



Presidential Power in War

William G. Howell

Harris School of Public Policy and Department of Political Science, University of Chicago, Chicago, Illinois 60637; email: whowell@uchicago.edu

Annu. Rev. Polit. Sci. 2011. 14:89–105

The *Annual Review of Political Science* is online at polisci.annualreviews.org

This article's doi:
10.1146/annurev-polisci-040609-155927

Copyright © 2011 by Annual Reviews.
All rights reserved

1094-2939/11/0615-0089\$20.00

Keywords

president, separation of powers, Congress, emergency powers

Abstract

This review critically evaluates the largely consensual view that wars naturally and reflexively augment presidential power. After summarizing the key arguments advanced by presidency scholars in the aftermath of World War II, this article canvasses the existing empirical basis for their claims and the theoretical microfoundations upon which they are offered. Both appear wanting. Few systematic studies yield unambiguous evidence that the adjoining branches of government reliably support elements of the president's domestic or foreign policy agendas during war that they otherwise would oppose. And no one, to date, has offered a clear theory explaining why either Congress or the courts would behave in this way. The article therefore calls for continued empirical research on the causal effects of war on presidential power, and for renewed investments in theories that might account for the ways in which war figures into congressional and judicial voting.

INTRODUCTION

For centuries, statesmen and scholars have argued that wars contribute mightily to presidential power. From Alexander Hamilton, who in *Federalist 8* recognized that “it is the nature of war to increase the executive at the expense of the legislative authority,” to John Yoo (2009, p. vii), who some 230 years later lauded the fact that “war acts on executive power as an accelerant, causing it to burn brighter, and swifter,” a long and bountiful intellectual tradition has explored the extraordinary influence wielded by wartime U.S. presidents, and the ways in which wars have altered the office of the presidency itself.

To substantiate such claims, political scientists, legal scholars, and historians retell familiar historical examples: Lincoln’s suspension of habeas corpus and indomitable control over the federal government during the Civil War; Wilson’s efforts to mobilize a country through World War I; and Roosevelt’s unprecedented involvement in the domestic economy during World War II. Each of these three wars ushered in massive changes to national policies concerning the tax code, wage and price controls, civil rights, civil liberties, and labor–management relations. The wars also altered the design of the administrative state itself, yielding an extraordinary expansion of federal agencies—many of which were under the immediate control of presidents—designed to write and implement public policy. In 1956, Rossiter summarized the lesson of these episodes: It has become an “axiom of political science,” he notes (Rossiter 1956, p. 64), that “great emergencies in the life of a constitutional state bring an increase in executive power and prestige, always at least temporarily, more often than not permanently.”

Rossiter, of course, did not have the final word on all matters involving war and the presidency. Indeed, a great deal has been written of late about the domestic politics of war, with scholars scrutinizing the public’s variable willingness to support wartime presidents (recent examples include Berinsky 2009 and Gelpi et al. 2009), media coverage of war

(Baum & Groeling 2009), congressional efforts to influence how and when we wage war abroad (Howell & Pevehouse 2007, Kriner 2010), wartime casualties (Kriner & Shen 2010), and the impacts of war on state development (Higgs 1987). These works, moreover, only scratch the surface of recent empirical studies of war and domestic politics.

This article cannot possibly do justice to such a vast body of work. I therefore set my sights on a more modest objective: to take stock of the three literatures that most explicitly scrutinize how wars augment the president’s ability to advance his policy agenda (if indeed they do). These literatures, which I examine in turn, consist of sweeping historical narratives of the presidency during the nation’s largest wars, quantitative studies of the conditions under which presidents exert more or less influence over public policy, and legal inquiries into the appropriate criteria judges and Justices utilize when adjudicating wartime disputes of presidential policies. Collectively, this scholarship offers trenchant insights into the linkages between war and presidential power. Each individual literature, though, confronts nettlesome challenges and critical limitations. I therefore conclude with a call for renewed scholarly inquiry—both empirical and theoretical—into the particular ways in which wars contribute to presidential power.¹

PRESIDENCY SCHOLARS AT MID-TWENTIETH CENTURY

Political scientists did their most serious and sustained thinking about the relationships between war and presidential power in the middle of the twentieth century. Then, the topic stood at the very center of studies of the U.S. presidency specifically and political institutions more generally. And no wonder. The profound political changes wrought by two world wars,

¹Elements of this article draw from Howell & Johnson (2009).

and a civil war not far behind, demanded explanation. And so the likes of Edward Corwin, Clinton Rossiter, and then Arthur Schlesinger set about examining wars' contributions to the emergence of a distinctly modern presidency, one equipped with new powers and resources, each deemed essential to the leadership required to meet the challenges of a new world order. Although the details of their accounts differed in important ways, each of these scholars argued that, through wars, presidents found the means by which to exalt their position within a system of separated and federated powers, and to become the focal point of federal policy initiative and change.

The Conventional Account

An entire chapter of Corwin's masterwork, *The President, Office and Powers* (1957 [1940]), is devoted to the issue of presidential power during times of war, as are a series of University of Michigan lectures published as *Total War and the Constitution*. Reflecting on the three largest wars, Corwin sees the president's constitutional authority at its apex. Lincoln, Wilson, and Roosevelt all flexed their Article II muscles, and Congress and the courts steadfastly refused to stand in their way. Indeed, Corwin observes, Congress during these wars actively supplemented the president's constitutional powers with new statutory authority over all sorts of policy domains; and at least as long as troops remained in the field, the courts refused to interfere. Corwin concludes that "the principal canons of constitutional interpretation are in wartime set aside so far as concerns both the scope of national power and the capacity of the President to gather unto himself all constitutionally available powers in order the more effectively to focus them upon the task of the hour" (1957 [1940], p. 262). A kind of "wartime jurisprudence" supplants a "peacetime jurisprudence" for at least as long as American troops are fighting and dying.

Over the course of his career, Corwin appeared conflicted over whether presidential power promptly reverts to its prewar status

when fighting at last ceases. Writing just a few months after the United States's entry into World War I, Corwin suggested that, "In the heat of war the powers it confers are capable of expanding tremendously, but upon the restoration of normal conditions they shrink with equal rapidity" (Corwin 1917, p. 153). If true, then those who worry about the state of the Constitution during war need only hasten the return of peace. But later in life, Corwin recognized that powers exercised during war may spill over into times of peace—that "constitutional practices of wartime have molded the Constitution to a greater or less extent for peacetime as well" (Corwin 1957 [1940], p. 262). Corwin further suggested that when presidents confront altogether new crises, they benefit from the powers claimed during past ones. "In each successive crisis the constitutional results of earlier crises reappear cumulatively and in magnified form" (Corwin 1957 [1940], p. 262). New peaks of presidential power are reached with every successive presidency, as today's wartime president draws on all of the precedents of past wars, and tomorrow's adds to that stockpile the actions and arguments asserted by today's.

The resulting increase in wartime presidential power may be steady, but it need not be monotonic. The precedential value of some wars, after all, is markedly greater than others. In this regard, Corwin distinguishes the Civil War from World Wars I and II. Defined by Lincoln's fleeting incursions into the domestic polity and his compunction to pay continual homage to constitutional limits on presidential power, the Civil War, in Corwin's mind, did not fundamentally alter the office of the presidency. But with their development of massive wartime administrations, sweeping claims of presidential power, and emergency delegations of authority, the two world wars plainly did.

In even less qualified terms, Rossiter (1956) develops many of the same arguments. Trying to account for the astronomical rise of presidential power during the nation's first 200 years of history, Rossiter observes, "In such time, 'when the blast of war blows in our ears,' the

President's power to command the forces swells out of all proportion to his other powers" (1956, p. 12). This influence, however, is not confined to the conduct of war. By Rossiter's account (1956, pp. 64–65), it permeates policy domains that are only tangentially related to the war effort:

As proof of this point, we need only think of the sudden expansion in power that the Presidency experienced under Lincoln as he faced the rebellion, under Wilson as he led us into a world war, or under Franklin Roosevelt as he called on Congress to extend him "broad Executive power to wage war" against depression. Each of these men left the Presidency a stronger instrument, an office with more customary and statutory powers, than it had been before the crisis.

This expansion, moreover, is not specific to great presidents in great wars (Rossiter 1956, p. 65):

Nor should we forget lesser Presidents in lesser crises, for these men, too, left their mark on the office. When Hayes dispatched troops to restore peace in the railroad strike of 1877, when McKinley sent 5000 soldiers and marines to China during the Boxer uprising, and when Harry Truman acted on a dozen occasions to save entire states from the ravages of storm or fire or flood, the Presidency moved to a higher level of authority and prestige—principally because the people had now been taught to expect more of it.

According to Rossiter, presidents can claim new influence over the doings of government, even without launching a massive war or keeping troops in the field for extensive periods. The equivalent of a battalion or two will often suffice, and the effects may be felt almost immediately.

In his doctoral dissertation, *Constitutional Dictatorship: Crisis Government in the Modern Democracies*, Rossiter is especially emphatic about the necessity of resurrecting an

all-powerful executive for the duration of wars. Unless power is concentrated in the presidency, government policy reaches beyond its typical bounds, and the executive branch is liberated from constitutional proscriptions—the three criteria of Rossiter's "constitutional dictator"—a state's ability to survive is unnecessarily imperiled. While recognizing that an expansion of presidential power during war does not of itself ensure state survival, Rossiter insists that, other things being equal, "a great emergency in the life of a constitutional democracy will be more easily mastered by the government if dictatorial forms are to some degree substituted for democratic, and if the executive branch is empowered to take strong action without an excess of deliberation and compromise" [2005 (1948), p. 288]. Should they renounce constitutional dictatorship, governments conspire in their own demise.

This brings us to another distinction between Rossiter's and Corwin's treatments of the subject. Rossiter sees the aggrandizement of a wartime executive in much more universalistic terms than does Corwin. Having surveyed the wartime histories of ancient Rome and early twentieth-century Britain, France, and the United States, Rossiter insists that "the universal significance of constitutional dictatorship should need no further demonstration" [2005 (1948), p. 288]. Although the foundations and manifestations of constitutional dictators may vary somewhat across different systems of government, "it is always the executive branch in the government which possesses and wields the extraordinary powers of self-preservation of any democratic, constitutional state" [Rossiter 2005 (1948), p. 12]. Corwin's gaze, by contrast, never leaves domestic shores.

Like Corwin, though, Rossiter recognizes the dangers that accompany a more expansive wartime presidency. State survival may require the adoption of a constitutional dictator, but our lasting form of government and the civil liberties of average citizens pay some cost. "The general principle and the particular institutions of constitutional dictatorship are political and social dynamite," Rossiter admits. "No

democracy ever went through a period of thoroughgoing constitutional dictatorship without some permanent and often unfavorable alteration in its governmental scheme, and in more than one instance an institution of constitutional dictatorship has been turned against the order it was established to defend" [Rossiter 2005 (1948), p. 13]. The people and the legislative and judicial branches of government must doggedly guard against the exercise of powers of constitutional dictatorship in periods of peace or in the service of objectives that have little to do with state survival. But while conceding such "formidable dangers" and "knotty problems," Rossiter also reaffirms the basic importance of an unfettered wartime executive. The challenge, Rossiter argues, is not to abandon constitutional dictatorship. It is to recognize its true form and to renounce any imitations.²

From the Civil War and two world wars, both Corwin and Rossiter constructed historical narratives that were meant to support basic principles about the stimulating effects of war on presidential power. Future wars would provide future scholars with opportunities to do the same. For if World War II produced a distinctively "modern" presidency, as many presidency scholars have suggested, subsequent wars yielded still more opportunities for presidents to augment their power. With the Korean and Vietnam wars, in particular, members of Congress appear to have abdicated what remained of their constitutional war powers (see, e.g., Fisher 2000, 2004). And in assuming primary control over the conduct of war, presidents managed to expand their power more generally. By Nixon's second term, presidents had so distorted the constitutional order that the nation's very system of governance appeared to be in crisis. In 1973, Arthur Schlesinger, Jr. summarized the views of many constitutional law scholars and historians by heralding the emergence of an "imperial presidency."

²For 11 criteria by which to identify and then evaluate constitutional dictatorships, see Rossiter 2005 (1948), pp. 297–306.

Schlesinger's core argument rests on the premise that presidential power ebbs and flows during times of peace and war. For Schlesinger (1973), presidential power was "resurgent" in World War II, "ascendant" in the Korean War, and "rampant" in the Vietnam War. In each of these wars, presidents further encroached on Congress's constitutional war powers—such that by the Vietnam War, the practice of war appeared altogether out of sync with the principles laid out in Articles I and II of the Constitution. These facts, though, had consequences that went well beyond decisions about military matters. With war power firmly in their grasp, Schlesinger recognizes, modern presidents could lay claim to all sorts of foreign and domestic policies. The translation of war power into general power appeared entirely self-evident. After all, asks Schlesinger (1973, p. ix), "If the President were conceded these life-and-death decisions abroad, how could he be restrained from gathering unto himself the less fateful powers of the national policy?"

In two ways, Schlesinger's argument differs from Corwin and Rossiter's. First, Schlesinger sees a direct connection between the size of a war and the amount of power accrued by the president. Whereas Rossiter suggests that most any war will redound to the benefit of the presidency, Schlesinger primarily fears large-scale and long-standing military enterprises. "The more acute the crisis," he insists, "the more power flows to the president" (Schlesinger 2004, p. 46).

Second, whereas Corwin and Rossiter see successive wars steadily contributing to presidential power, Schlesinger argues that periods of executive expansion and decline have coincided with periods of war and peace. "While war increased presidential power," Schlesinger notes, (2004, p. 52), "peace brought a reaction against executive excess." Whether presidents were weak or strong, in Schlesinger's view of history, fundamentally depended on whether the nation was at war. It was precisely for this reason that Schlesinger sees an interminable and pervasive "war against terror" as such a threat to the nation's system of governance.

Lacking temporal and physical boundaries, a war against terror might irreparably distort the balance of powers between the executive, legislative, and judicial branches of government.

Still, Corwin and Rossiter's observations resonate with Schlesinger. All three see wars catapulting the president to the top of the federal government. When the nation's troops were engaged in battle, presidents wielded unprecedented influence over all sorts of domestic and policy initiatives. Relief from such a state of affairs, if relief were possible, ultimately depended on the return of peace.

Questions Unanswered and, Typically, Unasked

In spite of Corwin, Rossiter, and Schlesinger's exhaustive accountings, certain aspects of the relationship between war and executive power remain overlooked. None of these scholars pays much attention to the possibility that presidential power expands and contracts during the course of a single war. Rather, the discussion tends to suppose that wars deliver a fixed quantity of influence, which the president retains as long as troops remain fighting abroad. But in the immediate aftermath of Pearl Harbor, was Roosevelt exercising the same amount of power as when the fight against the Axis powers appeared to reach a stalemate in the spring of 1944? When the scandals at the Iraqi prison Abu Ghraib came to light in 2004, did Bush wield the same influence over Congress and the court that he had had just after the September 11 attacks? What about the supposed powers conferred by World War II and the Iraq War when, at last, victory appeared within reach in Europe in late 1944 and violence in Baghdad at last subsided in 2007? These questions beg others, which have received equally scant attention. If presidential power waxes and wanes during the course of a single war, what is to explain this variation? Do observed trends covary with successes and failures in the war's prosecution? The public's support for war? Changing assessments of the stakes involved in a particular military campaign?

It also remains unclear just how far presidents can push their policy agenda in different domains. Do wars enable presidents to censure seditious speech and revise health care in equal measure? Corwin, Rossiter, and Schlesinger would probably answer in the negative. But from their published work, it is difficult to discern a standard that allows clear predictions about war's variable impacts on presidential power across different policy areas.

Within the conventional account, moreover, it is virtually impossible to discern whether certain features of war might actually constrain a president's ability to exercise power on the home front. The costs of war, political and otherwise, remain altogether missing from the discussion. From the work of Corwin, Rossiter, and Schlesinger, it is extremely difficult to make sense of a Korean War that drove Truman's approval ratings into the low twenties; a Vietnam War that, just as it began to escalate, derailed Johnson's presidency; or an Iraq War that hung like an albatross around the neck of Bush during his second term. Minor wars, such as the actions in Lebanon and Somalia, yielded costs of their own—diverting resources away from other policy initiatives, requiring justification at home and abroad, and causing substantial embarrassment to the president himself. How do these variables figure into Rossiter's "axiom" that presidential power necessarily expands during war?

Nor are Corwin, Rossiter, and Schlesinger clear about the defining feature of war that does so much to stimulate presidential power. At the peripheries of their narratives is some recognition that the rules of politics invariably change when the life of the nation is at risk, and that the rules change in ways that favor the individual charged with ensuring the nation's survival. This may go some distance toward explaining events around the Civil War and, perhaps, World War II. But the life of the nation decidedly was not imperiled in World War I, nor in the lesser conflicts that arose in the second half of the twentieth century. What was it about these conflicts, then, that spawned an "imperial presidency"? To be

sure, the outcome of these wars had important implications for national economic and security interests. But such interests are often at stake, whether or not the nation's military is actually engaged in battle. The failure to peacefully resolve differences between states does not entail a unique moment when the national interests are suddenly imperiled. Such interests are continually negotiated, and for at least the past half century presidents have remained the chief defender of such interests in international relations. So again, what is it about war, *per se*, that propels presidential power to new heights?

Theory Neglected

Though gallons of ink have been spilled on the proposition that wars augment presidential power, most work on the subject has taken the form of a simple assertion made over and over again, rather than a well-developed theory whose microfoundations are specified with increasing clarity. As Skowronek (2008, p. 151) points out, “the politics behind the imperial presidency thesis was never very fully articulated; what there is could be summarized in a single sentence: imperial ambitions breed imperial powers.” This state of affairs is unfortunate. Scholars need theory in order to make sense of the interdependencies of presidential power and war. Without theory, scholars cannot readily identify which elements of presidential power are likely to expand, and the precise conditions under which they will do so.

Periodically, one can detect the glimmers of a theory. In each instance, however, basic problems remain unresolved. For Rossiter, wars lead to the expansion of presidential power “principally because the people [have] now been taught to expect more of it” (Rossiter 1956, p. 65). There is something unsatisfying, though, about an argument taking this basic form: Presidential power expands; witnessing such expansion, the public expects more of the president, and therefore presidential power expands even further. Schlesinger, meanwhile, offers a more conditional argument, admitting that different wars affect presidential power in different

ways and stipulating that whereas transitions from peace to war lead to expansions of presidential power, transitions from war to peace lead to contractions. The theoretical foundations to such claims, though, are absent: Against the backdrop of a compelling historical narrative about the ascendance of an imperial presidency, Schlesinger advances these propositions not on the basis of well-defined first principles, but instead on their apparent self-evidence.

Lacking theory, we cannot formulate answers to foundational questions. If wars constitute a boon to presidential power, for instance, what is the precise cause of the phenomenon? Does an expansion of presidential power result from the voting habits of a deferential Congress? Or does it reflect the propensity of an impressionable public to rally behind its president? Could the rulings of a judiciary lacking the powers of either the purse or the sword be to blame? Each of these possibilities teaches us very different lessons about the workings of our system of governance. And each rests on very different assumptions about the behavior of political actors.

Take, for instance, the possibility that congressional checks on presidential power slacken during times of war. Corwin writes a great deal about Congress's willingness, eagerness even, to delegate broad powers to the president. It remains unclear, though, why the existence of war, even a popular, successful war, ought to encourage individual members of Congress to side with the president on altogether separate issues. What theory of congressional behavior predicts that a Democratic member of Congress would oppose a Republican president's tax cuts during a time of peace but support them during a time of war? Similarly, why would a Republican member of Congress oppose a Democratic president's welfare initiative in peacetime but support it in wartime? In either instance, the precise qualities of war and the foundations of congressional behavior that might evince such an about-face remain unidentified.

If one wants to argue that elements of the president's legislative agenda will fail in peace but succeed in war, one must be able to

identify whose behavior changes within Congress. Presumably, all peacetime opponents do not become wartime supporters. Often, in fact, only a handful of members need reconsider their position for a policy initiative's fate to change. Unfortunately, though, the extant literature says little about the identity of these members. One wonders whether the president's newfound success—if such success genuinely exists—derives primarily from copartisans rallying behind their leader, from moderate partisan opponents willing to grant the president some discretion in a crisis, or from an altogether random assortment of members changing their positions for largely idiosyncratic reasons.

Lacking theory, we also cannot know if forgotten elements of the president's agenda might revive when the nation turns to war. The right barometer may concern a policy initiative's proximity to the war effort: Those policies that most immediately concern war (e.g., funding for defense systems) may be most affected, those that are tangentially related to war (e.g., civil liberty protections) may be partially affected, and those that are unrelated to war (e.g., social welfare policies) may be completely unaffected. Alternatively, the extent of peacetime opposition to a bill might be the critical indicator: Those bills that require just a handful of new supporters may find their way into the law books during times of war, while those that require many more continue to languish in congressional committees. A third explanation is that war may not have any impact on actual voting behavior but instead modify the agenda that Congress considers. Wars, by this account, do not alter roll call votes; rather, they change the types of bills that come before a legislative body. All of these explanations, and others besides, remain live possibilities.

These concerns, of course, are not unique to Congress. They apply to the courts as well. The theory of judicial decision making that would explain why judges might uphold elements of the president's domestic policy program during times of war, but overturn them during times of peace, remains unspecified. A great deal, of

course, has been said about why judges *should* behave in this way, whether by reference to the Constitution, conceptions of the public welfare and state sovereignty, or a body of supporting political philosophy. But almost nothing has been said explicitly about why they *would* behave this way—that is, what positive theory of judicial decision making supports the adoption of different standards for evaluating elements of the president's policy agenda during periods of peace and war. Judges may in fact behave as advocates of crisis jurisprudence would have them, but we do not have much theory that predicts such behavior.

Evidentiary Standards

As should now be clear, evidence about the impacts of war on presidential power almost always consists of long narratives of wartime presidential actions. As readers, we are asked to bear witness to presidents seizing industries, imprisoning citizens, monitoring communications, fixing prices and wages, and on and on. The sheer audacity of these actions is offered as *prima facie* evidence of newfound power expressed by presidents and dutifully honored by Congress and the courts. Unfortunately, these accounts do not compare such actions to those taken by presidents during peace, nor to actions that presidents contemplated taking but ultimately abandoned during war. To see this, let's consider each possibility in turn.

Undoubtedly, presidents have done extraordinary things in war, many of which, like the internment of Japanese Americans, are inconceivable during peace. But peacetime presidents too have done extraordinary things. The major civil rights advancements that built on Roosevelt's wartime actions all occurred during times of peace—the 1948 desegregation of the military, the 1957 Civil Rights Act, the 1964 Civil Rights Act, and the 1965 Voting Rights Act. The wartime administrative agencies of Wilson and Roosevelt were either modified or replaced by literally hundreds of administrative agencies created during times of peace (Howell & Lewis 2002). Through a variety of

executive orders issued during peacetime years, presidents extended their influence over the construction and implementation of the regulatory state (Lewis 2003, Moe 2003). It is not clear that these peacetime actions equal the wartime records of Lincoln, Wilson, or Roosevelt. But that is just the point. Demonstrating the exertion of power during war does not establish a case that wars, per se, are responsible for an expansion of executive authority, particularly when we see peacetime administrations wielding much influence over public policy as well.

Corwin, Rossiter, and Schlesinger also have very little to say about wartime actions that presidents contemplated but ultimately forsook. From their historical accounts, those elements of a president's domestic and foreign policy agendas that remained shelved for a war's duration are left to our imagination. But this will not do. It makes a great deal of difference whether wartime presidents realize every element of their policy agenda during war, or whether they achieve but a small fraction of their policy objectives. So that we can assess the various tradeoffs and concessions that presidents are forced to make, whether during peace or war, we need some indication of the policy preferences that underlay these actions. Without this information, it is nearly impossible to assess claims about war and presidential power.

Lacking a basis for either type of comparison, we cannot evaluate the magnitude of influence that wars purportedly confer on presidents. It is not enough to simply list the many things that president have done at home while the nation has fought wars abroad. We also must account for the things they can readily accomplish during peace, and the things they would like to achieve, but cannot, during war.

QUANTITATIVE STUDIES ON WAR AND PRESIDENTIAL POWER

Over the past several decades, a handful of quantitative studies have examined the relationship between war and presidential power. One would hope that this research might fill in

the evidentiary gaps left by Corwin, Rossiter, and Schlesinger. Unfortunately, it does not. The findings on offer, for the most part, do not support the contention that wars lead to an expansion of presidential power. Neither Congress nor the courts, it seems, automatically fall in line behind the Commander in Chief when the nation stands on a war footing. Moreover, the studies have important limitations that make it virtually impossible to assess the main arguments articulated by Rossiter, Corwin, Schlesinger, and others.

Congress

Congressional scholars have explored a wide range of influences on members' voting behavior, focusing attention on their partisan affiliations and majority party status (see, e.g., Cox & McCubbins 1993), their colleagues who serve as committee chairs, party leaders, and copartisans (Matthews & Stimsonson 1975), their general constituencies (Canes-Wrone et al. 2002, Mayhew 1974) and smaller subconstituencies (Clinton 2006, Fenno 1978, Fiorina 1978, Miller & Stokes 1963), constellations of interest groups (Fowler & Shaiko 1987, Kingdon 1989), and, perhaps most powerfully, individual ideologies (Bullock & Brady 1983, Erikson & Wright 2004, Krehbiel 1993, Levitt 1996). Few studies, meanwhile, consider the influence of war, and those that do furnish little support for the contention that wars increase congressional support for the president.

Rudalevige (2002) tracks the fate of presidential initiatives put before Congress during the post-World War II era. He finds that "critical external events" prompt an 18-percentage-point increase in the probability that Congress enacts a bill that is in line with presidential preferences. Unfortunately, the analysis does not test the effect of war per se, for war is merely one of several scenarios that are coded as critical external events. Studies that do explicitly control for war offer more tempered assessments of its influence on presidential power. Cohen (1982) investigates presidential legislative

success during three time periods: 1861–1896, 1897–1932, and 1933–1972. In the quantitative analysis, war's effect is positive and statistically significant in the earliest era but not in either of the two latter periods. In a recent working paper, Schorpp & Finocchiaro (2010) present evidence that members of Congress were more likely to support elements of the president's domestic policy agenda in the Vietnam and post-September 11 wars, but not in the Korean War or Gulf War. Schorpp & Finocchiaro find no evidence that any of these wars increased the chances of members of Congress supporting elements of the president's foreign or defense agendas.

By expanding the definition of war to include the Cold War between the United States and the Soviet Union, and by further restricting the analysis to foreign policy initiatives, some scholars have unearthed evidence of a relationship between war and presidential influence in Congress. Examining roll call votes taken between 1947 and 1988, Meernik (1993) finds that hot and cold wars encourage congressional support for the president's foreign policy and defense proposals. According to Meernik, presidents enjoyed greater levels of support in both the House and Senate during the first half of the Cold War, and greater levels of support in the Senate during the Korean War and Vietnam War. Other scholars reach similar conclusions but code for altogether different periods of the Cold War. For instance, Prins & Marshall (2001) examine foreign, defense, and domestic policies introduced between 1953 and 1998. Identifying the first half of the Cold War as 1953–1973, they find a significant positive effect for foreign and defense policies but not for domestic policies. Wittkopf & McCormick (1998) investigate trends in congressional support for the president between 1983 and 1996 and present evidence that interbranch conflicts rose in the years immediately following the Cold War. Given the authors' varying approaches to coding the Cold War years, it is difficult to interpret their collective findings. It is worth noting, though, that whatever

influence the Cold War bestowed on the president, it did so only in foreign policy.

Courts

Methodologically, Epstein et al. (2005) offer one of the most careful empirical studies on judicial decision making in recent memory. Surveying the universe of Supreme Court cases involving civil liberties during the latter half of the twentieth century, Epstein and her colleagues find substantial evidence that the courts do in fact take a narrower view of individual rights during periods of war. Interestingly, though, they find that the courts are more likely to overturn policies that directly involve a war effort and that infringe on individual rights. Unfortunately, these findings speak only tangentially to issues involving presidential power. Many of the cases in their dataset concern challenges to laws enacted by Congress, rather than policies directly advanced by presidents. Hence, it is difficult to know whether a particular ruling supports Congress, the president, both, or neither.

In her survey of U.S. tax policy and civil liberties, Staudt (2011) similarly finds that the judiciary is more likely to side with the U.S. government during times of war. During "cued" wars, which require Congress to take some positive action to prepare the nation for war, Staudt finds that the Supreme Court is about four percentage points more likely to side with the government. During actual wars, however, the Supreme Court does not appear any more likely to issue rulings that increase the federal fisc. Staudt provides no evidence, moreover, on whether the findings in these tax cases apply to the broader range of policies advanced by the U.S. government generally, or the president in particular. And like that of Epstein et al., Staudt's sample includes cases that relate as much to Congress as they do to the president.

In a study of appeals-court rulings on noncriminal cases over a 100-year period, Clark (2006) finds no evidence of heightened judicial deference to the U.S. government

during periods of war. In fact, Clark's findings suggest that appellate judges are significantly more likely to rule against the president during wartime, leading him to conclude that "constitutional checks and balances placed on executive power do not necessarily collapse during wartime" (Clark 2006, p. 416). He presents no evidence, however, about Supreme Court rulings.

Collectively, these three studies yield mixed assessments of the relevance of war for judicial decision making. It is not altogether clear, though, how any of these studies implicates the president, *per se*. Either because they focus on a particular policy issue or because they equate the "U.S. government" with the president, these studies do not yield clear estimates of the impact of war on judicial support for the president's policy agenda. Moreover, in each of these studies, selection biases make it difficult to draw strong causal inferences. It is quite possible, probable even, that judges hear very different types of cases during times of war than during times of peace. On especially high-profile cases, judges may delay rendering a decision until after a military conflict has subsided. And Supreme Court Justices may refuse to grant certiorari in cases that would certainly command their attention during periods of peace. Recognizing these challenges, Clark (2006, p. 416) cautions that "much further analysis [is required] before a broad claim may be staked about the nature of noncriminal adjudication during wartime."

Limitations

Clark's admonition applies to more than his own research. Truth be told, the entirety of existing quantitative research yields little basis for causal inferences about the systematic impacts of war on either Congress's or the judiciary's willingness to back the president. Two limitations of this research stand out, the first of which centers on how to define war. Many studies identify only those periods in which the United States was involved in hot wars, such as Korea, Vietnam, and the two Persian Gulf

wars.³ Other scholars opt to cast a wider net, recognizing such smaller deployments as those that occurred in the 1980s and 1990s in Panama, Somalia, Haiti, Bosnia, and Kosovo. And still other scholars focus on the Cold War between the United States and the Soviet Union, and various periods therein. Over time, defining wars in different ways may make a great deal of sense. Perhaps different wars affect presidential power in different ways, and scholars would do well to account for their distinguishing characteristics. It seems perfectly reasonable to expect that a war's size, popularity, duration, and ultimate success may crucially define its contributions to presidential power. In the short run, however, the existence of multiple definitions of war makes it difficult to compare results across studies.

Without an agreed-upon definition of war, it is also difficult to ascertain the varying influences that longstanding military commitments in a single country or region can have on presidential power. During the course of one war, changes in the number of troops deployed, revelations about its costs and benefits, and evolving sentiments about whether the venture itself was justified may further condition the influence of war on presidential power. The Vietnam War, for instance, started out as a series of small deployments of military advisors, steadily escalated into a full-fledged war under a Democratic president, and then morphed into a seemingly intractable campaign under a Republican president. There is no reason to expect that the nation's involvement in Vietnam in the mid 1960s had the same impact on presidential power as its involvement in the early 1970s. The existing literature on war and presidential power aims to uncover the average effect of war and tends to ignore its variance.

The second problem, however, is considerably more troubling. Virtually all of the

³Unfortunately—yet not surprisingly, given the challenges of obtaining decades-old data—these analyses often exclude the two world wars, which provided much of the initial inspiration for Corwin, Rossiter, Schlesinger, and others who warned of imperial presidents.

congressional studies on presidential power treat war as a control variable, rather than as the key explanatory variable of interest. And by relegating war to the status of background control, these studies do not confront the extraordinary selection effects that complicate any effort to evaluate the causal impacts of war. Because wars are not randomly assigned across history, and because all political actors, emphatically including presidents, continually adjust to new political developments, it can be extremely difficult to discern variable allotments of executive power from trends in presidential actions and congressional responses.

The two existing studies of judicial decision making do put war front and center. Moreover, each suggests valuable ways of mitigating the equally deep selection problems that plague empirical studies of the courts. Epstein et al. (2005) employ a variety of matching techniques, which relax functional form assumptions, and Clark (2006) looks at appellate court rulings, which, unlike Supreme Court rulings, are not subject to certiorari decisions. Alone, though, neither of these approaches rules out the possibility that recovered estimates reflect changes in litigant strategies rather than adjustments to judicial opinions during war and peace. And in any case, with just two empirical studies published on the topic, a great deal more research is clearly needed.

LEGAL LITERATURE ON “CRISIS JURISPRUDENCE”

An extraordinary amount of legal scholarship debates the relevance of war in judicial decision making. (For useful recent summaries, see Cole 2003, Epstein et al. 2005, Gross & Ni Aolain 2006, Tushnet 2003.) Hundreds of jurists have contributed to this scholarship, which goes by a variety of names—most commonly “crisis jurisprudence” (Epstein et al. 2005) but also the “constitutional law of war” as distinct from the “constitutional law of peace” (Corwin 1947, p. 76), “executive expediency discourse” (Paul 1998), the “doctrine of constitutional relativity” (Smith 1951), and the “judicial deference

thesis” (Posner & Vermeule 2007). Its sources and appellations vary, but this literature has a single purpose: to offer clear counsel to judges who are asked to adjudicate disputes about government actions taken during war.

Though most of the literature on crisis jurisprudence focuses on government abridgements of individual rights, a good deal of it implicates the president. It is the president, after all, who is charged with assessing foreign threats, formulating responses to them, and ultimately executing the nation’s wars. And when attending to the domestic front during times of war, presidents, as we have seen, do a great deal more than curtail civil liberties. They interfere in labor–management disputes, seize domestic industries, set prices, and ration scarce goods; they create, kill, and redesign administrative agencies; and much, much more. It remains entirely unclear how the courts ought to respond to these actions—and whether judges ought to account for war in their verdicts about them.

Crisis jurisprudence responds decidedly in the affirmative. To be sure, significant disputes persist about the particular conditions under which judges ought to invoke crisis jurisprudence. The core thesis of crisis jurisprudence, though, can be stated quite simply: When the life of the nation is in danger, the courts should grant presidents the latitude they need in order to prosecute wars; and consequentially, at least some presidential actions—both international and domestic—that do not survive judicial scrutiny during times of peace justifiably do so during periods of war. Crisis jurisprudence thereby constitutes a direct repudiation of the notion, often expressed by judges themselves, that the government cannot change “a constitution, or declare it changed, simply because it appears ill-adapted to a new state of things” [*South Carolina v. United States*, 199 U.S. 437 (1905)]. On the contrary, crisis jurisprudence insists that the Constitution, if it is to survive, must adapt and evolve. The material context in which presidents operate crucially shapes the judiciary’s assessment of the constitutionality of their actions. And the context of war legitimates presidential action like no other.

Under most accounts, wars do not introduce a formal set of rules or procedures that explicitly bind the Justices to one course of action or another. Crisis jurisprudence, as such, is not a formal doctrine or principle that wars automatically trigger. Rather, it takes the form of what might be called a norm—an encouraging reminder that during war judges should defer to the president, whenever and however possible. But if they are not convinced of the connection between a newly introduced policy and the conduct of war, or if other competing considerations (e.g., claims about civil liberties, clear evidence of congressional opposition, and the like) are at stake, judges have every right to rule against the president.

Squaring Normative and Positive Claims

Consonant with most legal literatures, the vast preponderance of papers and books on crisis jurisprudence is essentially normative in nature. Scholars have offered a wide range of reasons why judges should employ crisis jurisprudence—why, that is, our nation would be safer, our system of government would function better, or our standing in the world would improve if judges appropriately deferred to their wartime presidents (see, e.g., Posner & Vermeule 2007). It is less clear, though, why we should expect judges to follow this advice. As a consequence, it is difficult to square normative arguments about crisis jurisprudence with positive claims about judicial decision making within political science. Indeed, the most influential theory of judicial decision making within political science—that is, the attitudinal model (Segal & Spaeth 2002)—has very little to say about war. For attitudinalists, when trying to predict the outcome of a Supreme Court case, all that matters is the presiding Justices' ideological convictions. Conservative Justices predictably rule conservatively. Liberal Justices rule liberally. All the careful reasoning spelled out in their opinions amounts to little more than dressed-up chicanery.

How might we reconcile the basic proposition that Supreme Court rulings reflect the unconstrained ideological preferences of judges with the core predictions of crisis jurisprudence? To answer this question, we need to show that Justices' views about war somehow are embedded in the ideological and partisan commitments that play such a central role in the attitudinal model. It turns out, though, that there is very little evidence that conservatives and liberals have distinct views about either the kinds of wars that the nation should enter or the frequency with which they should wage them. We simply lack an evidentiary basis for expecting that disagreements about when and whether to go to war will map neatly onto the kinds of ideological tendencies emphasized in the attitudinal model. For the moment, though, let's imagine that such evidence existed. If it did, then the attitudinal model would predict that Justices would support only those wartime presidents who shared their worldviews—not that Justices would assume a more deferential posture to all wartime presidents, as crisis jurisprudence recommends. Viewed this way, crisis jurisprudence constitutes something of a challenge for attitudinalists, as it requires Justices to set aside their policy preferences and defer to a wartime president who may be fighting a war that the Justices themselves oppose.

Viewed from another perspective, crisis jurisprudence does not so much challenge the attitudinal model as it introduces a set of considerations that simply are beyond its purview. Contrary to public impressions, it simply is not the case that liberal presidents and members of Congress are doves, or that conservative presidents and members of Congress are hawks (Howell & Pevehouse 2007). We have no reason to believe that judges and Justices differ from presidents and legislators in this regard. If Justices' general support for military action is the most salient consideration for adjudicating wartime disputes, and if this consideration is uncorrelated with standard conceptions of liberalism and conservatism, then

nothing about the attitudinal model rules out the possibility that liberal Justices will go out of their way to support conservative wartime presidents or vice versa. Note, though, that if Justices engage in such behavior, they do so for reasons that are entirely outside of the attitudinal model's domain. Attitudinalists, by this account, are right to emphasize Justices' unconstrained policy views as the best predictor of their wartime decisions—but these views have nothing to do with the basic conservative and liberal leanings that reside at the center of the attitudinal model.

Evidentiary Standards

Not surprisingly, the legal literature on crisis jurisprudence lacks the broad historical sweep that characterizes the work of Corwin, Rossiter, and Schlesinger and the empirical rigor of more quantitative studies of presidential power. In one important sense, though, the legal literature has a leg up on these other bodies of work: It carefully scrutinizes the opinions that accompany wartime rulings; and in these opinions, judges and Justices openly reflect on the relevance of war for adjudicating disputes over presidential actions and policies.

Wartime rulings, particularly those that validate rather extraordinary exercises of presidential power, are full of references to the material relevance of wars for assessing the proper scope of presidential power. *Korematsu v. United States* (1944), the Supreme Court case that approved the internment of Japanese Americans during World War II, stands out as a case in point. Justice Felix Frankfurter insisted that “the validity of action under the war power must be judged wholly in the context of war. That action is not to be stigmatized as lawless because like action in times of peace would be lawless.” It is because the nation is at war, Frankfurter reasoned, that the courts must grant presidents a measure of deference that peacetime presidents never see. The objective fact of war stands as the governing rationale for upholding presidential actions that, by all accounts, would not survive judicial scrutiny during peace.

Even when they overturn presidential wartime initiatives, Supreme Court Justices make a point of conveying their appreciation for the material threat that the nation faces. Indeed, landmark repudiations of presidential power during periods of war—as in *Ex Parte Milligan* (1865) and *Youngstown v. Sawyer* (1952)—acknowledge the practical challenges presidents face in leading the nation to military victory. Moreover, when they overturn presidential wartime initiatives, Justices often intimate that the Court might have ruled differently if either the exigencies of war were more immediate or the president's initiative more integral to the war effort itself (Howell 2009).

The contents of judicial opinions, of course, do not constitute dispositive evidence that wartime considerations *caused* judges and Justices to rule as they did. It is quite possible, probable even, that Justices reason backward from positions they take on purely ideological grounds. Still, that judges and Justices feel compelled to signal to the president, Congress, and public that they understand the security threat facing the nation, and that they appreciate the sacrifices of those individuals who are trying to address it, is itself of some consequence. Indeed, it may constitute the clearest evidence that we have of institutional checks on presidential power slackening during times of war.

CONCLUSION

It will not do to continue reiterating the basic assertion that war and presidential power go hand in hand. If theoretical progress is to be made, scholars must not presume such comity but instead initiate the harder work of scrutinizing it. And empirically, scholars must do more than include war as one among many background controls in standard regression models. Instead, they must design tests that directly evaluate war's variable contributions to presidential power.

The insights offered by Corwin, Rossiter, and Schlesinger—subjected to quantitative tests by subsequent generations of scholars, and residing at the periphery of rich normative

debates about crisis jurisprudence—are not so much wrong as they are in need of refinement. The historical narratives on offer have a number of important flaws, not least of which is their inattention to the variable costs of waging war. Modern political scientists, meanwhile, have unearthed precious little quantitative evidence that presidential power expands during times of war.

The conventional account is also wanting on theoretical grounds. While heralding the expansion of presidential power during war, scholars have not developed a clear, deductive theory that explains why judges or members of Congress would permit a presidential action during war that they would oppose during peace. Though adamantly argued, and almost universally presumed, the claim that wars exalt presidential power remains underdeveloped.

Moving forward, we need to develop tests that squarely examine the proposition that presidential power expands during times of war. Such tests, moreover, must address a variety of ancillary issues—differences between the transitions from peace to war and war to peace; differences between the total wars of the first half of the twentieth century and the smaller engagements of the second; and differences between the various policy domains in which presidential power can be expressed. Concurrently, we need to develop supporting theory with clear microfoundations, theory that characterizes the relevance of war for those political actors who would check presidential power, and theory that identifies the particular conditions under which elements of the president's policy agenda will succeed in war when they invariably would fail in peace.

DISCLOSURE STATEMENT

The author is not aware of any affiliations, memberships, funding, or financial holdings that might be perceived as affecting the objectivity of this review.

LITERATURE CITED

- Baum M, Groeling T. 2009. *War Stories: The Causes and Consequences of Public Views of War*. Princeton, NJ: Princeton Univ. Press
- Berinsky A. 2009. *In Time of War: Understanding American Public Opinion from World War II to Iraq*. Chicago: Univ. Chicago Press
- Bullock C, Brady D. 1983. Party, constituency, and roll-call voting in the U.S. Senate. *Legis. Stud. Q.* 8:29–43
- Canes-Wrone B, Brady D, Cogan J. 2002. Out of step, out of office: electoral accountability and House members' voting. *Am. Polit. Sci. Rev.* 96(1):127–40
- Clark T. 2006. Judicial decision making during wartime. *J. Empir. Legal Stud.* 3(3):397–419
- Clinton J. 2006. Representation in Congress: constituents and roll calls in the 106th House. *J. Polit.* 68:397–409
- Cohen J. 1982. The impact of the modern presidency on presidential success in the U.S. Congress. *Legis. Stud. Q.* 7(4):515–32
- Cole D. 2003. Judicial review and individual rights in times of crisis. *Mich. Law Rev.* 101:2565–95
- Corwin E. 1917. War, the Constitution moulder. *N. Republic* June 9:153–55
- Corwin E. 1947. *Total War and the Constitution*. New York: Knopf
- Corwin E. 1957 [1940]. *The President, Office and Powers, 1787–1948: History and Analysis of Practice and Opinion*. New York: New York Univ. Press
- Cox G, McCubbins M. 1993. *Legislative Leviathan*. Berkeley: Univ. Calif. Press
- Epstein L, Ho D, King G, Segal J. 2005. The Supreme Court during crisis: how wars affect only non-war cases. *NY Univ. Law Rev.* 80(1):1–116
- Erikson R, Wright G. 2004. Voters, issues and candidates in congressional elections. In *Congress Reconsidered*, ed. L Dodd, B Oppenheimer, pp. 77–106. Washington, DC: CQ Press. 8th ed.
- Fenno R. 1978. *Home Style: House Members in their Districts*. Boston: Little, Brown
- Fiorina M. 1978. *Representatives, Roll Calls and Constituencies*. Lexington, MA: D.C. Heath

- Fisher L. 2000. *Congressional Abdication on War and Spending*. College Station: Texas A&M Univ. Press
- Fisher L. 2004. *Presidential War Power*. Lawrence: Univ. Press Kansas. 2nd ed.
- Fowler L, Shaiko R. 1987. The grass roots connection: environmental activists and Senate roll calls. *Am. J. Polit. Sci.* 31:484–510
- Gelpi C, Feaver P, Reifler J. 2009. *Paying the Human Costs of War: American Public Opinion and Casualties*. Princeton, NJ: Princeton Univ. Press
- Gross O, Ni Aolain F. 2006. *Law in Times of Crisis: Emergency Powers in Theory and Practice*. New York: Cambridge Univ. Press
- Higgs R. 1987. *Crisis and Leviathan: Critical Episodes in the Growth of American Government*. New York: Oxford Univ. Press
- Howell W. 2009. Wartime judgments on presidential power: striking down but not back. *Minn. Law Rev.* 93(5):1778–819
- Howell W, Johnson T. 2009. War's contributions to presidential power. In *Oxford Handbook on the U.S. Presidency*, ed. G Edwards, W Howell, pp. 724–46. New York: Oxford Univ. Press
- Howell W, Lewis D. 2002. Agencies by presidential design. *J. Polit.* 64(4):1095–114
- Howell WG, Pevehouse JC. 2007. *While Dangers Gather: Congressional Checks on Presidential War Powers*. Princeton, NJ: Princeton Univ. Press
- Kingdon J. 1989. *Congressmen's Voting Decisions*. Ann Arbor: Univ. Mich. Press. 3rd ed.
- Krehbiel K. 1993. Where's the party? *Br. J. Polit. Sci.* 23(Apr.):235–66
- Kriner D. 2010. *After the Rubicon: Congress, Presidents, and the Politics of Waging War*. Chicago: Univ. Chicago Press
- Kriner D, Shen F. 2010. *The Casualty Gap: The Causes and Consequences of America's Wartime Inequalities*. New York: Oxford Univ. Press
- Levitt S. 1996. How do senators vote? Disentangling the role of voter preferences, party affiliation, and senator ideology. *Am. Econ. Rev.* 86:425–41
- Lewis DE. 2003. *Presidents and the Politics of Agency Design*. Palo Alto, CA: Stanford Univ. Press
- Matthews D, Stimson J. 1975. *Yeas and Nays: Normal Decision-Making in the U.S. House of Representatives*. New York: Wiley
- Mayhew DR. 1974. *Congress: The Electoral Connection*. New Haven, CT: Yale Univ. Press
- Meernik J. 1993. Presidential support in Congress: conflict and consensus on foreign and defense policy. *J. Polit.* 55(3):569–87
- Miller W, Stokes D. 1963. Constituency influence in Congress. *Am. Polit. Sci. Rev.* 57:45–56
- Moe T. 2003. The presidency and the bureaucracy: the presidential advantage. In *The Presidency and the Political System*, ed. M Nelson, pp. 425–57. Washington, DC: CQ Press. 7th ed.
- Paul J. 1998. The geopolitical constitution: executive expediency and executive agreements. *Calif. Law Rev.* 86:671–773
- Posner E, Vermeule A. 2007. *Terror in the Balance: Security, Liberty, and the Courts*. New York: Oxford Univ. Press
- Prins B, Marshall B. 2001. Congress support of the president: a comparison of foreign, defense, and domestic policy decision making during and after the Cold War. *Pres. Stud. Q.* 31(4):660–78
- Rossiter C. 1956. *The American Presidency: The Powers and Practices, the Personalities and Problems of the Most Important Office on Earth*. New York: Harcourt, Brace & World
- Rossiter C. 2005 [1948]. *Constitutional Dictatorship: Crisis Government in the Modern Democracies*. New Brunswick, NJ: Transaction
- Rudalevige A. 2002. *Managing the President's Program: Presidential Leadership and Legislative Policy Formation*. Princeton, NJ: Princeton Univ. Press
- Schlesinger A Jr. 1973. *The Imperial Presidency*. Boston: Houghton Mifflin
- Schlesinger A Jr. 2004. *War and the American Presidency*. New York: W.W. Norton
- Schorpp S, Finocchiaro C. 2010. *Congressional deference to executive interests during times of war*. Presented at Annu. Meet. Southern Polit. Sci. Assoc., Atlanta, GA
- Segal J, Spaeth H. 2002. *The Supreme Court and the Attitudinal Model Revisited*. New York: Cambridge Univ. Press

- Skowronek S. 2008. *Presidential Leadership in Political Time: Reprise and Reappraisal*. Lawrence: Univ. Press Kansas
- Smith L. 1951. *American Democracy and Military Power*. Chicago: Univ. Chicago Press
- Staudt N. 2011. *The Judicial Power of the Purse: How Courts Fund National Defense in Times of Crisis*. Chicago: Univ. Chicago Press
- Tushnet M. 2003. Defending Korematsu? Reflections on civil liberties in wartime. *Wis. Law Rev.* 2003:273–307
- Wittkopf E, McCormick J. 1998. Congress, the president, and the end of the Cold War. *J. Confl. Resolut.* 42(4):440–66
- Yoo J. 2009. *Crisis and Command: A History of Executive Power from George Washington to George W. Bush*. New York: Kaplan