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Summary and Keywords

The U.S. Congress has broad constitutional powers to shape foreign policy. However, Congress rarely shapes foreign policy as an equal partner with the president. Politics has the potential to enhance or lessen Congress's role. What explains changes over time in congressional power in foreign policy? Why does Congress assert itself on some issues but less so on others in U.S. foreign policy? What strategies or tools does Congress employ to shape the nation's foreign policy? The lens of New Institutionalism, two presidencies, and presidential unilateralism connect in useful ways to help explain these kinds of key questions in foreign policy. They offer scholars a future framework to continue to enhance theories explaining variation in congressional assertiveness in foreign policy.

Keywords: Congress, U.S. foreign policy, two presidencies, presidential unilateralism, congressional-executive relations

Congress's Vast Horizon of Constitutional Capacity

E. Corwin famously asserted that the Constitution's division of powers between the executive and Congress created "an invitation to struggle" in the making of U.S. foreign policy (1957, p. 171). Yet, on its face there's little reason to believe the Framer's constitutional design intended Congress to be on the lesser end of this struggle—whether in the realm of foreign or domestic policy. The Constitution's plain language setting forth Congress's powers in foreign affairs is immense in its specificity and breadth. For example, the Framers firmly placed the Dogs of War in Congress's hand, yielding it seven constitutional clauses intending the War Power to be a decidedly one-sided affair.[1] The one notable exception, other than the inarticulate phrase denoting commander-in-chief, carved out executive initiative to repel sudden attacks.[2] Beyond this, however, the

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Framers assumed that Congress's collective conscience was better suited than that of a president to resist the corruption of vanity and love of fame in the cause of war (*Federalist No. 4*).

There does not exist a more momentous judgment than calling the nation to war (Kriner, 2010). Congress can, and has, utilized its power to wage war whether formally through declaration or informally through actions like appropriations. Congress's war powers also imply discretion over the condition of peace (Henkin, 1972; Howell & Pevehouse, 2007B). Congress owns vast legislative powers in the prevention of war (e.g., military buildup, draft, etc.) or to deal with war's consequences (e.g., price controls or conservation) or its aftermath ensuring the future of peace (intelligence and defense infrastructures etc.). As extensive as congressional war powers are, they are by no means its only oar in steering the nation's foreign policy.

Congress has immense enumerated power over other areas in foreign policy derived from a variety of underpinnings such as its authority to regulate commerce.[3] Since the beginning, Congress's commerce power ensured it would be at the forefront in shaping the country's foreign policy. Congress's commerce power provided it with purview over foreign trade, interstate commerce, and has even extended to intrastate issues that impact the interdependence of the interstate economy.[4] The commerce powers have grown so that the legislature can direct core issues in the nation's foreign policy such as trade and finance, transportation, communication, immigration, labor, and crime, to name a few. Inherent from U.S. sovereignty, Congress enjoys additional authority to manage foreign relations that extends beyond any parallel in the domestic arena where some un-enumerated powers are reserved to the states (Henkin, 1972, p. 75). And Congress maintains vital general powers in foreign policy that can be employed for the nation's common defense and welfare as illustrated through its control over the federal purse (Fenno, 1966; Fisher, 2000; White, 1993).[5] Congress also wields "necessary and proper" powers that it can exercise in the course of its enumerated foreign policy powers. Moreover, these general powers concede to Congress the control over the executive bureaucracy responsible for carrying out the president's bidding in foreign policy (Henkin, 1972).

Great debates have questioned Congress's status, signaling both its prowess but also its fragility in the constitutional order that divided powers and encouraged competition between the branches. The division was part of a masterful blend of governing principles meant to check power and preserve liberty. Skepticism of the American experiment was abundant. Lord Macaulay viewed the foundation of the country's democratic institutions as wholly insufficient in the protection of liberty and civilized society summing up America's hopelessness in a letter to Jefferson's biographer, *Your Constitution is all sail and no anchor*.[6] For the Framers, concern over the handling of foreign policy posed the gravest of dangers in confronting the loss of liberty both from abroad as well as from within (Hinckley, 1994). And more generally, there was no monopoly of institutional fidelity to protect from threats to liberty whether from the legislature (mob rule) or from a demagogue in the form of Napoleon or Caesar. One of the most famous of these

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constitutional arguments over the appropriate division of foreign policy powers was the Pacifus-Helividius debate (Henkin, 1972). Here, Madison offered a full-throated defense of Congress as the principal organ in foreign policy while Hamilton adeptly countered with a starkly broad view of executive authority. Not only have presidents drawn upon Hamilton's executive-centered framework as a basis to expand their own authority, but the prevailing view that has developed since World War II comes much closer at least in practice to Hamilton's Pacifus where presidents play the central role in directing the nation's foreign policy (Dahl, 1950; Kegley & Wittkopf, 1996; Meernik, 1993; Wildavsky, 1969).

To be sure, the extent literature adheres to a presidency-centered model of foreign policy making with the Congress being a subsidiary, albeit important partner (Canes-Wrone, Howell, & Lewis, 2008; Dahl, 1950; Hinckley, 1994; Lindsay, 1994; Potter 2016). But such a model of executive ascendancy as noted here does not exist solely from the plain language of the Constitution.[7] The dominant role of presidents in foreign affairs would likely look much different were it not for the Supreme Court's predisposition to derive executive power from national sovereignty and other sources of authority not dependent upon express affirmative grants under the Constitution (Henkin, 1972).[8] A much more important factor than in the domestic arena, executive ambition in foreign affairs has "like water" found the path of least resistance in eroding congressional authority. Indeed, foreign affairs has been a rich target for executive aggrandizement (Church, 1969; Hamilton, 2002; Mann & Ornstein, 2006; Wildavsky, 1969). Presidents have relied on their institutional, political, and strategic advantages to purposefully exploit powers in foreign affairs while Congress has often failed to resist or even invited such incursions (Fisher, 2000; Howell & Pevehouse, 2007A; Weissman, 1995).

Those who study the role of Congress in the making of U.S. foreign policy have had to wrestle with a central duality. On the one hand, as this earlier discussion attests, the constitutional order makes it possible for Congress to possess an extraordinary reservoir of untapped power to shape U.S. foreign policy. And when we observe an active Congress in foreign affairs, politics tends to be one of the key driving forces (Koh, 1990; Lindsay, 1994; Sundquist, 1981). Yet on the other hand, politics has at times disproportionately hampered the collective will of Congress in the exercise and defense of its powers in foreign affairs relative to that of presidents (Schlesinger, 1973). Congress has increasingly found itself on the losing end of a zero-sum game with the presidency, bowing at the altar of political expediency in exchange for its fidelity to constitutional position (Fisher, 2000; Marshall & Haney, 2010). So, politics remains central to understanding the ebb and flow of Congress's role in the realm of foreign policy (Hinckley, 1994; Warburg, 1989; Wittkopf & McCormick, 1990).

This discussion raises some perennial questions in the literature that enrich our understanding of congressional politics and the making of foreign policy (Carter & Scott, 2012; Kriner, 2010; Lindsay, 1994). How do members of Congress (MCs) shape foreign policy and what explains their changing motivations to do so? How does politics hinder or embolden Congress to influence foreign policy? When does Congress prefer position

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taking or deference over hardened resolve or even conflict with presidential initiatives in foreign policy? Or to steal Lord Macaulay's apt phrase, when is congressional action in foreign policy *all sail and no anchor*? There are also critical questions revolving around the two presidencies—is Congress gaining or losing influence relative to the executive? And, despite the growth in presidential unilateralism, does congressional action matter in shaping foreign policy; and if so, how?

This article is designed to reflect upon a couple key areas of the literature in order to narrow the parameters of this burgeoning body of work. These areas continue to hold invaluable insights into vital questions and can serve as a rich intellectual framework to buoy future research. It is most useful to consider the way these literatures intersect, arrayed along a continuum with congressional politics on one end and presidential politics on the other. On one end, there is the view of Congress's role through the prism of New Institutionalism. This approach focuses on explaining congressional behavior in the realm of foreign policy by assessing the importance of congressional goals, institutional tools and constraints, and the strategic context of the political environment. Then, there is the two presidencies framework that explicitly examines the influence of Congress in relation to that of the presidency in foreign affairs. The other bookend of this continuum is the study of presidential unilateralism in foreign policy. From this perspective, greater understanding about Congress can be leveraged by examining how congressional behavior or its anticipated actions can impact presidential decision making in foreign policy. Congress from this perspective tends to be viewed as an independent variable affecting presidential decisions in foreign affairs.

As we'll see, the literature has varied in its view of Congress's role in foreign affairs from a supportive partner, a resurgent competitor, and to a nearly absent actor. Not surprisingly, this has fueled criticism leveled against Congress's role ranging from a perspective of Congress doing too little to that of doing too much. The article now moves just briefly to tackle a bit of historical overview of the literature on congressional influence in foreign policy making and subsequently moves to some of the wide-ranging criticism of Congress's role in foreign affairs. Then the article proceeds by assessing core elements of the new institutionalism and two presidencies/presidential unilateralism literatures as they relate to understanding the impact of congressional politics on foreign policy. Lastly, the article outlines a few paths for future research within this very fruitful literature.

Over the past several decades, the literature has painted a dynamic portrait of the power and influence emanating from Congress in foreign affairs. The first two decades following World War II witnessed a broad foreign policy consensus in Congress in which the water's edge thesis was conventional wisdom (Gowa, 1998; Hinckley, 1994; Holsti, 2004). It held that the underlying rationale was that the international threat of communism to the nation's security took precedence over other political concerns. The outward threat reinforced a bipartisan harmony and resulted in a more unified congressional support of White House policies (Souva & Rohde, 2007). However, the Vietnam War marked an end to consensus and a shift toward increased partisan conflict over foreign affairs. Moreover,

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the literature has offered a strong challenge to the underpinnings of the water's edge rationale, suggesting much greater variation in foreign policy bipartisanship existed during the Cold War era than what would have been expected given the relative stability of the communist threat (McCormick & Wittkopf, 1990; Meernik, 1993; Prins & Marshall, 2001; Souva & Rohde, 2007).

The Vietnam conflict also divided public and elite opinion, reducing the political costs for members to speak out against foreign policy (Souva & Rohde, 2007). Institutional changes such as the growth of subcommittee government undermined committee dominance and spread policy-making power more evenly to the rank-and-file membership (Marshall, 2003; Rohde, 1991). These changes gave members of Congress greater ability to initiate policy challenges in foreign affairs.[9] In addition, the increasingly sharpened ideological character of foreign policy during the 1970s–'80s drove the view of a resurgent Congress (Fleisher & Bond, 2000; Ripley & Lindsay, 1993). Scholarly attention focused on Congress's bitter partisan struggles that challenged opposition presidents with much greater frequency than the earlier decades of the Cold War. Hinckley's work presented a different picture, suggesting that there was no real evidence of increased congressional activism from the period 1961–88, and if anything there was a decrease in congressional attention (1994). She asserted that Congress valued position taking over substantive policy influence. Congress and the president engaged in a symbolic struggle over foreign policy that mutually served to signal both branches were actively engaged serving a broader stability and democratic accountability. Instead of across-the-board activism, Congress and the president more strategically pick issues to engage in (Lindsay, 1994). But the view of a more potent Congress also faded quickly in the face of increasingly muscular foreign policy agendas and the aggressive use of military actions by presidents Reagan, Bush, and Clinton. And following September 11th, these trends of executive dominance, relative to Congress, increased with Bush's and Obama's greater reliance on presidential unilateralism in the conducting of foreign policy (Hook & Scott, 2012).

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Congressional Politics: The Good, the Bad, and the Ugly in Foreign Affairs

The centrality of politics in explaining congressional behavior in foreign affairs has provided an abundance of fodder from both sides of the coin of congressional activism. Indeed, congressional assertions into foreign policy are littered with historic, even epoch, political failures.[10] Some of the more salient examples include the Gulf of Tonkin Resolution, Vietnam, and Iran-Contra (Lindsay, 1994). There was also the defeat in 1954 of the Bricker Amendment. Here, Congress sought but ultimately failed to reset the balance of power in its favor regarding the enforcement of international agreements.[11] Perhaps the most infamous failure was the passage of the War Powers Resolution of 1973. Heralded at the time as a hallmark in legislative prowess, the 1973 law passed over Nixon's veto was designed to restore Congress's rightful place in decisions of war and peace. But instead, the political reality of the War Powers Resolution was a "legislative albatross" that could neither ensure Congress a strong hand nor place constraints on the president (Hinckley, 1994). In fact, Congress has started the withdrawal clock of the War Powers Resolution just one time since its inception. Even in that instance, Congress simultaneously gave President Reagan 18 months—virtually a free pass to see his troop deployment in Lebanon run its course (Kriner, 2010, p. 41). Such failures bring to the forefront the argument of Congress's duality in foreign policy. More often than not, Congress's difficulties are not because it lacks the requisite constitutional authority, but rather because it is unable to overcome internal divisions and muster the requisite political will necessary to press and maintain its influence.

Congress has not shortened its list of critics today nor has it emphatically answered those who still debate whether Congress is a fit partner with the presidency in the realm of foreign policy. Critics of Congress's role in the making of foreign policy have been abundant and have more often than not been the dominant voice (Lindsay, 1994). There are those critics who see the *bad* in congressional politics. This view, often articulated by Vice President Dick Cheney, suggests that Congress asserts itself into foreign policy solely to please short-term constituency interests resulting in a runaway Congress leaving a diminished presidency in its wake (Lindsay, 1994). Then, there are also those critics who equate congressional politics with the *ugly*. From this perspective, members of Congress suffer from an inoperable reelection fever so that congressional interest in foreign affairs is superficial and Congress is unwilling or unable to maintain a more balanced role in foreign policy with the executive (Hinckley, 1994). Recent congressional action on the "Justice Against Sponsors of Terrorism Act" speaks to similar criticisms.

Although occurring rarely in the modern era of American politics, there is hardly a starker reminder that the First Branch enjoys the ultimate foil over the executive than when Congress successfully overrides a presidential veto (Cameron, 2000; Gilmour 2011; Groseclose & McCarty, 2001). President Obama departed the Oval Office with fewer veto overrides than any of his immediate two-term predecessors.[12] However, in the waning

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months of his administration, Obama suffered his first and only congressional override on a piece of legislation that will likely have important reverberations for the nation's foreign policy. The bill, S 2040 "Justice Against Sponsors of Terrorism Act" would (among other things) provide citizens with a legal path to sue foreign nations for state-sponsored acts of terrorism.[13] The president took to the media airways to plead his case arguing the legislation not only undermined U.S. sovereign immunity (as well as that of other nations) but also handed over discretion to the lawyers and courts at the expense of the reasoned expertise of the entire national security bureaucracy (CQ Weekly, 10/3/2016). Congressional supporters viewed the issue mostly in domestic terms as a pathway for 9/11 victims to sue those responsible for terrorist attacks. Despite the president's vociferous denunciation of the legislation, there was little drama or uncertainty to the outcome. The House and Senate passed the initial bill by voice vote without a single hearing sending the legislation to the president that he vetoed. Then, each chamber overrode the presidential veto with overwhelming bipartisan majorities.[14]

What's most telling for our purposes is the ease with which Congress can control such outcomes when it possesses the political will to do so, even in foreign policy where presidents often hold the upper hand. In fact, the Chairman of Senate Foreign Relations (Bob Corker, R-TN) lamented about Congress's decisive action that day as he moved to vote in support of the override, "I do want to say I don't think the Senate nor the House has functioned in an appropriate manner as it relates to a very important piece of legislation. We've had no hearings in the United States Senate this Congress, and we've had no vote, no vote whatsoever of record on this piece of legislation. As a matter of fact, today will be the first vote" (CQ Weekly, 10/3/2016). And then, despite owning the Senate gavel, Senate Majority Leader Mitch McConnell seemed to lay responsibility for the policy at the president's feet, "I said to the president the other day that this was an example of an issue that we should have talked about much earlier. It appears as if there may be some unintended ramifications . . . and I do think that is worth further discussion" (CQ Weekly 10/3/2016). So, the passage of S 2040 can serve as an example for critics of many stripes that point out failings in Congress's role in foreign policy.

However, there's also a strong case for those that view congressional politics fostering the *good* in the making of foreign policy (Lindsay, 1994). When Congress unifies behind presidential initiatives, it can serve to strengthen the president's hand and show national resolve to foreign actors (Eyerman & Hart, 1996; Fearon, 1994; Putnam, 1988).[15] In addition, congressional input brings parochial, partisan, and ideological mix of issues to the forefront of foreign policy. This can invigorate policy ideas and expand or innovate policy solutions in foreign policy. Such back-and-forth deliberations can bring explicit pros and cons of differing views and policy trade-offs. Most importantly, congressional voice brings legitimacy to policy that emerges from executive and congressional debate. These are all features of the good that can come from congressional politics and the input of Congress on foreign policy (Lindsay, 1994).

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The Prism of New Institutionalism

For decades, the theoretical framework of new institutionalism has enriched the study of Congress, the courts, and more recently has fueled a revolution in the study of the presidency (Mayer, 2009; Moe, 2009; Shepsle & Weingast, 1995). Foreign policy is somewhat uniquely situated, intersecting congressional and presidential roles. But similar to these other areas of study, new institutionalism's emphasis on congressional institutions, goals, and the broader political environment in which Congress acts in foreign policy has proven rich ground for scholars in understanding congressional behavior and influence.

The classic works by Hinckley (1994) and Lindsay (1994) illustrate the utility of this tradition very well. Hinckley's work suggests congressional politics in foreign affairs is driven more by symbolism than substance—the perception of congressional competition with presidents to shape the nation's foreign policy so there exists "less of a struggle for influence than meets the eye" (1994, p. ix). Her empirical evidence challenges the view of a resurgent Congress and instead points to the relative paucity of congressional influence over time and how politics often works to undermine that influence. In contrast, Lindsay offers a somewhat more positive view of congressional influence and the role politics can at times play in congressional activism. For our purposes, however, what these works share is more vital than how they differ. Both strike together on the theoretical importance of member incentives and goals in shaping strategic actions by Congress. Moreover, they each recognize the key role of the political environment in shaping motivations and how presidents, other political actors, and members themselves can affect the environment in which they make foreign policy decisions. The broader foreign policy environment is not simply a given exogenous condition, where actors make choices to maximize utility. But rather actions taken by Congress and the president can reshape the political landscape and the mix of incentives that affect subsequent decisions.

These works importantly recognize that Congress and the president strategically choose the foreign policy issues to engage in depending on the political incentives or institutional constraints at play. Indeed, scholars have found that issues within foreign policy vary significantly in terms of congressional interests and conflict they invoke. Regional, ideological, partisan, and distributive concerns can be at play in shaping congressional decision making (Deering & Smith, 1997; Fenno, 1973; Lindsay, 1994). For example, the annual defense authorization bill contains a great variety of issues from the purchase of weapons systems and national security issues to base infrastructure and issues surrounding military personnel.[16] Understanding how foreign policy issues differentially affect goals and how changes in the foreign policy issue agenda has been critical to understanding congressional behavior. Marshall and Prins (2002), for example, find that economic and trade issues have become a larger part of the foreign policy agenda, and this changing agenda has increased levels of congressional partisanship and interinstitutional conflict. Hinckley's theoretical framework also offers insight into the

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linkage between congressional goals and why congressional activism varies across issues in foreign policy. Arms sales, use of force, and intelligence were areas where Hinckley found less activity and more delegation by Congress.[17] Similarly, Lindsay's analysis highlighted the significance of issues in shaping variation in congressional behavior too. Issues like trade, foreign aid, and especially appropriations were areas where Congress tended to be more assertive (1994). So the variation in issues of foreign policy reflected upon the critical mix of congressional incentives and how some areas of foreign policy offered greater opportunity for members to achieve goals while other areas were less likely to be linked to member goals and instead reflected higher political risks.

More recent work continues to make valuable inroads into understanding foreign policy issues and congressional behavior. Carter and Scott (2012) emphasize how issues differentially impact member motivations, too, and the significance of the changing political landscape surrounding members of Congress. For example, ethnic lobbying and interest group organizations have grown significantly in numbers and these shape both international and domestic coalitions that can affect congressional politics (Destler, 2012; Haney, 2012). In addition, congressional partisanship has increased significantly because of the growing differences in foreign policy positions of political elites. That is, greater polarization by political elites and primary voters in foreign policy has caused members of Congress to shift to more extreme foreign policy positions over time and thus magnifying incentives for partisan conflict within Congress (Souva & Rohde, 2007). In addition, though, Lee's work suggests that foreign policy is one area attracting significantly more congressional opposition to the president's agenda (2009). Lee's empirical findings show that issues on the presidential agenda including foreign policy priorities sharpens partisan conflict significantly more so than similar issues not on the president's agenda.[18] In this way, foreign policy issues can be an attractive target to enhance party coordination and partisan conflict designed to undermine the president's political capital. From this view, any decay in presidential capital from congressional criticism or challenge may ultimately serve the collective goals (policy or electoral) of the opposition party (Lee, 2009).

Another area of rich analyses provides further leverage on congressional behavior and motivations by considering the choice of tools members of Congress utilize to shape foreign policy (Scott, 1997). Congress can utilize both collective and individual tools in shaping foreign policy.[19] Enacting legislation is one of Congress's most potent tools in shaping the nation's foreign policy; however, analyses have shown an overall decline in Congress's proclivity to legislate over time (Clinton & Lapinski, 2006; Hinckley, 1994). Despite this, Congress remains more willing to influence foreign policy through the annual appropriations process, which can entail the use of policy riders in controlling the foreign policy bureaucracy, or more indirectly as a bargaining chip to ensure congressional influence with the president (Fisher, 2000; Lindsay, 1994). There's also a variety of procedural, budgetary, and oversight mechanisms that Congress can utilize in shaping foreign policy (Fisher, 2000; Fowler, 2015; Howell & Pevehouse, 2007A; Lindsay, 1994; White, 1993). The application of Congress's procedural muscle has proven to have had varying levels of success in shaping policy and can take many forms, including

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reporting requirements, creation of new agencies, or even changing criteria and process for foreign policy decision makers (Lindsay, 1994). The choice of such strategies reflects upon Congress's willingness to assert or challenge the president in foreign policy (Carter & Scott, 2012, pp. 38–40). This work has greatly developed explanations of how such congressional choices can be explained by partisan, ideological, and interinstitutional factors. This body of work has also provided leverage in understanding how collective action problems undermine the prospects for congressional action as well as the institutional constraints Congress faces in the making of foreign policy (Marshall & Haney, 2010).

So we have argued that there remains a great deal of promise in utilizing a theoretical focus from the perspective of new institutionalism to explain congressional politics in foreign affairs. Now we turn briefly to the two presidencies and the study of presidential unilateralism in terms of how each can add to our understanding of Congress's role in the making of foreign policy. These areas of research tend to compare congressional and presidential behavior or to focus on congressional actions as an independent variable that can shape presidential behavior (Beckmann, 2010; Berry, Barry, & William, 2010; Bolton & Thrower, 2015; Clark, 2003; Howell, Jackman, & Rogowski, 2013; Howell & Pevehouse, 2005; Marshall & Prins, 2011; Potter, 2016).

The Two Presidencies and Presidential Unilateralism

There's considerable variation in issues within foreign policy and these offer different opportunities and constraints for members of Congress. The two presidencies literature has suggested that significant differences exist in foreign and domestic policy when it comes to the influence of Congress compared to that of the president. Wildavsky's classic two presidencies analysis offered a stark contrast between the high levels of legislative roll-call success presidents enjoyed in the realm of foreign policy as compared to the lower levels in domestic policy (1969). More recent analyses comparing the president's domestic and foreign policy success in Congress suggests the gap in policy areas has largely disappeared over time (Cohen, 1991; Edwards, 1989; Fleisher, Bond, Krutz, & Hanna, 2000; LeLoup & Shull, 1979; Schraufnagel & Shellman, 2001). The rise of global economic, trade, and structural issues have grown as a share of the international agenda. This differing mix of issues in foreign affairs tends to invoke greater electoral and partisan demands that are reflected in congressional decision making characterized by increasing levels of partisan and interinstitutional conflict with the president (Fleisher et al., 2000; Marshall & Prins, 2002).

The two presidencies framework makes the case that Congress has greater incentive to delegate or defer in foreign policy as compared to domestic policy. Domestic policy generally contains greater reelection benefits for members of Congress than international

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policy. Constituency preferences tend to be more varied and intense surrounding domestic as compared to foreign policy. This suggests the potential that such differences can motivate greater policy conflict between members of Congress and the president. The greater potential for conflict leaves Congress with less incentive to delegate their authority in domestic policy but more so in international affairs. Moreover, presidents tend to have greater electoral incentives to lead in the area of foreign policy (Potter, 2013). In other words, presidents are more prone to enjoy the electoral rewards that can accrue from foreign affairs (e.g., a peace dividend) as compared to members of Congress. The two presidencies framework also argues that presidents maintain institutional and informational advantages in foreign affairs relative to Congress (Canes-Wrone, Howell, & Lewis, 2008). Presidents often act first and decisively in foreign affairs while the congressional decision context tends to be layered by committees and subcommittees making decisions characterized more by delay and compromise (Smith, 1994).

Yet, the ideas underlying Wildavsky's two presidencies were more broadly applicable beyond indicators of presidential success on roll calls. The literature has expanded considerably beyond roll-call measures of presidential success to new empirical indicators from which to evaluate the two presidencies thesis. Indeed, scholars have found presidential behaviors such as speechmaking, executive orders, and signing statements can differ across foreign and domestic issues (Deering & Maltzman, 1999; Evans, 2011; Fowler & Marshall, 2017; Krause & Cohen, 1997; Lewis, 1997; Marshall & Pacelle, 2005; Ostrander & Sievert, 2012). And scholars have likewise found evidence that Congress has strong incentive to delegate to presidents in the realm of foreign policy providing further evidence in support of the two presidencies (Canes-Wrone, Howell, & Lewis, 2008).

Thus, the two presidencies framework continues to unlock insights that advance our understanding of congressional and presidential differences across the foreign and domestic realms. The scholarly focus should continue: not only on whether relative difference exists between domestic and foreign policy, but more importantly on why we observe changes over time and how such changes are linked to differing motivations, institutional or informational constraints, and the broader political environment in which Congress and the president make decisions. Answering these kinds of questions from the two presidencies continue to offer great potential, especially the "whys" of the two presidencies, much more so than whether or not absolute differences exist or persist. Now we turn just briefly to highlight a few relevant considerations from the literature on presidential unilateralism.

Neustadt's view of presidential power is rooted in the president's ability to persuade and get what he wants through bargaining with other political actors (1962). This view assumes power emanates from the president's ability to build goodwill with others in achieving his policy and political goals. In this way, power to get things done rests fundamentally on the actions of others. The work on presidential unilateralism departs markedly from Neustadt's framework. The emerging literature on presidential unilateralism emphasizes how presidents seek to exploit Article II ambiguity to protect and advance presidential prerogatives (Cooper, 2002; Howell, 2003; Mayer, 2001). Unlike

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Neustadt’s bargaining and persuasion with others, presidential unilateralism has the potential to untether presidential action from interinstitutional cooperation. By acting first and alone, presidential action can change the policy status quo and circumvent other actors like Congress or affect its coalition building costs to challenge the president’s new status quo (Cameron, 2000; Howell, 2003; Moe & Howell, 1999). Scholars have found ample evidence that presidents have increasingly employed unilateral tools to affect policy change through executive orders, proclamations, national security directives, executive agreements, and recess appointments to sidestep Congress (Black, Madonna, Owens, & Lynch, 2007; Howell, 2003; Krutz & Peake, 2010; Martin, 2005; Mayer, 2001; Rottinghaus & Maier, 2007).

Recent work of this type also explores the characteristics of legislation that prompt the president to act in a hostile way through constitutional challenges in signing statements. For example, Kelley and Marshall (2008) find that constitutional challenges are significantly more likely in the area of appropriations and foreign policy as compared to other areas of legislation (see also Cooper, 2002). Likewise, Evans (2011) finds that presidents are more likely to challenge sections of legislation that include reporting requirements or deal with foreign policy and defense.

The broader body of work on unilateral action has some fruitful paths in discerning how Congress affects the president’s foreign policy decisions. Congress can shape the president’s ex ante calculations of political risk. For example, Howell and Pevehouse’s work on the presidential use of force suggests that party control shapes executive incentive to use force because future congressional criticism is muted or challenges to military decisions will be less likely (2007a). This kind of approach could benefit from the addition of how congressional minorities obstruct legislation or presidential initiatives to give greater insight explaining variation in presidential unilateralism in foreign policy (Koger, 2010; Lee, 2009; Mann & Ornstein, 2006). Congress can also shape public opinion and make presidential options more (or less) costly. Party leaders, through their control of the agenda, can raise the salience of issues or challenges to presidential initiatives in foreign policy (Mayhew, 2005; Sinclair, 2006; Souva & Rohde, 2007).

Lastly, the literature has shown the importance of congressional action in shaping the longevity of executive policy or subsequent presidential decisions. For example, Kriner’s work illustrates the important ex post impact of legislative authorizations on the duration of the president’s military ventures. Moreover, changes in the political environment can shift the willingness of Congress to challenge the president or to assert itself into new foreign policy issues (Eichenberg, Stoll, & Lebo, 2006). So Congress can shape presidential decisions through both ex ante and ex post mechanisms. This raises another related element of congressional influence, the second face of power (Cameron, 2000). Here, presidents anticipate or condition their decision making based on their beliefs about congressional willingness and intensity to challenge their foreign policy agenda. Kriner’s qualitative findings in the case of President Clinton in Somalia and President Bush in Iraq speak to the important ways that presidents anticipate challenges by Congress and how Congress’s impact on their political capital can cause presidents to

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change their foreign policy agenda (2010). The role of Congress in shaping the president's anticipated calculus in foreign policy remains as a promising theoretical tool to assess explanations of presidential and congressional decision making.

The trends toward greater congressional deference and presidential unilateralism in foreign policy have largely continued under the recent administrations of George W. Bush and Barack Obama. The success of presidential initiatives in Congress are increasingly dependent on the support of his partisans. The gap between the average vote support of the president's party members and the opposition party has grown to historic highs in recent years (Marshall, 2011). Unilateral tools like the use of executive agreements grew considerably under President Bush as well as his aggressive use of constitutional signing statements designed to defend and enhance presidential prerogatives especially in the area of foreign policy. The Obama administration tended to follow the same trend line toward greater unilateralism as his immediate predecessors, but with a marked shift in tools like the increased use of Office of Legal Counsel (OLC) memoranda and waivers to shape bureaucratic rulemaking in order to move his policy agenda (Fowler & Marshall, 2017). Although it is very early into the Trump presidency, it would seem that there's a similar appetite for unilateralism as we've seen from recent administrations. Indeed, President Trump's first signing statement on a $1.1 trillion dollar spending bill was reminiscent of those issued by President George W. Bush (Korte, 2017). The Trump signing statement contained about 90 challenges to various provisions of the law with some of the most notable designed to defend the president's authority in foreign policy. Whether or not Congress chooses to exercise its constitutional powers of the purse may provide us with insight as to the extent the U.S. system has moved toward a parliamentary form of party control. If the momentum doesn't shift and Congress continues to yield on the purse—its most potent bastion of power—we'll have our answer.

Conclusion and Some Paths for Future Research

Since World War II, Congress has increasingly lived in the shadow of presidential government. Whether from unwitting omission or purposeful commission, Congress has ceded much of its constitutional powers—especially in foreign policy. Presidents have also sought to circumvent Congress's role and cement their own dominance further through unilateral action (Moe & Howell, 1999). Although Congress has seen the pendulum of power in areas of war and other foreign policy matters swing in strong favor of presidents, this does not mean that Congress must forever be relegated to the minor league (Lindsay, 1994). As this article suggests, Congress has no shortcoming of constitutional powers to pursue its preferences in foreign affairs. But rather, Congress's lethargy at times can result from a lack of political will and not because presidents own a

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monopoly over foreign affairs as they may press themselves and others into believing. Congress does play an important and even vital role in foreign policy.

New institutionalism—with its focus on congressional goals, institutional constraints, and the broader political environment continues to provide a rich theoretical framework to explain why Congress asserts its preferences into some foreign policy issues more so than others. And the literature on the two presidencies and presidential unilateralism offers opportunity for scholars to further leverage understanding on Congress's role in affecting foreign policy. In other words, considering congressional actions and motivations in isolation of presidential behavior and/or motivations won't get us as far as if we consider the intersection of both in the making of foreign policy. This is particularly important given the potential for struggle induced by constitutional design but also because of the historical variation witnessed in Congress's role (Hinckley, 1994; Lindsay, 1994). Moreover, this offers a path to greater insight in at least two important respects: (1) Revealing how Congress and the president anticipate each other's actions—the second face of power—in foreign policy. That is, how does Congress affect the political calculation of presidential action in foreign policy and how does Congress's expectation of presidential unilateralism shape variation in the congressional politics of foreign policy. (2) Decisions by Congress and the president may be impacted in different ways by politics and such decisions can reshape the political environment. For example, Kriner's pathbreaking work provides insight into how congressional actions can signal resolve or unease to foreign rivals that in turn affect presidential decisions in military ventures (2010). Also, Lee's work offers a pathway to understanding partisan challenges and conflict over the president's foreign policy decisions. From this perspective, foreign policy may be an increasingly attractive target driving opposition party coordination against the president's foreign policy agenda. Further work needs to consider how such opposition party challenges in Congress may siphon political capital from the president and thus shape presidential decisions and strategies in the making of foreign policy.

This article has highlighted a duality in Congress's role in foreign policy conditioned by politics. Congress owns extraordinary potential to flex its influence in foreign policy, yet the impact of politics means that Congress often does not live up to its constitutional billing. Indeed, a theme argued herein has been that Congress's constitutional powers sit uncomfortably with an extent literature that assumes presidents are the primary actor in foreign policy. Placing this duality alongside executive aggrandizement—a presidency that seeks to expand leadership in foreign policy at the expense of Congress helps paint the picture of the executive dominated foreign policy in place today (Fatovic, 2004). The perennial questions remain as the most useful for the literature, under what conditions or on which issues will Congress choose to employ its reservoir of power to challenge the presidency or assert itself as an equal partner in the making of U.S. foreign policy, and why? Bringing the two presidencies and presidential unilateralism framework into focus will also continue to contribute to our understanding of the relationship between Congress and the president in the making of foreign policy. It's notable for us to remember that executive and congressional powers are both tied tenuously to the broader political environment that shapes foreign policy decision making. This raises

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critical questions to be addressed about how changes in the political context differentially affects the president and Congress, what explains such differences, and what impact do such differences have on the nation's foreign policy.

In conclusion, then, politics has been a double-edged sword for Congress—both exposing its imperfections at times but also revealing its potency. Presidents that fail to recognize this critical distinction do so at their own peril (Crovitz & Rabkin, 1989). Presidents need Congress and the political legitimacy they can provide to the nation's foreign policy (Hinckley, 1994; Lindsay, 1994). We are after all, *E Pluribus Unum* (Out of many, one) and not *Unos Ego Figere Possum* (I alone can fix it) (Hawkins, 2016). When presidential unilateralism has exhausted itself, Congress's bedrock of constitutional capacity will remain.[20] Whether Congress chooses to use those powers to assert itself into foreign affairs will hinge critically on politics.

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Notes:

(1.) These include Clauses 10–16 of the U.S. Constitution (see Fisher, 2000, p. 12).

(2.) Presidents also possess powers to negotiate treaties and appoint the nation's ambassadors, but these are not independent of congressional authority, being subject to Senate approval (Carter & Scott, 2012).

(3.) Congress's enumerated powers in foreign affairs provide it with authority beyond domestic borders. For example, Congress maintains a deep reach in regulating its citizens overseas from taxation to the creation of a criminal code of conduct for military dependents and civilian employees (Henkin, 1972, p. 76).

(4.) Congress's commerce power was interpreted quite expansively. For example, Gibbons vs. Ogden 1824 stretched congressional power far beyond trade to include intercourse among the states (Henkin, 1972, p. 69).

(5.) During floor debate over Clinton's Somalia policy on the FY1994 defense appropriations bill, Senator Byrd (D-WV)—the long-time protector of the Senate and President Pro Tempore reminded his colleagues that the appropriation power was "the ultimate arrow in Congress' quiver" to shape weighty decisions over troop commitments and the nation's war posture (Hinckley, 1994, p. 199).

(6.) See Lord T. B. Macaulay Letter, May 23, 1857, to H. S. Randall. Lord Thomas Babington Macaulay was an outspoken member of the Whigs in the British Parliament

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and a well-known British historian. He was a frequent critic of American style democracy and an ardent defender of the British political system (Henkin, 1972).

(7.) The constitutional scholar Louis Henkin strongly suggests such a constitutional view. “In the end and over-all, Congress clearly came first, in the longest article, expressly conferring many, important powers; the Executive came second, principally as executive-agent of Congressional policy. Every grant to the President, including those relating to foreign affairs, was in effect a derogation from Congressional power, eked out slowly, reluctantly, and not without limitations and safeguards” (1972, p. 33).

(8.) One of the most prominent of these, for example, see Justice Sutherland and the Court’s opinion in United States v. Curtiss-Wright Export Corp., 1936.

(9.) In addition, Lindsay suggests the growth of foreign policy lobbying and interest groups significantly altered the incentives for members of Congress to take positions and to increasingly invest in developing their own foreign policy expertise (1994, pp. 28–29).

(10.) Congress abdicated significant discretion to the president starting in the 1930s with the passage of the Reciprocal Trade Act of 1934 (Fisher, 2000, pp. 27–28).

(11.) The Dixiecrats and old guard Republicans in the Senate that supported the Bricker Amendment were handed a spectacular defeat through the cunning of Minority Leader Lyndon Johnson (D-TX). Johnson had whisked a sickly Senator Kilgore (D-WV) from his hospital bed and then had him emerge miraculously from the Democratic cloakroom to vote no on the Senate floor, sending the Bricker proposal down to defeat, 60–31—one vote shy of the 2/3 majority present and voting necessary for passage (Baker & King, 1978, pp. 90–91).

(12.) President George W. Bush had four vetoes overridden, Bill Clinton had two, and Ronald Reagan nine (http://www.presidency.ucsb.edu/data/vetoes.php).

(13.) The full text of S 2040 is available at https://www.govtrack.us/congress/bills/114/s2040/text.

(14.) The override vote in the Senate was 97–91, and 348–377 in the House.

(15.) There is a notable connection to the broader literature in international relations and the role of domestic politics and foreign policy (see, for example, Bueno de Mesquita & Siverson, 1995; Kisangani & Pickering, 2007; Leeds, 1999).

(16.) The defense authorization bill has historically attracted bipartisan majorities. In fact, the defense authorization bill stands as a testament to successful coalition building, passing Congress every year for over 50 years (Scully, 2014). The defense bill’s successful longevity is in no small part played by its must-pass status and the amalgamation of issues it brings together to create winning coalitions. There’s something in it for everybody (Lindsay, 1994).

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(17.) Hinckley develops four hypothetical patterns to assess assertiveness in foreign policy by Congress and the president. These coincide with the possibility of an assertive or inactive Congress and the possible intersection with an assertive or inactive president. Her main findings suggest there's less assertiveness and activity in foreign policy from either branch. This departs from conventional assumptions in the literature of an increasingly active Congress and the constant impact of presidential preferences in the making of foreign policy (1994, pp. 18–22).

(18.) This would seem to be particularly true when presidents face a set of foreign policy options, each leading to varying levels of bad outcomes that would tend toward encouraging partisan criticism from Congress. Obama's menu of alternatives in dealing with the Syrian civil war would seem to be a recent example.

(19.) Notably, Mayhew found a sizable number of actions taken by individual members of congress (about 25%) were in the area of foreign affairs. Individual actions can dramatically affect terms of political debate in foreign policy. Senator McCain's (R-AZ) 2005 clash with the Bush administration over the use of torture comes to mind as well as Senator Chuck Hagel's 2007 letter pushing back against neoconservatives and Vice President Cheney who wanted the United States to strike Iran over what would become unfounded evidence of Iran's nuclear program capabilities (Bromwich, 2011).

(20.) One of the most notable modern purveyors of Hamilton's sweeping view of presidential power, John Yoo—legal scholar and former Justice Department lawyer under George W. Bush—has suggested the Trump administration has already stretched the presidency too far (Yoo, 2017).

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