Preface

I watched the collapse of the World Trade Center towers on a conference room television, deep underground in a White House bunker designed to withstand nuclear blasts. Just one month before the attacks of September 11, 2001, I had joined the National Security Council staff as an aide to National Security Advisor Condoleezza Rice. Two years out of law school and with some experience as an analyst at a foreign-policy think tank, I had expected that great power diplomacy with China and Europe would dominate our agenda at the White House. Suddenly, the country was at war.

Over the next six years, I served in senior positions at the National Security Council, the Pentagon, and the State Department. I watched up close and sometimes participated directly as the three branches of government wrestled with legal and policy dilemmas of a new type of conflict: a global war against a diffuse terrorist network. Who controls the geographic reach of such a war? Did constitutional rights apply to captured terrorist fighters? And could the President override congressional limits on wartime interrogation or surveillance? I also saw the government's preparations for war with Iraq in 2003, and later saw its battlefield success crumble into a failing counterinsurgency effort. The world's most powerful military achieved a rapid tactical victory but a slow, grinding strategic loss. Although Congress had voted overwhelmingly for war to prevent Saddam Hussein from rebuilding his arsenal of weapons of mass destruction, many critics concluded that the constitutional system had malfunctioned. Since leaving government near the end of George W. Bush's tenure to join Columbia University, I have studied and taught the domestic and international legal frameworks governing armed conflict. During nearly two decades in the academy, the nature and technology of conflict – including what counts as "armed" in the digital era – have changed rapidly.

Yet the American response to these twenty-first–century security challenges still involved questions as old as the republic: how to allocate and control government powers to prevent war, prepare for war, go to war, wage war, and end war. This book is about how and why those constitutional arrangements have evolved over time.

This book took a long time to write, and I owe debts of gratitude to more people than I can list here. The list includes dear friends, family members, mentors,

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colleagues, editors, and students. Special thanks to Ben Wittes for so many long conversations about this project over the past decade and to Quinta Jurecic for her superb editing. Many helpful reviewers who made this book better included Scott Anderson, Kevin Arlyck, John Barrett, Philip Bobbitt, Curt Bradley, Anu Bradford, Bobby Chesney, Harlan Cohen, Jared Cohen, Ashley Deeks, Chris Dinkel, Anthony Eames, Charlie Edel, Drew Erdmann, Eitan Ezra, Peter Feaver, Dore Feith, Frank Gavin, Jack Goldsmith, Stephen Griffin, Monica Hakimi, William Howell, Patrick Hulme, Artem Ilyanok, Will Inboden, Rebecca Ingber, Loch Johnson, Ira Katznelson, David Kennedy, Andrew Kent, Jeremy Kessler, Ethan Klaris, Adam Klein, Madhav Khosla, Sarah Kreps, Zachary Lemonides, Paul Lettow, Ian MacDougall, Jane Manners, Nicholas Monaco, Nicholas Mulder, Tim Naftali, Michael Neiberg, Christina Ponsa, Eric Posner, Dan Richman, Kelsey Roth, Bob Rosen, Luke Schumacher, Kori Schake, Noah Segal, Mark Shulman, Brad Snyder, Amanda Tyler, Nicholas Ward, and John Witt. I also thank many colleagues at Columbia Law School, as well as workshop participants at the University of Chicago, for their thoughtful feedback on early drafts of chapters. This work was generously supported by the National Security Law Program at Columbia Law School and by the Martin and Selma Rosen Research Fund. Patricia Dorff at the Council on Foreign Relations provided great help in getting this published with the terrific team at Cambridge University Press. Some large language models were helpful in clarifying and smoothing my prose. Finally, I am grateful to many of my current and former student research assistants for their hard work on sections of the book.

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