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# The Politics of National Security

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*Congress and  
U.S. Defense Policy*

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**BARRY M. BLECHMAN**



★★ **A TWENTIETH CENTURY FUND BOOK** ★★

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## Congress and U.S. Defense Policy

A TWENTIETH CENTURY FUND BOOK

Barry M. Blechman

with the assistance of  
W. Philip Ellis

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Janne Emilie Nolan

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# Foreword

Over the past two decades, presidents of both parties have complained that Congress has been too involved in defense policy, spending, and management. Congress and its partisans have responded by citing the constitutional power of the purse, the dangers of secrecy and centralization, and the practical political reality of a public that holds both branches accountable for the major policies of the United States. Recognizing the legitimacy of the claims of both the executive and the legislative branches means accepting an inevitable measure of conflict. This book is about how these competing views of power and responsibility are accommodated and reconciled. It should contribute to an understanding of the continuing necessity to cope with the institutional partisanship that is built into the American system of checks and balances.

The subject could not be more timely. As this foreword is being written, the countries of central and eastern Europe literally are redefining their economic and political makeup. Several may be in the midst of major shifts in territorial jurisdiction. Ethnic tensions and nationalist sentiments are rising to levels not seen in a half century. Economists are confident that some of the changes are sure to result—at least in the short run—in sharp increases in prices and unemployment. Most observers believe that the strongest military power in the region is the nation with perhaps the smallest chance of achieving significant gains in prosperity.

Out of context, this description of events sounds like cause for alarm. Yet, because the new Europe may be structured on the ideas of democratic capitalism, the upheavals have produced an unprecedented surge of optimism in the West. Even though destabilization in Europe has

drawn us into war twice in this century, the United States is debating how to spend the “peace dividend” that would result from a reduction of involvement abroad. Indeed, the arguments about defense policy over the next decade are likely to be unusually intense—in part because they inevitably will take place during the sorting out period of the new European order.

Members of both the executive and legislative branches are confronted by the necessity of changing the way they see the world. Should the course of events in Europe turn dangerous, the threat to world peace could well be the greatest since World War II. Even without such mighty events, redefining U.S. strategic interests is sure to be untidy and even unsettling. A generation of policymakers has “relied” on the certainty of the Soviet threat (and of *de facto* spheres of influence) to guide their thinking about defense policy.

In the past, Congress often weakened its constitutional powers by permitting the executive relatively broad latitude in defense matters. After all, the period since 1945 involved the clearest external threat in the nation’s peacetime history. As this perceived danger recedes, consensus about basic defense needs may prove even more elusive than it has since the Vietnam War. The role of Congress in the making of national security policy appears certain to expand. Yet political disagreements on this subject are likely to come to resemble fights over domestic issues more than they have in the past. Without a clear danger, one might ask, “So what?” Perhaps the answer is that we need to be especially clear-headed in reformulating security plans for an uncertain future.

International negotiations, as a practical matter, require a semblance of national unity. The president and Congress seldom speak with one voice, although they often work hard to define a common view of the national interest. In this sense, Barry M. Blechman’s provocative analysis of how the two branches function on crucial issues has value far beyond the specifics of particular national defense disputes. In an era of increasing international interdependence, on economic and other matters, the nation’s need to have the national policy process function well is growing.

Blechman, a respected Washington expert on defense, shows here why Congress has a legitimate and constructive role in the making of national security policy—and by implication on broader international

questions. The Twentieth Century Fund appreciates his effort to produce this timely study, which is sure to contribute to the continuing debate over America's place in the post-cold war world.

*March 1990*

Richard C. Leone, Director  
*The Twentieth Century Fund*

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# Preface

The White House and the Capitol building in Washington, separated by a physical distance of little more than a mile, sit on opposite sides of a gulf in attitudes and prejudices so vast as to defy most efforts to bridge them. The president and the Congress, the respective inhabitants of these two buildings, represent widely divergent perspectives on the sources, the means, and the impact of American policy options. These differences of outlook color all policy debates, but perhaps none so virulently as issues of U.S. defense and national security—fateful subjects in which presidents claim more than usual powers, just as citizens and their elected representatives are often more than usually concerned.

In a career that so far spans 26 years in Washington, I have been fortunate enough both to have served two stints in the executive branch, in the Pentagon and the State Department, and also to have worked closely with numerous members of the Congress. This association with the two, often disparate, branches has given me an appreciation of their relative strengths and weaknesses. It has made clear to me how poorly the country is served when the institutional clashes between the two branches, however predictable, overwhelm consideration of the national interest. It has also encouraged me to believe that a collaborative relationship may yet be developed—a relationship that would permit each branch to fulfill its special needs and perspectives, but also allow each to bring its unique talents, knowledge, and skills to the formulation and implementation of American defense policy.

By describing the evolution of congressional roles in U.S. defense policy in the period since the Vietnam War, I seek to demonstrate the reasons for, and the surprising endurance of, the legislature's newly assertive posture in foreign affairs, and also to describe its conse-

quences for the national interest—both positive and negative. These new congressional roles have emerged despite the efforts of every recent president, from Lyndon Johnson to Ronald Reagan, to minimize the legislature's access and influence. Only when the Executive Branch accepts the fact of congressional influence as a permanent feature in the landscape of U.S. policymaking can the specific formulations of congressional activities be modified to ensure that the legislature plays its part as constructively as possible. George Bush still has the opportunity to cause the reforms described in this volume to come to fruition.

My understanding of the Congress is derivative. Never a member nor full-time employee, I have learned by observing, by listening, and by working informally with dozens of members and their staffs on a variety of projects. Some of the members interviewed for this project are cited in the footnotes; others chose to remain anonymous. Because of the sensitivity of their positions, none of the staff members who contributed to this book are named directly. I can only indicate my respect for the dedication, professionalism, and competence of these talented men and women by way of this book. I hope that they find it worthy.

The book is the result of a project sponsored by the Twentieth Century Fund. Of the many individuals associated with the Fund who helped along the way, I am particularly grateful to Marcia Bystryn, Beverly Goldberg, Carol Kahn, and Roger Kimball for their assistance.

I was very fortunate during the course of the project to have had a series of extraordinarily able research assistants, each of whom contributed significantly to my knowledge of the subject before passing on to more exciting pursuits. I remain deeply indebted to W. Philip Ellis, Kevin O'Prey, Marc Smyrl, and Margaret Sullivan—not only for their solid research and insightful analyses, but also for their good cheer and delightful companionship.

It would not have been possible for me to have completed this book without the help of Dr. David J. Schoetz of the Lahey Clinic in Burlington, Massachusetts. If his standards of performance, professionalism, and humanity were ever matched in Washington, the ideals of the brave men and women who founded and have fought for this Republic would lie much closer to hand.

Finally, I would like to thank Janne E. Nolan, to whom this book

is dedicated. Born knowing more about politics than I will be able to learn in a lifetime, Janne was an inspiration and advisor throughout this project. Far more importantly, in the most difficult moments in Washington and Massachusetts, she did no less than to preserve my soul. I will always be grateful.

*January 1990*  
*Washington, D.C.*

B. M. B.

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# **THE POLITICS OF NATIONAL SECURITY**

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## The Congress and Defense Policy Since Vietnam

Throughout the summer and fall of 1987 the nation was treated to the spectacle of the U.S. Senate striving desperately to save itself from itself. Over a six-month period, against the determined efforts of a small band of Democratic and Republican senators, the majority of the Senate employed an extraordinary series of parliamentary and rhetorical maneuvers to avoid invoking the “war powers” it had been granted in a historic struggle with the executive branch only fourteen years before.

The 93d Congress had passed the War Powers Resolution over President Richard Nixon’s veto in 1973. Impatient with the difficulty of utilizing traditional means—primarily the power of the purse—to force the executive branch to end the war in Vietnam, and determined to ensure that no future commitment of U.S. armed forces in combat take place without prior approval of the legislative branch, Congress passed this unprecedented legislation. Among other things, it required that the president:

Consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances. . . .

[In such situations] submit within 48 hours . . . a report . . . setting forth . . . the circumstances . . . the constitutional and legislative authority . . . the estimated scope and duration of the hostilities or involvement. . . .

Upon submission of such a report the resolution specified that a clock would be set in motion, requiring that:

Within sixty calendar days after a report is submitted . . . the President shall terminate any use of United States Armed Forces . . . unless the Congress . . . has declared war or has enacted a specific authorization for such use of United States Armed Forces. . . .<sup>1</sup>

The situation in the Persian Gulf was one in which “imminent involvement in hostilities” was “clearly indicated by the circumstances.” After seven years of war between Iran and Iraq, both nations had taken to mounting frequent and increasingly deadly attacks on oil tankers and other neutral shipping plying the waters of the gulf. In March the United States agreed to protect eleven Kuwaiti oil tankers by placing them under U.S. flags and providing U.S. warships to escort them. In May, well before the start of this “reflagging” operation, a U.S. frigate, the *Stark*, operating in the gulf was attacked by an Iraqi fighter aircraft. Thirty-seven American sailors were killed, another twenty-one wounded. In July, when the first U.S. convoy set sail, one of the tankers (*Bridgeton*) struck a mine that had been placed by Iranian Revolutionary Guards. In September U.S. helicopters attacked and disabled an Iranian ship that had been observed planting additional mines. In October armed U.S. helicopters attacked a group of Iranian patrol boats that had fired upon a U.S. observation helicopter, sinking one of them. Later that month, following a successful Iranian missile attack on a reflagged tanker at a Kuwaiti oil-loading facility, U.S. warships and naval commandos attacked three platforms in the gulf that were being used by Iran to monitor shipping and to coordinate attacks.<sup>2</sup>

As the level and scope of violence in the gulf escalated, the United States introduced more powerful forces into the region. By October the U.S. Navy’s Middle East force, based in Bahrain, had been increased from three or four destroyers and a command ship to twelve major warships and several smaller vessels. Eleven more U.S. warships, including the aircraft carrier *Ranger* and the battleship *Missouri*, patrolled the northern Arabian Sea, just outside the gulf. The former carried nuclear as well as conventional ordnance for its strike aircraft, while the latter was known to be equipped with nuclear-armed Tomahawk cruise missiles. Sixteen additional U.S. warships were deployed elsewhere in the Indian Ocean.

Given the refusal of local states, including Kuwait, to provide bases for the U.S. forces and the small size of the U.S. installation at Bahrain, temporary support facilities were constructed on barges and platforms. In recognition of the risks of military operations in the gulf, the Defense Department on August 25 decided to authorize "extra danger" pay for U.S. military personnel assigned there.

By the fall of 1987, thus, the War Powers Resolution was clearly pertinent to the Persian Gulf situation. United States forces had been involved in hostilities four times in six months with no signs of diminishing risks. The situation was a classic example of a *de facto*, gradual assumption of a foreign defense commitment that could embroil U.S. forces in combat over a sustained period of time. As the year progressed, the United States was increasingly committed to thwarting Iran's war aims, and to preventing it from disrupting traffic through the gulf.

This was precisely the type of situation that had inspired the 1973 act. Under it the president was required to report to the Congress—prior to commitments of U.S. forces or immediately thereafter—and the Congress was required to vote its consent. If not, the troops would have to be withdrawn *automatically*. Yet in this case, neither the administration nor the Congress was prepared to invoke the law.

The question of the relevance of the War Powers Resolution was first brought up within the administration itself. According to reports, when the question of reflagging Kuwaiti tankers was first raised, White House Chief of Staff Howard H. Baker, Jr., argued that the resolution should be invoked. This was not a typical administration view, but rather reflected Baker's previous three terms as a senator from Tennessee, including four years as the Republican majority leader. The more typical executive branch perspective was expressed by an anonymous senior official as follows: "We don't think much of the War Powers Resolution to begin with and we certainly don't want to report to Congress when we don't have to. . . ."<sup>3</sup>

Such reluctance was not surprising; every administration since President Nixon's has labored to avoid any action that might legitimate the resolution—and most particularly its most onerous provision, paragraph 4(a)(1), which sets in motion the time limit on continued involvements in situations with actual, or imminent risk of, hostilities.

What was surprising in 1987, however, was that a majority of the Senate also seemed "not to think much of the War Powers Resolu-

tion.” As a small group of senators made repeated efforts to force the administration to pay attention to it, a far larger number sought to have the Congress ignore it. A straight-up motion to invoke the resolution was defeated in May; in September, a filibuster prevented a vote on an amendment to the Defense Department’s budget authorization that would have required implementation of War Powers. Senator Dale L. Bumpers (D.-Ark.) subsequently termed the resolution a “eunuch,” Senator Paul S. Trible (R.-Va.) called it a “nullity,” while Senator Lowell P. Weicker (R.-Conn.), chief sponsor of efforts to invoke War Powers for the gulf, called it “de facto dead.”<sup>4</sup>

Later that month Senate leaders, resorting to a familiar Washington tactic to avoid action, floated the idea of establishing a commission to reconsider the War Powers Resolution. Senator Sam Nunn (D.-Ga.) may have said it best: “I think the law’s unworkable, but we have a duty to try to make it work.”<sup>5</sup>

In late October a pale substitute for War Powers was introduced by Senators Robert C. Byrd (D.-W.Va.), the majority leader, and John W. Warner (R.-Va.), known to be speaking for the administration. The resolution would have required the administration to report on the situation in the gulf within thirty days, after which the Congress would have another thirty days to do something (without stating what that might be)—or to do nothing at all. Pointedly, the bill would have negated the War Powers Resolution’s automaticity; U.S. forces would have been withdrawn from the gulf only if the Congress had acted affirmatively, not as a result of its inaction. Even so, the Byrd–Warner proposal was initially rejected 47 to 51. It was finally passed, 54 to 44, after Byrd made clear to his colleagues that failure to act on even this limpid bill was making a mockery of the Congress’s war powers all together: “‘I think the Senate looks simply terrible,’ Byrd said, pacing at his desk. ‘It can’t move. It’s muscle-bound. . . . It can’t act. I hope Senators will choose to step up to their responsibilities.’”<sup>6</sup> However, since no corresponding legislation was acted upon in the House, the Byrd–Warner bill turned into a dead letter.<sup>7</sup>

This extraordinary performance on Capitol Hill in fact had little to do with the substantive merits or demerits of the War Powers Resolution, or even the wisdom or foolishness of the U.S. actions in the Persian Gulf. It was both more personal and more political—the Congress simply was not prepared to take responsibility either for the international consequences of compelling the withdrawal of U.S. forces

from the gulf or for the domestic consequences of the combat that might follow approval of the president's action. The Congress struggled to avoid invoking War Powers because it did not want to be held accountable for either outcome; it was not prepared to choose. It wanted the administration alone to remain responsible, leaving the members of the legislature free to criticize or to applaud, depending upon the outcome of events.

This reluctance to assume responsibility for the involvement of U.S. forces in combat, inherent in most legislators' perceptions of their proper roles, was strengthened the one time the Congress had acted independently to enforce the War Powers Resolution. During the deployment of U.S. Marines in Lebanon in 1983, after a similar minuet over a period of months, the Congress had determined that the War Powers Resolution applied, but it extended the deadline for its approval of the intervention (or the automatic withdrawal of U.S. forces) from the sixty days specified to eighteen months. One month after that action, 241 U.S. Marines were killed by a terrorist's truck bomb, and the contingent was withdrawn soon thereafter. By invoking the resolution but not demanding the troops' withdrawal, Congress implicitly assumed some of the responsibility for the U.S. losses. Voters apparently understood this. The tragedy was thus effectively removed as a political issue. As one Democratic congressman said, "I voted for the Lebanon involvement against my better judgement, and then felt foolish. I was criticized severely, not for the policy, but for supporting Reagan."

Congress's ambivalence on "war powers" is consistent with its approach to a broad range of issues concerning U.S. military affairs. In the early and mid-1970s, in the aftermath of Vietnam and Watergate, the Congress shifted sharply the previous balance between the legislative and executive branches in the formulation and implementation of U.S. defense policy. Writing wholly new types of legislation, and creating new institutions and procedures to support its newly defined roles and powers, the Congress boldly established a more assertive posture than had ever before been imagined for the legislature in the conduct of foreign policy. It put special emphasis on military aspects of the nation's foreign relations.

By the end of the decade, however, few enthusiasts for the Congress's new authority could be found in Washington—even on Capitol Hill. Controversy has raged throughout the 1980s over the constitu-

tionality, the consequences, and the wisdom of the legislature's expanded role in defense policy. Yet with few exceptions, efforts to turn back the clock have been unsuccessful. Institutional pressures and personal interests have been too strong to permit a simple reversal of the changes made in the 1970s. Just as new political realities have led the Congress to assert a greater role in defense policy, they have prevented a straightforward return to the days of executive dominance. The Congress may not necessarily want all the responsibilities of its new powers, but it is totally unprepared to yield the principles of the rights it fought so hard to secure.

The result of this ambivalence has been a continuing dispute over the proper role of Congress in various aspects of defense policy. In addition to commitments of U.S. military forces abroad, this struggle between the executive branch and the legislature has focused on the defense budget, arms control negotiations, arms sales, and covert operations. Spokesmen for the administration have maintained repeatedly that congressional interventions hamper its ability to conduct U.S. defense policy. Officials in both Democratic and Republican administrations have argued that, even when the Congress does not act to assert its new powers, the mere existence of relevant legislation introduces uncertainties that could undermine essential U.S. interests. For their part, congressional advocates argue that the 1970s legislation only reasserted congressional powers that had long, and wrongfully, been neglected. They criticize successive administrations for refusing to implement the spirit of the new legislation, for acting in bad faith, and for needlessly complicating what might have been smooth cooperation between the branches in fulfillment of their respective constitutional responsibilities.

The primary result of the continuing struggle has been inconsistency and incoherence in U.S. policy. The congressional revolution of the 1970s has come and gone, and so too the conservative Thermidor of the early 1980s, but a synthesis continues to elude the U.S. system of government. The congressional desire to play a major, visible role in defense policy remains effective, as does the executive desire to minimize congressional involvement. The two branches often compromise, but only on specific cases, not on principle. As a result, U.S. defense policy becomes uncertain and halting; those dependent upon predictability in U.S. policy—leaders of friendly governments, U.S. defense industry executives, arms control negotiators, and many oth-

ers—are reluctant to enter into long-term agreements or to predicate their decisions on promises.

It is clearly in the U.S. interest to resolve this clash of wills. The new congressional role cannot be reversed, but neither can it be as far-reaching and pervasive as might have been assumed in the mid-1970s. What is necessary is a pragmatic assessment of the two branches' interests and objectives, and a mutual understanding of how they each affect U.S. policy. A new implicit agreement on their respective rights and obligations might result from such an assessment, one that takes more realistic account of the political forces that inevitably dominate both congressional and executive decision making. The value of such a review might ultimately be the formulation of more coherent and stable policies.

### **The Assertion of Congress's Will, 1973–1978**

Defense policy has been a recurrent source of conflict between the Congress and the executive branch throughout U.S. history. Application of the constitutional system of checks and balances to the conduct of the nation's military affairs has never been easy or straightforward. The words in the Constitution may be clear enough, but their interpretation has always been controversial when it comes to the ambiguities that surround almost any aspect of the nation's defense posture. In considering the practicalities of decisions on various aspects of defense policy, moreover, the Constitution's allocation of powers is inherently contradictory, setting up conflicts between the legislative and executive branches in which the judicial branch is reluctant to intervene. Even relatively activist courts become timid when "national security" is said to be at stake.

For most of the nation's history its foreign relations were narrowly defined, its military establishment small, and its overseas involvements episodic. In this context conflicts over the Constitution's intent with respect to defense policy were of only limited consequence. With the establishment during World War II of a permanent U.S. military presence abroad, however, and with the "militarization" of U.S. foreign policy in response to Soviet initiatives and the nation's own ideologically expansionist ambitions, U.S. defense policy was transformed into a set of activities and postures with far broader ramifications.

Accordingly, the relative power of the two branches of government in setting U.S. defense policy attained far greater significance. Indeed, the march of military technology alone—creating not only weapons of mass destruction but also so-called conventional military forces with the mobility, flexibility, and firepower to be used anywhere in the world—has made the stakes of the conflict over the control of defense policy a matter of, literally, life and death.

The Congress was slow to wake to the transformation of U.S. defense policy following World War II. Throughout the 1950s and early 1960s the legislature was content to go along with presidential initiatives, ceding authority and postdating its approval of military actions from Korea through the Middle East to the Gulf of Tonkin.<sup>8</sup>

It was the Vietnam War, of course, that changed all this—wrenching the Congress into the harsh realities of life in the late twentieth century. In the late 1960s and early 1970s the intensifying economic and social consequences of Vietnam, and eventually its impact on the basic fabric of American life as American deaths and casualties mounted and as returning veterans and alienated students bespoke the profound divisions in American society, finally led Congress to act. It began to lose patience with successive administrations' unwillingness, or inability, to stop the nation's losses. It was primarily the younger members of Congress who stirred this rebellion—often against the wishes and power of more senior congressional leaders—just as it was the younger generation of Americans who created the political forces that made the congressional "usurpation" possible.

Other events added momentum to the congressional drive—the Watergate scandal, most importantly, but also the revelations of intelligence agencies' illegal intrusions into U.S. domestic affairs. Together these events gave the impression, only slightly exaggerating the reality, of an executive branch out of control, a combination of circumstances demanding congressional action to protect the American people from their own president.

As the Congress pushed successfully against its own leaders, as well as against the executive branch, tasting the greater freedom of action made possible in the political climate of the mid-1970s, its forays into sectors of defense policy previously reserved exclusively for the president drove deeper and wider. Actions to cut off funding for the Vietnam War and to curtail U.S. military forces in Southeast Asia were soon followed by congressional reviews of U.S. military commitments