Introduction

For scholars of constitutional war powers, 1950 is a big year. President Harry S. Truman decided to enter the Korean War without going to Congress for approval or a war declaration – what some would call the most seismic assertion of presidential war powers in American history. At the time, Senator Robert A. Taft, a key Truman rival and foreign-entanglements skeptic, declared: "[I]f the President can intervene in Korea without congressional approval, he can go to war in Malaya or Indonesia or Iran or South America." In their 1989 volume *To Chain the Dog of War*, Francis D. Wormuth and Edwin B. Firmage state that "[u]ntil 1950, no judge, no President, no legislator, no commentator ever suggested that the President had legal authority to initiate war." The resulting three-year conflict was – and remains – the largest American war launched solely by the President. Eminent modern-day constitutional scholar Louis Fisher observes, "Truman's commitment of U.S. troops to Korea in June 1950 still stands as the single most important precedent for the executive use of military force without congressional authority." Constitutional historian Mary Dudziak calls the 1950 Korea intervention "a critical historical moment when U.S. war powers were reshaped, ushering in the legal order of the contemporary 'forever war.'"[1]

Yet even as troops reached Korea, another Truman decision was unfolding half a world away. It would prove equally consequential for the evolution of war powers but has drawn only a fraction of the scholarly attention.

In 1950, Truman planned to station over 100,000 U.S. combat troops in Western Europe to stiffen the fledgling North Atlantic Treaty alliance against a possible Soviet invasion. "Under the President's constitutional powers as Commander in Chief of the Armed Forces," Truman stated in a January 1951 press conference, "he has the authority to send troops anywhere in the world." Supporters believed that positioning American units along Europe's front line would deter World War III. Critics in Congress feared it would pre-commit the United States to a potential conflict – thereby effectively negating the legislature's power to declare war. Polls showed that the public favored congressional control over the deployment of troops and opposed unfettered presidential power on the matter. The political clash was about grand strategy – and it was also about constitutional law.[2]

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The President largely won this early–Cold War fight, but only after Congress forced sustained debate through hearings, resolutions, and constitutional claims. Since then, the power to station forces abroad has rarely been questioned: Presidents have based troops (and at times nuclear weapons) on allied territory to deter rivals and reassure partners. That peacetime power, one of many constitutional tools to prepare for war, likely helped preserve stability in Europe after two devastating world wars.

Conventional wisdom holds that the power to *start* or enter wars is the most important issue of constitutional war powers. Legal analysis then gravitates toward the wars that broke out, not the wars that never happened. Most constitutional scholars therefore focus on the Korean War while overlooking concurrent events in Europe.

But fixation on the power to start wars obscures other constitutional questions of equal or greater importance concerning the powers to prepare for war, deter it, conduct it, decide its aims, and end it. Ignoring Truman's European deployment to focus on the Korea intervention, for example, risks overlooking how the Executive and Congress vied for control of U.S. security policy by invoking powers to deploy troops in peacetime, coordinate war planning with allies, and send signals to allies and adversaries about American military intentions – a combination that affected both the likelihood and nature of future war. Ever since then, those constitutional powers have enabled the United States to project military force abroad and sustain collective security arrangements. In some cases, they helped stop brewing tensions from erupting into conflict, or prevented small clashes from becoming big ones; in others, they may have inflamed crises. By wielding or asserting those and many other powers over the course of U.S. history, political leaders have adapted the Constitution to vast changes in American warfare, military strength, and security strategy.

This book tells that story. In doing so, it reveals a richer and more accurate account of how presidential and congressional powers function – and how they will combine to govern potential wars of the future.

That history offers essential perspective for today's unsettled moment, too – one in which government actors exercise a wide array of war powers at home, just beyond America's borders, and across the world. Who controls and constrains the domestic use of military force? Against what kinds of threats may the President act? May Congress bar a President from withdrawing troops from abroad – the inverse of Truman's battle with Congress? What limits, if any, exist on a President's power to threaten war or to pledge armed protection? The answers to these questions draw on what came before – how such issues first arose, how they were answered, and why those answers sometimes changed.

THE CONVENTIONAL STORY: THE POWER TO START WARS

For fifty years, constitutional scholars and political leaders have debated which branch of government may take the nation to war. In the Vietnam War's wake, historian Arthur Schlesinger Jr. wrote *The Imperial Presidency*, decrying the Executive's

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gradual usurpation of congressional powers. Like many critics of the era, Schlesinger placed heavy blame on presidential unilateralism for the disastrous Vietnam War, and he called for restoring national-security checks, balances, and accountability. On no issue was constitutional erosion more problematic, Schlesinger claimed, than decisions to wage war.[3] The same year that Schlesinger published that seminal book, Congress tried (with little success, it later turned out) to claw back its prerogatives by enacting the 1973 War Powers Resolution, which focused singularly on curbing the President's power to enter conflicts.

For two generations since *The Imperial Presidency*, debate about war and the Constitution has revolved around that single power. Twenty years after the publication of Schlesinger's book and the passage of the War Powers Resolution, acclaimed constitutional scholar John Hart Ely published *War and Responsibility: Constitutional Lessons of Vietnam and Its Aftermath*. That influential book argued that both Congress and the courts were still failing to address executive overreach in starting or entering wars. Even more than Schlesinger, Ely homed in on "the disappearance of the separation of powers, the system of checks and balances as it applies to *decisions to go to war*."[4] And like Schlesinger, Ely saw in the Vietnam War and Cold War nuclear terror the acute perils of that breakdown.

Meanwhile, a contrary view – one that also centers on the power to start or enter wars – has held that presidential power to use force is both constitutionally valid and crucial to American security. Turning Schlesinger's view on its head, some scholars and policymakers go so far as to claim that congressional restrictions on presidential power to initiate war are themselves unconstitutional. Among those who opposed the War Powers Resolution on these grounds was the esteemed legal scholar and former State Department Undersecretary Eugene Rostow, who wrote of the draft act: "Its passage would be a constitutional disaster, depriving the government of the powers it needs most to safeguard the nation in a dangerous and unstable world." Reflecting on that statement a decade and a half later, Rostow dug in: "Democracy will not survive – and will not deserve to survive," he wrote, without breaking from constitutional myths about Congress's sole power to initiate war.[5]

Of course there are exceptions to this focus, including scholarship that examines other dimensions of war powers.[6] But, as constitutional scholar William Treanor observed of twenty-first–century legal and political discourse: "Few areas of constitutional law have produced as much heated debate" as the question of which branch controls going to war – "heat produced in no small part by the passionate belief that this is a subject of incalculable consequence."[7]

It is not just legal scholars who center the study of war and the Constitution on the power to start or enter conflicts. According to professor of government Douglas Kriner, "Virtually every prior study of the dynamics governing American uses of force abroad has focused exclusively on the politics driving the *initiation* of military action."[8] Political scientists and theorists often zero in on the power to enter wars

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because the stakes seem so high. So too have congressional reformists and blue-ribbon panels.[9]

After the September 2001 terrorist attacks, attention turned to the President's constitutional role as wartime commander in chief. President George W. Bush's claims of unbounded powers in the Global War on Terror – to detain, interrogate, surveil, and kill suspected enemy fighters – ignited fierce debate about congressional and judicial checks on *how* the President wages war.[10] But once the most extreme executive tactics were curbed or reversed in the latter years of the Bush Administration and then in President Barack Obama's, attention turned back to constitutional powers over *whether* to make war. Subsequent interventions – as in Libya (2011), Syria (2017–18), and Yemen (2024) – rekindled controversy over presidential unilateralism.[11]

WIDENING THE LENS: THE CONSTITUTION AND AMERICAN STRATEGY

Other dimensions of war powers and their evolution have been at least as momentous as the power to start wars. They have also determined – and will continue to determine – whether, why, and how the United States ultimately goes to war, whether it prevails, and how it preserves peace. And yet, for half a century, debates over who may start wars have crowded out the rest of that constitutional story.

I use the term "war powers" in a broad sense, covering the constitutional authority to defend the United States and its interests through military means. This includes the development and use of armed forces not only in war but also in its lead-up and in its aftermath. This broader definition matters for understanding how the many components of war powers fit – and continually refit – together. It is also important because the American conception of war has grown so much over time.

The Framers themselves didn't use the term "war powers." That label only came into common American use during the Civil War to describe *how* that war was waged by Abraham Lincoln, and, just as importantly, by Congress. The Framers were deeply concerned with carefully allocating and checking military power generally, not just how the country went to war. To them, the issue of going to war was just one part of a much larger dilemma: To defend itself, the United States needed military power and the ability to wield it effectively, but any concentration of military power carried risks of its own – risks of provoking needless war and, even more importantly, of destroying republican self-government. The Framers were divided or uncertain whether America's strength in arms might destroy the freedoms it sought to protect. To confront that challenge, they built a system of interlocking powers and checks to govern the nation's military capacity and its use.

True, as Schlesinger and many others contend, there was a strong consensus among the Framers that the Constitution should put legislative restraints on whether the United States goes to war. The Framers granted Congress the power to declare war because many thought it would be too risky (or too monarchical) to give it to the

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President. But they also wrestled with how to prepare for war and to wage war once begun – recognizing that the powers needed to do so carried their own dangers.

Other essential constitutional questions have included: How is power allotted or limited to wage war? To prepare for war? To threaten war? To decide war objectives? To expand or narrow them? To end war? To win the peace, and then to keep it? The immediate stakes of each of those questions have been huge, and the answers to them have proved crucial to whether the United States ultimately goes to war or what kinds of wars it engages in. None of the answers to these questions were clear at the nation's Founding, and the answers have shifted over time. To have asked the Constitution's drafters to resolve the legal debate over Truman's early–Cold War deployment of troops to Western Europe, for example, would have been like asking them how the Constitution governed putting troops on the moon: Many of the Framers did not expect the United States to have much of a standing army to move in the first place, much less to be the principal security guarantor of a large treaty bloc stretching across two continents. The constitutional question would have been unthinkable because the strategy behind it would have been unthinkable.

Constitutional war powers have adjusted over time to changing American strategy – that is, *theories matching military means to policy ends*, including visions of victory in war and security in peacetime.[12] Much of the adjustment and reinterpretation of war powers is now so widely accepted that we barely even notice it. And much of it would have been unacceptable at the Founding and would have split the republic apart in different eras, yet it has been crucial to how the United States maintains and wields more military power today than any other country. For example, a national draft for expeditionary "total war" in the twentieth century involved once-divisive national–state military issues that are now mostly obsolete. In World War I, Congress brought to bear sweeping economic powers that later became so routine in peacetime that few now remember their origins as war powers.

The point that debates about constitutional powers are entwined with debates about strategy includes an important corollary: War powers are not just about wars. They are often about the absence of wars.

Constitutional scholars tend to focus on actual wars because these incidents provide cases – the specific factual episodes and occasional litigation – in which legal arguments are put forward, debated, accepted, or rejected. Wars also focus public attention like few other events. This book fills crucial holes in the record of American constitutional war powers by drawing attention to episodes in which wars did *not* take place, and the constitutional debates about strategies for avoiding them. It also highlights important war-powers developments that occurred in peacetime, outside the crucible of armed conflict. The story of Cold War constitutional powers is as much about the Soviet invasion or nuclear cataclysm that did not occur, for example, as it is about the military interventions that did.

Reasonable observers will differ today over whether the United States grew to a global superpower because of the Constitution or despite it, or due to the

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Constitution's virtues or its violation. While those questions are debatable, it is undeniable that the Constitution has over time accommodated a diverse mix of strategies for meeting a wide range of security interests.

AMERICAN "CONSTITUTIONAL" WAR POWERS

When I refer to "the Constitution," I mean several overlapping things. In the most common sense, constitutional law refers to a set of commands and rights – not just ordinary rules, but special ones on account of their supreme status and strong entrenchment. The Constitution also establishes the basic organs of government, assigns them general powers and responsibilities, and sets the processes through which the organs carry out those assignments.

This book addresses those rules, institutions, and processes, but one of its central themes is that much of war-powers law is not confined to constitutional text or judicial rulings. Instead, this area of law has developed through accumulated practices, expectations, and accommodations that over time acquire the force of constitutional settlement. Theorists of many stripes have emphasized such patterns – whether described as part of "living constitutionalism,"[13] "historical gloss,"[14] "liquidation,"[15] or simply "precedent." Because the Supreme Court has seldom spoken definitively on many war-powers questions, the shape of constitutional law in this area has been molded chiefly through the interactions of the political branches, that is, Congress and the Executive. Some patterns – such as Congress authorizing hostilities without a formal declaration of war, and its investigation of military activities – run continuously from the Founding forward. Others – like congressional delegation of war-making decisions or permitted federal uses of state troops – have shifted as new forms of warfare and new theories of security have compelled departures from earlier practice.

Whereas some constitutional processes, like legislative authorizations and appropriations, are formal and easily visible, others are more subtle and less observable. In routing where and how political actors draw on their respective powers to govern war, the Constitution has, for instance, managed federal–state tensions over who commands, recruits, and funds armed forces; driven discussions about overseeing military operations; shaped the design of armed forces; and turned the military chain of command into a venue for national policymaking. This book reveals a more intricate map of constitutional channels governing war than often imagined.

Moreover, all the chapters that follow show the extent to which "constitutional law" provides a vocabulary for political arguments and a grammar for debate about war – in public, between the elected branches, and within them. The United States stands out among democracies for how legally and politically contested even the most basic questions about constitutional powers over war and peace remain after more than two centuries. When Americans debate war, they dispute not only policy but also who, under the revered text of 1787, is entitled to steer it.

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Although all democracies wrestle with many of the same war-powers questions, the United States also stands apart in that no other written constitution has had to function over time across such massive transformations in national military power and dramatic swings in strategy for wielding it. Moreover, America's status as a superpower since World War II has meant that war powers forged for and during wars of survival have also often governed how the United States prepares for and carries out wars of choice. The special position of the United States in underwriting international security arrangements has also placed unique pressures on the American system of war powers.

In many other democracies, war-powers issues would be framed in terms of political legitimacy, institutional rivalry, and shared authority, and they would be debated as matters of prudence more than as law. By contrast, Americans frame them as *constitutional*. American political leaders often debate about war by invoking constitutional claims, knowing these claims carry special public resonance. It is therefore no surprise that today's intensifying debates about America's military commitments and activism abroad are also reigniting constitutional disputes over divisions and limits of government powers. This book shows that American constitutional law and politics of war have never been neatly separated.

These conversations are also linked to ongoing debates about the strengths and weaknesses of the American Constitution over time. All constitutions must deal with war and security, and other scholars have explored general questions about the relationship between state structure – the most basic matter of constitutional law – and war.[16] Some historians and theorists have debated, for example, whether changes in warfare during the last five centuries led to new forms of government – or whether, instead, new forms of government drove changes in warfare. Political scientists and other scholars have debated whether and why democracies are better or worse than authoritarian regimes at waging war. Their discussions resemble a recurring argument among political leaders and commentators throughout American history about whether the country's republican form of government is generally better- or worse-suited than that of enemies – whether they be monarchical, dictatorial, fascist, communist, terrorist, or other – to whatever type of warfare defined the age.[17]

RETELLING THE WAR-POWERS STORY

To show the many ways that political leaders adapted war powers – in war, in peace, and in the gray zones between – the book weaves together the story of American military power and the story of constitutional law regulating that power. It begins with the Revolutionary War and the Constitution's drafting and concludes by looking ahead to future warfare.

This book does not set out to provide a comprehensive history of constitutional war powers. It is by design selective, exploring along the way the most formative episodes and influential figures that shaped and reshaped war powers. Some of those

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scenes and figures feature in standard accounts and the scholarly canon in this area; many are often left out but deserve a place in it. The chronology as a whole yields insights and lessons, though I have also tried to write each chapter as a standalone essay about distinct periods.

Tracing the story in this way shows how political and legal actors have interpreted the Constitution in addressing some foundational or recurring questions as well as many questions that emerged unexpectedly over time. Studying the evolution of war powers and American strategy from the beginning – rather than treating in hindsight America's entry into wars as the most decisive moments – also reveals neglected consequences of many other war powers beyond which branch controls going to war. In almost every major war, and in many periods between, new aspects or operations of war powers come into focus if viewed through the right lens. Touring the entwined progression of war powers and American strategy highlights how the elected branches have historically cooperated or checked each other in ways that are often missed, and how they may do so in the future.

In the early republic and throughout the nation's first major conflicts, the main government functions in war and defense were clear: Besides deciding whether to fight, the United States would need to create, pay, and command military forces. These issues were familiar to the Framers; indeed, these were key policy issues in the Revolutionary War. Because these were well-understood necessities, there was no question until the Civil War that *some branch* had the power to do these things. The big constitutional question was *which one*. How was power over such functions divided or shared between Congress and the President – and between the national and state governments?

Those questions never went away, though some were answered definitively while others remain contested to this day. But from the Civil War through the First World War, the biggest constitutional war-powers questions became *whether any part* of the government, and especially the national government, had authority to carry out certain functions – such as mobilizing entire societies and economies through centralized control and regulation – that had become vital to waging modern war. Drawing from a document originally geared to limit national government power, political leaders claimed virtually limitless power to wage warfare that had itself become "total." By World War II, these questions no longer seemed as important – not because they disappeared but because by then the national government had amassed far greater authority even in peacetime or by virtue of other constitutional powers unrelated to war. Only a few years after that global conflict, Congress flexed its powers to create permanently massive military forces together with hulking national bureaucracies – the sort of military establishment that many Framers feared.

The early Cold War is usually and correctly associated with expanding presidential power to start or enter wars. But at least as important were novel questions about how the Constitution allocated powers to preserve peace. What were the President's and Congress's respective war powers for maintaining new collective

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security arrangements created through international law – first the United Nations, then U.S. alliances? How did the Constitution regulate covert warfare intended to remain in the shadows? Was the President empowered to threaten nuclear strikes precisely so that World War III would never actually happen?

From the Founding through the early Cold War, war powers had been as much about *internal* governance as about foreign affairs. Throughout that period, political leaders asserted new, stretched, or previously idle powers in a constitution initially tuned for local defense, using these powers to carry out strategies of continental and overseas expansion and then to build capacity for global hegemony. At each of those foreign policy turns, war-powers debates returned to a basic question rooted in the Founding: Could the United States be both militarily powerful and free? In that regard, the American constitutional system achieved something remarkable: It facilitated the rise from a militarily weak proto-state to military superpower while preserving republican self-governance. The government committed some gross abuses along the way under the banner of war powers, and this progression was not always for the good. But it represented an achievement of internal governance, and of a risky constitutional experiment, that many influential political leaders and theorists at the Founding thought impossible.

By the end of the Cold War, the biggest war-powers controversies were almost entirely about *external* relations: How did the Constitution divide power over military intervention abroad? Regional conflicts with much smaller foes did not require massive mobilization, and disputes over whether to wage them reflected broader debates about America's role in the post–Cold War world, not about governance at home. The arrival of a twenty-first–century Global War on Terror renewed earlier debates about the threat that coercive war powers pose to civil liberties and democracy internally, and all three branches played important roles in addressing these issues. Yet that temporary refocus on the interior consequences of flexing war powers was soon partially eclipsed again by discussions about external ones, with a particular focus on avoiding misadventures after the 2003 Iraq War.

The current period of deep political divisions over American military intervention and commitments abroad – and over whether the most dangerous threats to the republic come from inside or outside the country's borders – puts configurations of constitutional war powers again in flux.[18] With emerging threats of covert cyberconflict and a potential clash with China, scholars and political leaders should avoid the mistake of assuming that the main questions that drive debates over war powers today have always been so central – or that they will continue to be in the future.

REFRAMING WAR-POWERS DEBATES

This account – one of a system of war powers that evolves as American strategy evolves – reframes modern debates in five ways that will interest readers of law, history, and politics. It (1) shows that the power to go to war cannot be meaningfully

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understood in isolation from other war powers, (2) complicates and corrects prevailing narratives of executive dominance, (3) challenges originalist methods of interpretation, (4) uncovers overlooked ways in which constitutional law has both enabled and constrained strategic choices, and (5) points to a more productive reform agenda than common calls to restrict presidential uses of force.

First, this book shows that the power to initiate hostilities must be understood within the broader and ever-changing constellation of war powers, not as one of a series of isolated grants. The powers to start or enter wars are inextricably tied up with, for example, evolving powers to create the means for waging it, to determine war aims, and many others.

A crucial starting point for understanding war powers is that wars do not occur suddenly, at single decision points when one elected branch or the other chooses to either initiate war or stand down. Wars result from, or are averted by, a series of moves by both branches, each exercising a range of constitutional powers. Although the President's role is often easier to see – especially if one centers attention on the start of combat – these prior policy choices are heavily determined by interbranch checking and cooperation.[19]

In war, presidents wield immense power. But Congress retains an array of powers, too, that shape how war is waged, for what aims, and how war ends. And just as prior, upstream choices and moves by both political branches affect whether and how the United States goes to war, anticipated downstream moves by other branches – once war is underway – affect decisions to go to war in the first place, too.[20]

Second and relatedly, this book offers a corrective to common narratives of a power-hungry Executive gobbling up Congress's foundational war powers. No doubt, twenty-first–century presidents hold far more power to use force than their eighteenth-century predecessors would have imagined. But excessive attention to the power to begin wars distorts the picture. It risks both overstating and understating the growth of presidential war powers, especially in relation to Congress's powers.

Fixating on the decision to go to war obscures the growth of other vital presidential powers – such as threatening force or shaping war aims – that can provoke or deter conflict, prolong or shorten it, and expand or contract its scope. Meanwhile, Congress's war powers have swelled over time, too, in ways that many Framers would have found startling, if not intolerable. This includes dramatic growth of Congress's powers to prepare for and wage war – growth that often came at the expense of states' powers.

What's more, accounts centered on the beginning of wars distort understanding of the constitutional dynamics between lawmakers and the Executive. Overall, the most significant and consequential shifts in war powers emerged from strategies jointly and actively supported by both elected branches. These constitutional developments more often resulted from policy consensus in the face of new challenges than power grabs in an interbranch struggle or a fated march toward centralized

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presidential power. This becomes more evident when examining both the conflicts that erupted and those that were avoided.

Third, this story challenges the utility of strict constitutional originalism – that is, legal interpretation fixed on the meaning of terms at the Founding. When it comes to war powers, the broadly worded clauses have offered little guidance for answering many questions that arose only as American military capacity grew and strategies for using it changed. Even the Constitution-makers themselves did not rely heavily on a strict textual reading of their document when confronting the new nation's earliest security crises.

Political leaders – and, sometimes courts – have had to fashion new compromises to answer war-powers questions that no drafter of the Constitution could have imagined. Many of those new compromises then raised new questions that themselves required new compromises, and so on. As noted earlier, the meanings of some key features of the Constitution have been settled and given a "gloss" by long-running historical practices.[21] But this book also shows that some important constitutional practices only developed in the near past, while others shifted quite sharply, or in multiple directions, in response to changes in warfare or security strategy over time.

Similar critiques of originalism could be leveled in many areas of constitutional law. Of course the Framers could not anticipate many modern-day issues, and they drafted some provisions with flexibility in mind. The matter of war powers, however, stands out. In modern tussles over making war, both the political right and left often reach assuredly to the Framers' original intent and word choices – even when those factions embrace fluid interpretations in other constitutional areas. And, because so many components of the war-powers machinery are interlocking, no one of them can be moved back to its original position without also affecting others.

Fourth, this book reveals that constitutional law facilitates and constrains strategy in ways that domestic and international politics alone do not explain. Because this account shows that constitutional practice often shifts in response to perceived military and security imperatives, one might reasonably question what work the Constitution is actually doing here. After all, if changes to American warfare and strategy remold constitutional law, are war powers ultimately just politics? If constitutional practice often bends to perceived military and security imperatives, is this really a story about law's weakness rather than its vitality?[22]

That critique will likely resonate with readers approaching these questions from a range of disciplinary backgrounds including law, political science, and history: with those scholars who hold that states, regardless of their political system, are rational actors seeking security above all; others who hold that domestic politics determine security strategy; and those who hold that "law" really just reflects the policy preferences of those in power.[23] At times, this book offers support for each view. But the episodes traced here also show that constitutional law and process often shape strategy – enabling, constraining, or sustaining it – in ways that neither geopolitics nor domestic politics fully capture. For example, law has enabled schemes to turn

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military victory into permanent territorial gains, prolonged commitments to allies' military defense, and slowed turns from neutrality to confrontation. Throughout American history, strategy has bent the Constitution; but at key moments, the Constitution has bent strategy, too.

Furthermore, this account shows many ways that constitutional arguments and processes continually frame, steer, or reinforce the American politics of war. Whether and how constitutional law ultimately governs war also cannot meaningfully be studied, let alone answered, without first gaining a clearer view of many often-overlooked sites of constitutional activity. I try to lay that critical groundwork in these pages – including to show that a wide array of war powers functions well in advance of and well after war.

Fifth and finally, viewing the power to initiate war as one of many interconnected and evolving constitutional design features challenges familiar practical arguments and points toward a more productive reform path. Today's unsettled moment is ripe for conversations about what reform might look like, and this book helps guide that thinking by distilling lessons from two centuries of experimentation.

It is often said that the power to go to war is among the Constitution's most important, because wars put American lives and resources at risk. From that premise follows a familiar conclusion: that strong congressional checks on the use of force are uniquely vital, and that presidents should not be able to take the nation to war without explicit legislative approval. Yet one of this book's central insights is that even this principle works only when understood within the broader interplay of war powers. The wider constellation of these powers and the strategic context of the particular moment will always shape whether a limit or shift in one power – such as the authority to begin war – heightens or reduces the risks of conflict. It is a mistake to seek a single, optimal interpretation or fixed balance among war powers. A better question than "How should war powers be divided or constrained?" is "Under what strategic conditions do different configurations of war powers function effectively?" That is why, rather than proposing an ideal legal formula, I focus throughout this book on how different constitutional interpretations and allocations of powers supported – or obstructed – the specific strategies of their time.

That approach may dissatisfy some readers – especially American legal scholars, who so often seek to pin down ideal legal formulas. This is not that kind of book. But such dissatisfaction is also part of the point. The merits and risks of different interpretations or arrangements of war powers have always depended – and always will depend – on fluid assumptions and strategic choices about how best to secure U.S. interests amid changing threats and opportunities.

Critics of executive imperialism have long argued that lawmakers should take on greater authority when it comes to war powers. A rebalancing of powers toward Congress is, indeed, in order. Rather than focusing on blanket restrictions of presidential force, however, reform should stress Congress's role in building and organizing armed forces and its continual oversight – through hearings, budgeting, and

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authorizations that shape broader defense policy and strategy – before crises erupt and during conflicts already underway. Stronger exercise of those roles by the legislature would foster more informed interbranch deliberation, negotiation, and cooperation, while also preserving strategic flexibility in a rapidly changing global landscape.

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A note on timing. This book was finished in late 2025, less than a year into Donald Trump's second presidency – a period when American war powers seem to be spinning at a frenetic pace. As I explain in the Epilogue, it is too early to say how the system will recalibrate. What follows instead are lessons drawn from 250 years of experience, offered as a lens for watching what comes next and for judging its constitutional meaning when it arrives.

So, rewinding to the beginning, debates over strategy began before the Constitution was even drafted. Chapter 1 explains how strategic debates shaped the construction of the document itself, as the Framers drew on their Revolutionary War experience to craft the country's new system of government in 1787.

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