eisenhower. Perhaps no event more graphically demonstrates how impotent the legislative branch had become in foreign affairs than the Cuban missile crisis in 1962. President John Kennedy did not consult Congress prior to taking action in the crisis; indeed, he informed congressional leaders only hours before going on national television to tell the American people. Consequently, Congress played no role in formulating policy on a matter that might easily have plunged the nation into nuclear war. Kennedy exhibited a similar disdain for congressional input when he intensified the American military presence in Vietnam, increasing the number of U.S. military personnel there from a few hundred to some 17,000 "advisers."

Kennedy's successor, Lyndon Johnson, showed only slightly greater willingness to involve Congress. He exploited an artificial crisis in August 1964 to maneuver Congress into passing the Gulf of Tonkin resolution, giving him the same type of blank check for Vietnam that Eisenhower had obtained for less serious situations in the Formosa Strait and the Middle East. The resolution stated that Congress approved and supported "the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression." [20] In asking for passage of the measure, Johnson underscored his belief that Congress might play a role in foreign policy, but only as a rubber stamp ratifying a strategy the president had already adopted. There was to be no meaningful consultation, much less a true sharing of responsibility. But the pursuit of docile congressional ratification through such means as the Gulf of Tonkin resolution was atypical of Johnson's foreign policy; he usually ignored Congress entirely, as when he sent U.S. troops to "pacify" the Dominican Republic in 1965.

Along with the practice of disregarding Congress on foreign policy matters came even more grandiose executive-power claims. Johnson and his advisers openly asserted that the president did not require the Gulf of Tonkin measure to conduct his policy in Vietnam.[21] Most revealing was a passage contained in a 1966 State Department memorandum, which transformed the theory of defensive war and the president's power to repel sudden attack without explicit congressional authorization into a caricature. When the Founding Fathers invested the presidency with that authority, the document stated, "the world was a far larger place, and the framers probably [sic] had in mind attacks on the United States." But in the 20th century, "an attack on a country far removed from our shores can impinge directly on the nation's security." Therefore, the president has both the constitutional duty and power "to determine whether the circumstances of a particular armed attack are so urgent and the circumstances of a particular attack so threatening to the security of the United States that he should act without formally consulting the Congress." [22] This was a concise and breathtaking summary of the relationship between a global interventionist foreign policy and the theory of executive supremacy.

The Johnson administration represented the apogee of unrestrained presidential power. Executive authority had grown inexorably for nearly three decades in a perpetual crisis atmosphere. Historian Arthur Schlesinger, Jr., summarizes the reasons for the evolution of presidential domination:

The imperial Presidency was essentially the creation of foreign policy. A combination of doctrines and emotions-- belief in permanent and universal crisis, fear of communism, faith in the duty and right of the United States to intervene swiftly in every part of the world-- had brought about the unprecedented centralization of decisions over war

and peace in the Presidency. With this came an unprecedented exclusion . . . of Congress, of the press and of public opinion in general from these decisions.[23]

The failure of U.S. policy in Vietnam halted that process, at least temporarily, stripping away the myth of an omniscient president pursuing wise and well-considered strategies to protect the nation's security. Lyndon Johnson and Richard Nixon chose to fight the Vietnam conflict as a presidential war, and the presidency bore full responsibility for the resulting debacle. Nixon attempted to imitate Johnson's expansive interpretation of the commander-in-chief clause, but Congress was through being deferential.[24] The long-delayed swing of the pendulum finally occurred, reestablishing a greater balance of power in foreign policy between the legislative and executive branches.

Congressional Resurgence

Reversing the foreign policy somnolence of the three previous decades, Congress exhibited a determination to rein in the imperial presidency even before the Watergate scandal. Congress repealed the Gulf of Tonkin resolution in 1971, thereby terminating the original authorization for U.S. military involvement in Vietnam. The following year, legislators enacted the Case amendment, which required that all executive agreements be reported to Congress. Then came Watergate, which presented congressional activists with an opportunity to impose reforms on an increasingly discredited and politically impotent chief executive. One crucial event in the drive to restore congressional prerogatives occurred in the summer of 1973, when Nixon was compelled to accept a cutoff of funding for remaining military operations in Southeast Asia. Most significant, however, was the passage of the war powers resolution, which took place in November of that year.[25]

Enacted over Nixon's veto, the resolution drastically curtailed the president's authority to employ the armed forces in pursuit of foreign policy objectives. The resolution specified that the president could introduce U.S. armed forces "into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances"--but only under three conditions: a declaration of war, specific statutory authorization, or a national emergency created by an attack upon the United States, its territories or possessions, or its armed forces. It is pertinent to note that the president could not respond unilaterally to an attack on a "friendly nation" or to a perceived threat (as he had, for example, in the Cuban missile crisis).

In addition to these limitations, the resolution required that the president "in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities" or situations in which hostilities were imminent. Moreover, he was to "consult regularly" until all combat operations ceased. In the absence of a declaration of war, the chief executive was to submit a written report within 48 hours specifying the reasons for using U.S. troops, his constitutional or legislative authority for doing so, and the estimated scope and duration of hostilities. Within 60 days, (90 days in exceptional circumstances), any such operation would have to cease entirely unless Congress declared war or enacted a "specific authorization" for the continued use of U.S. troops, extended the 60-day limitation, or was physically unable to convene because of an armed attack upon the United States.[26] Although the war powers resolution contained some loopholes and ambiguities, placing strict time limits on the chief executive's deployment of troops in combat situations and establishing detailed reporting requirements to Congress theoretically prevented future presidents from unilaterally committing the United States to war as Truman had done in Korea and Johnson had done in Vietnam.

The resolution was a watershed event. According to two experts on the subject, Cecil Crabb and Pat Holt, "As much as any other step taken by Congress . . . this measure symbolized legislative disenchantment with the imperial presidency and a determination to become an equal partner with the executive in the foreign policy process." [27] As the Nixon presidency crumbled in 1974 and was succeeded by one that lacked any national mandate, Congress rediscovered its long-dormant foreign policy muscles. The legislative branch attached so-called human-rights and other restrictive provisos to aid and trade legislation, prohibited further U.S. interference in the Angolan civil war, restrained the operations of the CIA, and established committees to oversee the future activities of all intelligence agencies. By the late 1970s, the concept of an imperial presidency seemed little more than a distant and increasingly irrelevant memory. Indeed, some observers complained about a new congressional dominance and asserted that it created a distressing impotence, unpredictability, and unreliability in the conduct of American foreign policy.[28]

Although President Gerald Ford seethed under the restrictions imposed during the period of congressional resurgence, he lacked the political power to do anything about them. Ford's successor, Jimmy Carter, exhibited an ambivalent attitude. He initially supported a vigorous congressional role but later became disenchanted with what he perceived to be unwholesome interference with his foreign policy objectives, especially the Panama Canal treaties and the normalization of relations with the People's Republic of China.

The Reagan Counterrevolution

In marked contrast to the political climate of the Ford and Carter years, political conditions in the 1980s suggest that many of the post-Vietnam reforms that limited untrammelled executive power in foreign policy could be overturned or at least weakened. Ronald Reagan, even more than Ford or Carter, views congressional actions in the field of foreign affairs with ill-disguised hostility. Many of his initiatives indicate that his ultimate objective is nothing less than a revival of unfettered presidential discretion.

Reagan has already made considerable progress toward restoring the imperial presidency. He openly advocates a massive expansion of the CIA's covert operations, which had been sharply curtailed under Jimmy Carter. CIA director William Casey, apparently with Reagan's acquiescence if not blessing, has repeatedly undermined congressional oversight of U.S. intelligence operations. For example, the required disclosure to the Senate Intelligence Committee of CIA assistance in mining Nicaraguan harbors in 1984 consisted of a cryptic one-sentence statement in the middle of a lengthy report. The Reagan administration also assured Congress as late as 1984 that assistance given to the Nicaraguan contra forces was designed solely to interdict arms shipments to Marxist rebels in El Salvador, not to overthrow the Sandinista government. Yet mounting evidence, including statements by one-time prominent contra leader Edgar Chamorro, indicates that ousting the Sandinistas has been the explicit CIA objective since 1981.[29] Both episodes bear more than passing resemblance to the atmosphere of deception surrounding CIA covert operations at the zenith of the unrestrained presidency in the 1950s and 1960s.

In addition to evading congressional oversight and restrictions on CIA activities, the Reagan administration fights a running battle with its opponents on Capitol Hill concerning overall U.S. policy in Central America. The president has waged a concerted campaign for military-aid measures to the government of El Salvador and to the contras in Nicaragua. On more than a few occasions, he has exhibited extreme annoyance with congressional opposition to such programs. But the ongoing attempt to diminish congressional restraints is not confined to Central American policy. The administration achieved a major victory in August 1985, when its political allies in Congress repealed the Clark amendment, which prohibited U.S. involvement in Angola's civil war. The path is now clear for the executive branch to provide military aid to the anticommunist UNITA rebels led by Jonas Savimbi, and the administration shows every intention of doing so.

Even more indicative of the president's attitude is his use of U.S. armed forces in contravention of the spirit, and perhaps even the letter, of the war powers resolution. Reagan committed American marines to Lebanon in mid-1982 as part of a multinational "peacekeeping" force and kept them there beyond the 60-day deadline provided for in the resolution. His rationale was that the troops were not involved in "hostilities" and that hostilities were not "imminent" as defined in that legislation--a highly dubious thesis, since the marines had already suffered casualties and were being subjected to a mounting barrage of artillery and sniper fire from Muslim militia units. Reagan stoutly resisted all congressional efforts to force a withdrawal of U.S. troops, eventually pressuring Congress to accept a "compromise" in September 1983 allowing him to keep the marines in Lebanon another 18 months.[30] Only the undeniable collapse of the administration's entire Lebanon policy, combined with the political considerations of an election year, impelled the president to withdraw the marines in early 1984. It is revealing that this decision was an executive-branch initiative; Congress was neither encouraged nor even allowed to play a role.

Reagan's cavalier treatment of the war powers resolution was apparent also with respect to the Grenada military operation. Despite the resolution's applicable provisions, the president did not consult Congress in advance; congressional leaders were given only a "briefing" the night before. Reagan insisted that U.S. troops were sent solely to rescue American citizens whose safety was threatened, a power any president clearly possesses in his capacity as commander in chief. Yet, it was evident that the Grenada invasion involved larger foreign policy objectives--specifically, the overthrow of Grenada's Marxist government. Reagan's unilateral decision to use military force thus

undercut the purpose of the war powers resolution--that Congress should have a voice in decisions involving U.S. military action, not merely be presented with a fait accompli. Such conduct caused columnist Anthony Lewis to observe, "The Imperial Presidency is alive and well, more genial in appearance perhaps than in the 1960's, but just as menacing to our constitutional balance." [31]

Lewis's conclusion is verified by the administration's conduct during the recent military confrontation with Libya. In the days prior to the April 14 air strikes against Libyan military targets, administration officials consulted frequently with America's European allies. Yet Congress as an institution was not consulted; congressional leaders were "informed" barely four hours before the attacks took place. Once again, Congress has been excluded from any meaningful decision-making role, this time in a situation that has brought the United States to the brink of an undeclared war.

All of these actions strongly suggest that the Reagan administration is determined to minimize congressional participation in the conduct of foreign affairs. To achieve that objective, the administration has sought the repeal of restrictive legislation, and when that strategy has been impractical, it has eroded or evaded existing constraints. This policy is quite consistent with the president's personal views on the foreign policy powers of the executive branch. Indicative of his attitude is a statement he released upon signing the 1983 "compromise" resolution regarding the continued presence of American marines in Lebanon:

I do not and cannot cede any of the authority vested in me under the Constitution as President and Commander-in-Chief of the United States Armed Forces. Nor should my signing be viewed as any acknowledgement that the President's constitutional authority can be impermissibly infringed by statute, that congressional authorization would be required if and when the period specified in . . . the War Powers Resolution might be deemed to have been triggered and the period had expired, or that . . . [the 18-month authorization] may be interpreted to revise the President's constitutional authority to deploy United States Armed Forces. [32]

The significance of the president's disclaimer should not be ignored. Reagan had already succeeded in obtaining legislation that seriously diluted the impact of the original war powers resolution, but he wanted more. In his previous utterances, he had studiously refrained from recognizing the validity of the resolution; this statement implied that he considered the measure unconstitutional, of no binding effect on any chief executive. It is an especially ominous development given the president's comments on another occasion: "We've got to get where we can run a foreign policy without a committee of 535 telling us what we can do." [33] Reagan clearly does not regard Congress as an equal, or even a junior, partner in the conduct of foreign policy. He desires to regain the flexibility and virtually unlimited authority possessed by the occupants of the Oval Office early in the cold war. It should be no great surprise if in some future crisis Reagan goes on to repudiate the war powers resolution and the entire panoply of restrictive legislation.

The Interventionist Rationale

Reagan's efforts to revitalize presidential power to prosecute the cold war more vigorously reflect the assumptions of a sizable ideological community that embraces an interventionist foreign policy. Even during the earliest months of the Reagan administration, prominent spokesmen advocated a return to pre-Vietnam concepts of executive dominance. A 1981 article in *Foreign Affairs* by Sen. John Tower was typical. [34] According to Tower, the immediate post-World War II period was "marked by a reasonable balance between Congress and the President in the foreign policy decision-making process." That Tower would consider the years of unprecedented presidential supremacy an era of "reasonable balance" is most revealing, as is his subsequent assertion that "the balance has swung dangerously to the legislative side with unfavorable consequences for American foreign policy." [35]

Tower goes on to reiterate virtually every justification for executive supremacy that proponents have used since World War II. Congress, he argues, is too decentralized and represents too many "parochial" interests to "forge a unified foreign policy that reflects the interests of the United States as a whole." Conversely, the president has a "national mandate" and, unlike Congress, possesses "the information, professional personnel," and other institutional tools to conduct a "consistent long-range policy." Congress as an institution is simply "ill-equipped to respond quickly and decisively to changes in the international scene." The latest attempt to restrain executive discretion prevents the United States from playing an active role in world affairs, just as in the 1930s "Congress tied the President's hands with

disastrous consequences." [36]

It is remarkable that Tower's argument could easily have been penned by a liberal Democrat of the 1940s or 1950s. Tower's enthusiasm for presidential power reveals how far contemporary conservatives have strayed from the intellectual moorings of their ideological forebears. The contrast between his views and those expressed by earlier Republican luminaries, such as Robert Taft and Kenneth Wherry, could scarcely be greater.

Tower is quite candid about his ultimate objectives, contending, for example, that the war powers resolution "jeopardizes the President's ability to respond quickly, forcefully and if necessary in secret to protect American interests abroad." Furthermore, "If we are to meet the foreign policy challenges facing us in the 1980's, we must restore the traditional [sic] balance between Congress and the President in the formulation and implementation of foreign policy. To do so, much of the legislation of the past decade should be repealed or amended." Tower concedes that he is, in effect, "proposing a return to the situation that prevailed in the 1950's and 1960's." [37]

Richard Nixon's recent book *No More Vietnams* is equally blatant in emphasizing unrestricted presidential power as a prerequisite for an interventionist foreign policy. After blaming Congress for the fall of Southeast Asia to the communists, much as earlier interventionists invariably blamed congressional policy for the Pearl Harbor disaster, Nixon echoes Tower's desire to restore an unfettered presidency. He complains that the war powers resolution "makes it impossible for a President to act swiftly and secretly in a crisis," while the Foreign Assistance Act "limits aid to governments that do not have squeaky-clean human rights records." Such measures require a president to "wage war under Marquis of Queensbury rules in a world where good manners are potentially fatal hindrances." [38] Nixon asserts further that a president must be able to make expeditious use of the full range of U.S. military and intelligence forces, not "wait on the 535 members of Congress to make these quick, tough decisions for him." [39] It is imperative, the former president contends, to remove congressional constraints if the United States is to wage a successful campaign against the Soviet Union for control of the Third World. This assumption is chilling, given Nixon's views concerning the real "lesson" of the Vietnam conflict: "In Vietnam, we tried and failed in a just cause," Nixon insists. "No more Vietnams can mean that we will not try again. It should mean that we will not fail again." [40] A recipe for virtually unlimited intervention throughout the Third World, Nixon's approach mandates executive supremacy as a key ingredient.

The Reagan administration is certainly not averse to such sentiments. The president has described America's Vietnam intervention as a "noble cause" and appears to have learned little from that debacle. Secretary of State Shultz has complained about the post-Vietnam legacy of congressional restrictions on "presidential flexibility." Those constraints, he contends, have "weakened our country" and have caused America to pull back from "global leadership." [41]

It is important to understand that an unfettered presidency is not, to cold warriors, an end in itself but only a powerful means to pursue a policy of global interventionism. This fact is amply demonstrated by what happens when cold warriors confront the occasional executive initiative to reduce U.S. involvement in Third World affairs. During the early years of the Carter administration, for example, some of the most outspoken congressional proponents of executive prerogatives suddenly became converts to the doctrine of congressional activism. Opponents of the Panama Canal treaties undertaken at Carter's initiative attempted not only to block their ratification but their execution, by refusing to appropriate the necessary funds. Carter encountered similar harassment when he attempted to normalize relations with the People's Republic of China and to abrogate America's mutual-defense treaty with Taiwan. Not only did congressmen who traditionally supported presidential foreign policy prerogatives seek to block that process through legislative action, they even filed a lawsuit in federal court. [42]

A more current example of the preeminence accorded interventionist foreign policy is a recent article by Rep. Jack Kemp that excoriates congressional interference in foreign policy, especially when the legislative branch limits the president's options. [43] Yet Kemp asserts that Congress should act as a "skeptical and critic" with respect to arms-control proposals and that it should press for retaliation whenever possible Soviet violations of existing accords emerge. In other words, congressional activism is warranted if it furthers hard-line cold war objectives but is undesirable if it achieves the opposite. Given the present administration's views of America's role in world affairs, however, today's cold warriors have much to gain from allowing the president the dominant foreign policy role that he seeks.

Indeed, the underlying rationale for the current campaign to restore executive dominance in foreign policy is that an unfettered presidency is an important precondition for an interventionist foreign policy. When John Tower and Richard Nixon advocate a return to the "traditional" relationship between Congress and the president, they are thinking of the halcyon days of the imperial presidency in the years following World War II, not the actual historical relationship. Likewise, their assertions that America has witnessed an era of "congressional dominance" in foreign affairs since the early 1970s are vastly overdrawn, for the country has something considerably more powerful than what political scientist Thomas Franck terms the "tethered presidency."^[44] Although Congress has clearly recovered some of its foreign policy powers in the last decade, recent presidents still exercise a degree of unilateral discretion that would have astonished their pre-World War II predecessors.^[45]

The argument that executive power must be increased to restore a balance between the executive and congressional branches is spurious. Greater balance existed in the mid- to late 1970s than at any other time in recent history. Those who make the argument object that an activist Congress prevents the president from conducting military and quasi-military initiatives similar to those of the 1950s and 1960s. Embracing an interventionist foreign policy leads them inexorably to advocate an unrestrained presidency as an essential device to implement that policy.

Congress as Partner and Watchdog

Policy analysts who lack the extreme interventionist bias are nevertheless often ambivalent about the desirability of extensive congressional involvement in foreign policy. While noting that Congress may well have exercised a beneficial restraint on the executive in the post-Vietnam decade, they also point out that the decentralized nature of Congress creates overlapping areas of responsibility. At one time, for example, more than eight congressional committees, with a combined membership of 200, were involved in supervising U.S. intelligence agencies. Executive-branch officials have complained about having to testify before a multitude of committees, often simply to repeat the same information.^[46]

Critics of congressional activism also make the valid point that Congress, being a lawmaking body, tends to view complex foreign policy issues as simply another arena for enacting statutes. The legislative process may create rigidity--repealing or amending a statute can prove both difficult and time-consuming--when changing conditions require dramatic and rapid shifts in policy. Although it may sometimes save the nation from a hasty and rash decision, Congress may also unnecessarily delay important actions.

An even more serious criticism of Congress is its occasional tendency to "grandstand" on emotionally charged foreign policy issues and even to sabotage important executive initiatives to court the favor of entrenched domestic pressure groups. A prime example is the Jackson-Vanik amendment, which makes U.S.-Soviet trade conditional upon Moscow giving public assurances regarding Jewish emigration. Other examples include current efforts to legislate economic sanctions against South Africa and to erect tariffs and other barriers against America's trading partners.^[47] The cure for occasional congressional irresponsibility in foreign policy is not, of course, the restoration of an unrestrained presidency, but holding both Congress and the president accountable for foreign policy decisions. And this accountability requires that the public become more interested in and knowledgeable about foreign affairs.

The issues of congressional decentralization and the reduction of foreign policy issues to matters of mere lawmaking are more difficult to deal with. Several scholars who have grappled with these problems contend that Congress should play an important role in the formulation of foreign policy but should defer to the executive on the execution of that policy.^[48] This distinction is not entirely adequate. Clearly, such a large and diverse body as Congress ought not to attempt to micro-manage the execution of foreign policy. The legislative branch is structurally ill equipped to handle the day-to-day conduct of foreign affairs and the details and nuances of diplomacy. At the same time, it would be highly imprudent to allow the executive branch to implement policy without extensive ongoing supervision. An administration hostile to Congress can easily execute policy in such a way as to undermine or even obliterate congressional assumptions and objectives. In short, Congress must be both a vigilant watch-dog and an equal partner in matters of foreign policy.

This dual role is difficult. In its role as partner, Congress must demand full and honest disclosure of all information pertinent to reaching a policy decision, and then it must accept its share of responsibility for that decision. Congress

must also insist upon early and extensive consultation with the executive branch. Previous cold war presidents made a mockery of the consultative process, usually presenting a few congressional leaders with a fait accompli in the eleventh hour of an ongoing crisis. Congress cannot permit such presidential disdain and hope to preserve its newly regained foreign policy prerogatives.

In its role as watchdog, Congress must ensure that foreign policy is executed in accordance with established objectives. Here, willingness to assert congressional power is essential. It matters little if Congress attaches human-rights provisos to foreign aid legislation when it allows the president to issue bogus certifications of "adequate progress," as Reagan did for El Salvador in 1982 and 1983. Similarly, the war powers resolution has little impact when Congress is timid about enforcement, as it was regarding U.S. military involvement in Lebanon in 1983. Just as Franklin Roosevelt made a farce of congressional neutrality legislation, Ronald Reagan or one of his successors may reduce the legislative restraints enacted during the 1970s to a heap of legal rubble. Ultimately, Congress itself must be the guarantor of its foreign policy prerogatives.

The Role of Congress in Preserving Peace and Liberty

Events have demonstrated that foreign policy initiatives-- particularly long-term initiatives--cannot succeed without public support. Because members of Congress represent local constituencies, they tend to be more sensitive to undercurrents and shifts in public opinion.[49] Congress is thus a political early-warning system cautioning that contemplated or ongoing executive actions lack popular backing.

Proponents of unfettered presidential power contend that congressional sensitivity to public opinion is precisely why Congress should not become involved in foreign policy. They argue that the executive branch, possessing superior expertise and access to classified information, must sometimes pursue policies in conflict with the "whims" of public opinion. But this is arrogant elitism. Because the American people pay the price, both financially and not infrequently in lives, for foreign policy mistakes, they and their congressional representatives surely do have a role in determining policy. Moreover, such misadventures as the Bay of Pigs invasion and the Korean and Vietnam wars suggest that the much-touted wisdom and expertise of the executive branch are vastly overrated.

The overwhelming majority of foreign policy decisions are not made under emergency conditions. Whenever time permits, the president has both a legal and a moral obligation to include Congress in the decision-making process-- even though it may be less "efficient," to do so. Congressional participation does not, of course, guarantee a prudent, noninterventionist foreign policy, but by adding another step to the decision-making process it significantly reduces the risk of acting rashly.

A vigorous congressional role in foreign policy is also crucial for maintaining domestic liberties. Policy analyst Bayless Manning contends that many "new" foreign policy issues--energy concerns, international trade, pollution control, and the like--are so intimately bound up with domestic concerns that Congress inevitably becomes involved in foreign policy anyway. According to Manning, the increasing prevalence of "intermestic" affairs precludes a return to congressional abdication in foreign policy.[50]

However, just because Congress has traditionally exercised great power in domestic affairs does not mean that it will continue to do so, much less be able to use that role to increase its authority over foreign policy. Congress once possessed extensive--indeed, dominant--powers in foreign affairs, only to lose them to executive encroachment. A resurgence of the imperial presidency in "traditional" foreign policy matters could readily lead to a drastic erosion of congressional authority throughout the entire range of "intermestic" and even predominantly domestic affairs.

The danger is not theoretical. The expansion of presidential power over foreign policy has often been accompanied by a similar aggrandizement in the domestic arena. In the final months of World War I and the immediate postwar period, the Wilson administration embarked on the "Red Scare," with massive violations of civil liberties. Franklin Roosevelt's administration arbitrarily interned more than 100,000 Japanese-Americans in concentration camps during World War II, asking congressional approval for it only as an afterthought. The early 1940s also witnessed an unprecedented regimentation of the U.S. economy, with executive-branch officials establishing production quotas, enforcing wage and price controls, and rationing "scarce" commodities. Dissent was not viewed with tolerance. When the management of Montgomery Ward balked at certain imperious administration demands, the company was seized and temporarily

placed under direct government control.[51] What Roosevelt did to Montgomery Ward in the midst of a major war duly declared by Congress, Truman attempted to do to the steel industry during the Korean "police action," an undeclared, limited conflict. It was symptomatic of the times that the Supreme Court, not Congress, stifled this particular effort to expand executive power.[52]

Truman's defeat in the steel-industry episode did little to inhibit his successors. In August 1971, Richard Nixon imposed special import surcharges, suspended the convertibility of the dollar, and proclaimed a freeze on wages and prices. Although several statutory provisions arguably permitted the president to take such actions in the event of a national emergency, Nixon's contention that an emergency existed was questionable at best. He assumed that the "problems of ending a war"--his belief that the winding down of the Vietnam War was creating some economic dislocations--entitled him to make far-reaching domestic policy changes by executive fiat.[53] Of course, the most graphic illustration of the fact that an imperial presidency in foreign affairs inevitably corrodes domestic liberties was the Watergate scandal. Domestic surveillance and other efforts to intimidate and disrupt dissenting groups, conducted under the all-encompassing rubric of "national security," were hallmarks of the Johnson and Nixon administrations throughout the Vietnam War. Watergate was not, as many observers have simplistically concluded, an aberration--a manifestation of character defects peculiar to Nixon. Rather, Watergate was the symptom of a systemic disorder: it was the imperial presidency at its zenith, applied without restraint on the home front.

Even a post-Watergate president such as Jimmy Carter was not immune to the temptation to intervene in domestic affairs by executive fiat. His imposition of a grain embargo on the USSR, with its disastrous consequences for American farmers, following the Soviet invasion of Afghanistan in December 1979 was a prime example. At the very least, it represented an expansive interpretation of presidential authority under the Export Administration Act. Carter's application of pressure on the U.S. Olympic Committee to "persuade" it to honor the boycott he had already proclaimed of the 1980 Olympics--notwithstanding the desire of U.S. athletes to participate--is another case in point.[54]

An unfettered chief executive in foreign affairs does not merely heighten the danger of unwanted and unnecessary wars; it poses a potentially lethal threat to our entire system of checks and balances, thereby jeopardizing domestic liberties. To prevent the rebirth of the imperial presidency, it is vital that Congress preserve the statutory reforms enacted during the 1970s, especially the war powers resolution. It is equally important that the legislative branch enforce its newly regained prerogatives with sufficient determination. The "compromise" on U.S. military policy in Lebanon set an unhealthy precedent, and similar congressional retreats in the future would virtually guarantee the onset of a new imperial presidency. Finally, both Congress and the public must avoid excessive deference to supposed executive-branch expertise in foreign affairs. Especially in matters of war and peace, the views of the American people and their elected representatives should be paramount. The preservation of peace and liberty mandates a sustained and vigorous congressional role in directing the nation's foreign policy.

FOOTNOTES

[1] Edward S. Corwin et al., *The President: Office and Powers 1787-1984*, 5th rev. ed. (New York: New York University Press, 1984), p. 201.

[2] W. Taylor Reveley III, *War Powers of the President and Congress* (Charlottesville: University Press of Virginia, 1981), p. 29.

[3] An excellent discussion of the British Whig political doctrine and its influence on the American revolutionaries is found in Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge: Harvard University Press, 1967).

[4] Reveley, pp. 60-64. Further discussion of the views of the Founding Fathers on the division of foreign policy powers can be found in Corwin et al., pp. 200-201, 207-13; Arthur M. Schlesinger, Jr., *The Imperial Presidency* (Boston: Houghton Mifflin, 1973), pp. 1-34; Cecil V. Crabb and Pat M. Holt, *Invitation to Struggle: Congress, the President and Foreign Policy*, 2d ed. (Washington: Congressional Quarterly Press, 1984), passim; and Francis O. Wilcox, *Congress: The Executive and Foreign Policy* (New York: Harper & Row, 1974), passim.

[5] Quoted in William L. O'Neill, *The Progressive Years: America Comes of Age* (New York: Dodd, Mead & Co., 1975), p. 104.

[6] For a detailed, albeit hostile, account of the neutrality legislation of the 1930s, see Robert A. Divine, *The Illusion of Neutrality* (Chicago: University of Chicago Press, 1962).

[7] One disturbing omen of future trends, however, was the 1936 Supreme Court decision in *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 57 S. Ct. 216; 81 L. Ed. 255 (1936). The Court adopted an extremely expansive view of presidential power in foreign affairs, contrasting it with the limited exercise of authority in domestic matters.

[8] Critical discussions of Roosevelt's mendacious maneuvering in 1940 and 1941 abound. Early accounts include Charles Callan Tansill, *Back Door to War* (Chicago: Regnery, 1952) and Charles A. Beard, *President Roosevelt and the Coming of the War, 1941* (New Haven: Yale University Press, 1948). A more recent analysis is found in Bruce Russett, *No Clear and Present Danger: A Skeptical View of the U.S. Entry into World War II* (New York: Harper & Row, 1972). Even a sympathetic study, William L. Langer and S. Everett Gleason, *The Undeclared War* (New York: Harper Brothers, 1953), contains an abundance of damning evidence.

[9] Crabb and Holt, pp. 15-16.

[10] Arthur H. Vandenberg, Jr., and Joe Alex Morris, eds., *The Private Papers of Senator Vandenberg* (Boston: Houghton Mifflin 1952), p. 507.

[11] *Public Papers of the Presidents of the United States: Harry S Truman, 1950* (Washington: Government Printing Office, 1965), p. 504. An excellent summary of the Truman administration's internal debate is contained in "Memorandum: Meeting at Blair House, July 3, 1950," Dean Acheson Papers, Box 65, Harry S Truman Library.

[12] Schlesinger, pp. 89-91, 135.

[13] *Congressional Record*, 81st Cong., 2d sess., 1950, vol. 96, p. 9323.

[14] For samples of liberal views in 1950-51 on the proper scope of executive power in foreign affairs, see the speeches of senators Tom Connally, Henry Cabot Lodge, Paul Douglas, J. William Fulbright, and Herbert Lehman, in *Congressional Record*, 82d Cong., 1st sess., 1951, vol. 97, pp. 142, 148-49, 228-29, 520-51, 2542-43, 2738.

[15] *Public Papers of the Presidents of the United States: Harry S Truman, 1951* (Washington: Government Printing Office, 1966), p. 19.

[16] Reprinted in Senate Committee on Foreign Relations and Committee on Armed Services, *Assignment of Ground Forces of the United States to Duty in the European Area, Hearings*, 82d Cong., 1st sess., 1951, p. 92.

[17] *Ibid.*, p. 670.

[18] Sen. Leverett Saltonstall of Massachusetts epitomized the prevailing attitude about intelligence oversight when he expressed a "reluctance" to "seek information and knowledge on subjects which I personally, as a member of Congress and as a citizen, would rather not have." Quoted in Senate, *Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities*, April 26, 1976, bk. 1, p. 149.

[19] For Eisenhower's view of those resolutions, see Dwight D. Eisenhower, *Mandate for Change, 1953-1956* (Garden City, N.Y.: Doubleday, 1963), pp. 459, 467-69, 608; and *idem*, *Waging Peace: 1956-1961* (Garden City, N.Y.: Doubleday, 1965), pp. 182-83. Eisenhower was quite candid on his seeing the resolutions as little more than moral support, contending that he had ample power as commander in chief to act on his own.

[20] Quoted in Schlesinger, p. 179.

[21] See the comments of Undersecretary of State Nicholas Katzenbach in Senate Foreign Relations Committee, U.S.

Commitments to Foreign Powers, Hearings, 90th Cong., 1st sess., 1967, pp. 82, 141.

[22] Leonard C. Meeker, "The Legality of United States Participation in the Defense of Vietnam," Department of State Bulletin (March 28, 1966): 484-85.

[23] Schlesinger, p. 208.

[24] Schlesinger, pp. 190-98; see also Thomas M. Franck and Edward Weisband, *Foreign Policy by Congress* (New York: Oxford University Press, 1979), pp. 13-23.

[25] 50 U.S.C. 1541-48 (Supp. 1975).

[26] The law also contained a "legislative veto" provision, but legislative vetoes were declared unconstitutional by the Supreme Court in an unrelated case, *Immigration and Naturalization Service v. Chadha*, 462 U.S. 919, 103 S. Ct. 2764; 77 L. Ed. 2d 317 (1983).

[27] Crabb and Holt, p. 51.

[28] One rather surprising exponent of this view was former senator J. William Fulbright, an outspoken opponent of the imperial presidency in the late 1960s and early 1970s. Now he expressed "increasingly serious misgivings about the ability of Congress to play a constructive role in our foreign relations." J. William Fulbright, "The Legislator as Educator," *Foreign Affairs* (Spring 1979): 719. For a more positive reaction, see Douglas J. Bennet, Jr., "Congress in Foreign Policy: Who Needs It?" *Foreign Affairs* (Fall 1978): 40-50.

[29] A critical discussion of the Reagan administration's efforts to evade congressional oversight of CIA activities in Central America can be found in Stansfield Turner, *Secrecy and Democracy: The CIA in Transition* (Boston: Houghton Mifflin, 1985), pp. 163-70. On Chamorro's revelations and their aftermath, see "Nicaraguan Rebel Spokesman Expelled," *Dallas Morning News*, November 25, 1984; and Chris Hedges, "Ex-'Front Man' Talks of CIA's Secret War Against Nicaragua," *Dallas Morning News*, July 14, 1985.

[30] Text in Congressional Quarterly Weekly Report, October 8, 1983, pp. 2101-2.

[31] Anthony Lewis, "The New Imperial Presidency," *First Principles: National Security and Civil Liberties* (July/August 1985): 2.

[32] Congressional Quarterly Weekly Report, October 15, 1983, p. 2142.

[33] Quoted in "Contra Aid Fight Irks Reagan," *Dallas Morning News*, May 22, 1985.

[34] John G. Tower, "Congress Versus the President: The Formulation and Implementation of American Foreign Policy," *Foreign Affairs* (Winter 1981-82): 229-46.

[35] *Ibid.*, p. 230.

[36] *Ibid.*, pp. 230, 232-33.

[37] *Ibid.*, pp. 239, 243. Appeals for a return to an unfettered presidency are often coupled with proposals to restore the other principal cold war shibboleth, "bipartisanship." Typical of the genre is Charles H. Percy, "The Partisan Gap," *Foreign Policy* (Winter 1981-82): 3-15; Ronald Reagan, "American Foreign Policy Challenges in the 1980's," Department of State Bulletin (May 1984): 1-6; and George Shultz, "Restoring Bipartisanship in Foreign Affairs," Department of State Bulletin (July 1985): 39-42. At its zenith, bipartisanship helped reduce the restraints on and criticism of presidential cold war initiatives, which is precisely why interventionists want it restored.

[38] Richard M. Nixon, *No More Vietnams* (New York: Arbor House, 1985), p. 225. Sen. Barry Goldwater makes a similar point, asserting that the war powers resolution "attempts to deny flexibility to the president in defense of American citizens and their freedoms." See "Goldwater Urges Repeal of War Powers Resolution," *Dallas Morning*

News, April 3, 1984.

[39] Nixon, p. 226.

[40] *Ibid.*, p. 237. Nixon's emphasis.

[41] George Shultz, "The Meaning of Vietnam," Department of State Bulletin (June 1985): 14.

[42] Discussions of these and other incidents can be found in Franck and Weisband, pp. 275-86; I. M. Destler, "Congress as Boss?" *Foreign Policy* (Spring 1981): 170, 173-74; and Warren Christopher, *Ceasefire Between the Branches: A Compact in Foreign Affairs*, *Foreign Affairs* (Summer 1982): 991-92.

[43] Jack F. Kemp, "Foreign Policy Agenda," *Washington Quarterly* (Spring 1985): 9-13.

[44] Thomas M. Franck, ed., *The Tethered Presidency: Congressional Restraints on Executive Power* (New York: New York University Press, 1981).

[45] Reveley, p. 7; and Lee H. Hamilton and Michael H. Van Dusen, "Making the Separation of Powers Work," *Foreign Affairs* (Fall 1978): 21-22.

[46] Tower, p. 234; Franck and Weisband, pp. 210-21, 245-49; and Hamilton and Van Dusen, pp. 30-31.

[47] A concise discussion of ethnic "pressure group" influence on congressional foreign policy decisions can be found in John Rourke, *Congress and the Presidency: A Study of Interaction and Influence, 1945-1982* (Boulder, Colo.: Westview Press, 1983), pp. 261-66.

[48] Among those who employ this distinction are Christopher, pp. 999-1,000; Hamilton and Van Dusen, pp. 28-29; Bennet, pp. 45-47; Crabb and Holt, p. 234; Fulbright, p. 726; and Alvin P. Drischler, "Foreign Policy Making on the Hill," *Washington Quarterly* (Summer 1985): 165-75.

[49] Hamilton and Van Dusen, pp. 31-33. Long ago, Robert Taft concisely summarized the importance of congressional input, especially when a danger of armed conflict existed. "If the President has unlimited power to involve us in war," Taft warned, "war is more likely." *Congressional Record*, 82d Cong., 1st sess., 1951, vol. 97, p. 2988.

[50] Bayless Manning, "The Congress, the Executive and Intermestic Affairs: Three Proposals," *Foreign Affairs* (January 1977): 306-24.

[51] A concise discussion of the Montgomery Ward episode can be found in Richard Polenberg, *War and Society: The United States, 1941-1945* (Philadelphia: J. B. Lippincott, 1972), pp. 171-75.

[52] *Youngstown Sheet and Tube Company, et al. v. Sawyer* 343 U.S. 579; 72 S. Ct. 863; 96 L. Ed. 1153 (1952).

[53] Richard Nixon, "The Challenge of Peace," Department of State Bulletin (September 6, 1971): 253-57.

[54] Carter's own account of the grain-embargo and Olympic-boycott decisions can be found in his *Keeping Faith: Memoirs of a President* (New York: Bantam Books, 1982), pp. 474-78, 481-82. The text of his grain-embargo order is in *Public Papers of the Presidents of the United States: Jimmy Carter 1980* (Washington: Government Printing office, 1981), p. 32.