INTRODUCTION

THE IRAN-CONTRA HEARINGS gripped the American public in the summer of 1987. The Reagan administration found itself accused of violating U.S. law, and many wondered if the country would revisit the travails of the Watergate era. Yet before the hearings closed, it was Congress that found itself on trial. Several witnesses used their testimony to criticize Congress's handling of foreign policy, none more passionately than Lt. Col. Oliver North: "Plain and simple, the Congress is to blame because of the fickle, vacillating, unpredictable, on-again-off-again policy toward the Nicaraguan democratic resistance. . . . In my opinion, these hearings have caused serious damage to our national interests. Our adversaries laugh at us, and our friends recoil in horror."[1] Many Americans apparently agreed; almost overnight the little known North became a national celebrity.

North's complaint about Congress, if true, is deeply troubling. In marked contrast to the deference Capitol Hill frequently accorded presidents in the 1950s and 1960s, Congress today involves itself in a dizzying array of foreign policy issues. Some sense of the extent of congressional activism can be gleaned from a simple statistic about current legislation on foreign policy. The 1960 edition of *Legislation on Foreign Relations* ran 519 pages; the 1990 edition ran 5,483 pages and spanned four volumes. Nor does Congress shy away from major issues. Whereas Lyndon Johnson pushed the Gulf of Tonkin Resolution through Congress with only two dissenting votes, George Bush saw the resolution authorizing the use of force against Iraq pass by only five votes in the Senate.

Moreover, congressional activism on foreign policy promises to continue in the coming years. The collapse of the Soviet Union opened debate over what will replace containment as the lodestar of U.S. foreign policy. With the disappearance of the Soviet threat the rationale for many foreign policy

programs evaporated, and the scrutiny accorded to spending on foreign affairs is increasing accordingly.[2] The alarm felt in many quarters of Capitol Hill over the press of economic and social problems at home will only intensify congressional activism as members try to shift resources away from foreign policy and toward domestic policy. At the same time, growing global interdependence is blurring the line separating domestic affairs from foreign affairs. Issues such as drug trafficking, immigration, global warming, and trade inevitably push Congress into the fray on foreign policy because they involve important domestic interests.

The extent of congressional activism on foreign policy is clear. But what role does Congress play in the making of foreign policy? Are we witnessing "foreign policy by Congress" as some have alleged? Or is congressional debate more smoke than fire? Who in Congress wields power on foreign policy issues? Do members of Congress simply follow the political winds on foreign policy? Does Congress undermine the national interest when it ventures beyond the water's edge?

As important as these questions are, answers are in short supply. The study of Congress and foreign policy is a backwater field of political science; most systematic studies of the subject are now more than a quarter of a century old.[3] Although popular commentary abounds, most of it argues about Congress's constitutional prerogatives, debates whether Congress is gaining power relative to the president, or claims that Congress harms U.S. foreign policy. The crucial questions of what members of Congress do and why they do it—questions that by all logic should precede any effort to assess the vices and virtues of Congress's involvement in foreign affairs—draw little study.

The chapters that follow try to fill the glaring gap in our knowledge of the role Congress plays in the making of foreign policy. Given the tremendous changes that overtook Capitol Hill and the world in the two decades after Vietnam, such a study is long overdue.

THREE FALLACIES

Everyone agrees that Congress is more active in foreign policy today than at any time since the 1930s. The dispute arises over the consequences of congressional activism. At one extreme in the debate lie the Irreconcilables. So named because they are as opposed to congressional involvement in foreign policy as their Senate forebears were to the Treaty of Versailles, Irreconcilables warn that "overreaching" by an "imperial Congress" has created a

"fettered presidency."[4] They yearn for the good old days when the president ran the show. Not surprisingly, those who sound the tocsin most vigorously on the perils of foreign policy by Congress tend to be administration officials and their supporters.

At the other extreme in the debate lie the Skeptics. They argue that congressional activism is more show than substance. Congress, in their view, operates on the margins of foreign policy, so much so that the author of one recent article felt compelled to title his article "Why the President (Almost) Always Wins in Foreign Affairs."[5] If Irreconcilables count among their number many administration officials, the Skeptics predominate in academia. Perhaps the best evidence of how the Skeptic's view prevails among academics is the scant attention the scholarly literature pays to Congress and foreign policy.

Although Irreconcilables and Skeptics dominate the debate over congressional activism in foreign policy, neither describes Congress's role accurately. Irreconcilables grossly exaggerate the extent and effect of congressional activism. Although members of Congress challenge the White House far more than they did during the heyday of the imperial presidency, they by no means control foreign policy. The president and his subordinates in the executive branch continue to lead in policy making. Skeptics, on the other hand, err by equating influence with the ability to write policy preferences directly into law. Skeptics are right to note that many hotly contested legislative initiatives die on Capitol Hill. Yet even when members of Congress fail to dictate the substance of foreign policy, they frequently influence it indirectly.

But more than misjudging the extent of congressional influence, Irreconcilables and Skeptics both perpetuate three common fallacies about Congress and foreign policy: the electoral fallacy, the technocratic fallacy, and the adversarial fallacy.

The Electoral Fallacy

Most discussions of Congress and foreign policy emphasize that senators seek reelection every six years and representatives every two years. This banal observation draws so much attention because foreign policy analysts deeply distrust the American public. They believe that because the public has little knowledge of or interest in foreign affairs, members have few reasons to master foreign policy issues and every reason to cater to the passions of the moment. What results, in the words of former undersecretary of state William D. Rogers, is that "Congress is beholden to every short-term swing of

popular opinion. The temptation to pander to prejudice and emotion is overwhelming."[6]

No one can deny that members of Congress worry about reelection. To repeat Rep. Frank Smith's (D-Miss.) oft-quoted quip: "All members of Congress have a primary interest in being re-elected. Some members have no other interest."[7] Even members with safe seats fear their margins of safety will evaporate if they take their constituents for granted.[8] In many respects, life in the Senate and (especially) the House *is* a perpetual campaign. And as Sen. Frank Church's (D-Idaho) infamous denunciation of the Soviet brigade in Cuba in the fall of 1979 attests, members sometimes place their self-interest before the national interest, with significant consequences for the country.[9]

Yet the preoccupation with the pathologies of reelection leads to the electoral fallacy, the belief that the electoral connection makes members of Congress inherently irresponsible on foreign policy. While members act irresponsibly at times, responsible congressional action is by far the norm. On most foreign policy issues voters know and care little about specific policy choices, thereby giving members considerable freedom to vote their consciences. Where electoral incentives exist, they frequently encourage members to delve into the substance of a foreign policy issue. David Mayhew, whose seminal work on the electoral connection is approvingly cited by those who fret about congressional pandering, emphasizes that members work policy issues "when somebody of consequence is watching, when there is credit to be gained for legislative maneuvers."[10] Sometimes the credit comes from the average voter. More often it comes from interest groups, especially so-called advocacy groups. Because interest groups span the ideological spectrum, members who choose to work foreign policy issues can make their efforts electorally worthwhile.

At the same time, the electoral fallacy rests on an impoverished conception of legislative motivation. For all the importance attached to reelection, it is only one of the motives driving congressional behavior. Most members also want to advance their personal conceptions of good public policy. Of course, it is chic today to deride members of Congress as politicians bereft of commitment to anything or anyone but themselves. Yet far more than is commonly recognized, members hold views about what role the United States should play in the world, views they want to see translated into policy. It is this clash of ideas, as much as if not more so than material interests or constituency pressures, that drives congressional debate on foreign policy.

The Technocratic Fallacy

Closely related to the electoral fallacy is the technocratic fallacy, the (usually implicit) belief that the work of Congress should be an "eat your peas and spinach" endeavor. Many observers seem comfortable only with the member of Congress who acts as a "lonely gnome who passes up news conferences, cocktail parties, sometimes even marriage in order to devote his time to legislative 'homework.'"[11] Robert Art, for instance, argues that "policy oversight requires disciplined analysis, hard work, perspective, time to reflect, and detachment from the agency one oversees. All of these are commodities in short supply in the harried and increasingly specialized Congress of today."[12] Howard Wiarda objects that "the system of hearings has been so politicized that it sometimes resembles a circus rather than a serious effort to arrive at sensible policy."[13]

These portraits of legislative behavior do Congress a disservice. Far more than the critics acknowledge, members of Congress and their staff do engage in proactive and systematic review of bureaucratic behavior, or what political scientists are now fond of calling police-patrol oversight.[14] Each year the foreign policy and defense committees hold hearings and issue reports on topics such as political reform in Eastern Europe, America's services trade deficit, and the environmental impact of World Bank lending. Most such efforts go unnoticed in academia and in the wider political community precisely because they attract no media attention.

By the same token, it is just as inaccurate to contend that members of Congress always act as lonely gnomes. For every member such as Sen. Sam Nunn (D-Ga.) who builds a reputation by working quietly within the institution, there are others whose first instinct in any situation is to find a television camera. And because members want to be reelected, they have strong incentives to be seen addressing salient political issues. Not only is taking a position electorally valuable when constituents share a member's views, but simply being seen on television or mentioned in the newspapers may well enhance a member's electoral prospects.

But contrary to the technocratic fallacy, legislative work and self-promotion are not mutually exclusive endeavors. Despite all the praise that scholars lavish on police-patrol oversight, it often represents a waste of time and effort. Because government agencies comply with congressional intent most of the time and because the ability of members to review agency behavior is inherently limited, police patrols may fail to discover an agency's shortcomings—even when they exist. In contrast, responding to what voters

or other political actors define as a problem not only offers the opportunity to reap electoral reward, it increases the likelihood that members will actually uncover problems with how agencies operate.

Moreover, for any member of Congress seeking to change policy, publicity is an invaluable weapon. A member who wants to mobilize his or her colleagues must first capture their attention and second persuade them. The media are an invaluable tool for accomplishing both goals. At the same time, members know that gridlock on Capitol Hill makes it difficult to pass legislation and that presidents respond to public opinion. That knowledge encourages members to use legislative debate, oversight hearings, and media appearances to influence the terms of public debate and, in turn, administration policy. Thus, much of what critics dismiss as self-promotion or grandstanding is a concerted effort by members to push public and elite opinion in a direction that favors their policy preferences and undermines the administration's. These efforts might at times resemble circuses, but they are circuses with very real substantive objectives.

The technocratic fallacy, then, fails to recognize that Congress is a political institution and not a bureaucratic one.[15] Time and resource constraints combine with the electoral imperative to encourage members of Congress to conduct their legislative work in ways that help their electoral chances. To expect members to act as if they worked for an idealized bureaucracy that dispassionately and proactively analyzes policy poses a standard of judgment that Congress will never meet, and it directs attention away from the ways in which members make their preferences felt on foreign policy.

The Adversarial Fallacy

A third fallacy found in most writings on Congress and foreign policy is the adversarial fallacy, a preoccupation with the conflictual side of executive-legislative relations. Such a preoccupation is understandable. Executive-legislative conflict is deeply rooted in constitutional theory and historical practice. The 1980s, in particular, saw presidents Reagan and Bush struggle with Congress over several major foreign policy issues: aid to the Nicaraguan contras, arms control with the Soviet Union, most-favored-nation status for China, and the use of force against Iraq, to mention just a few. And these struggles had a strongly partisan flavor as Republicans in the White House consistently squared off against Democrats in Congress.

As understandable as the preoccupation with executive-legislative conflict may be, it misses much of the interaction between the White House and Capitol Hill. Issues such as aid to the contras notwithstanding, Congress's

dealings with the president are marked more by cooperation than by conflict. During the Reagan years the White House and Congress cooperated on policy toward Afghanistan, China, India, Libya, and the Persian Gulf, among others. The first year of the Bush administration saw executive-legislative cooperation on what had been a source of intense conflict, namely, policy toward Nicaragua. And lost amidst the debate over whether to use force against Iraq was the fact that President Bush's initial decision to send U.S. troops to defend Saudi Arabia was widely applauded on Capitol Hill.

If most presidential initiatives in foreign policy never become an issue in Congress, some do. But the extent of conflict should not be exaggerated simply because Congress takes a vote. When presidential policies do appear on the legislative agenda, Congress often reaffirms them resoundingly. To take just one example, representatives opposed to the Pershing II missile offered numerous amendments to kill the program but never garnered the support of more than a third of the House. And sometimes Congress considers foreign policy legislation at White House request. When the Reagan administration wanted to punish New Zealand for its nuclear-free weapons policy but did not want to be seen doing so, it encouraged a senior Republican in the House to introduce punitive legislation.[16]

Even when Congress and the White House become locked in conflict, more is usually occurring than meets the eye. Though it is convenient to treat Congress and the executive branch as "its"—a convenience I will indulge in as well—both institutions are actually "theys."[17] Congress clearly is not a monolith; every vote testifies to the ideological, partisan, and regional divisions within the institution. But division also marks the executive branch. No one familiar with the literature on bureaucratic politics would mistake the Defense Department for a unified bureaucracy or overlook the rivalries between the State Department and the staff of the National Security Council. The splits within the executive branch mean that losers in executive branch decision making frequently turn to Congress for help in changing policy.

Examples of alliances—some explicit, some tacit—that cut across the two branches of government are not hard to find. The most obvious are those between presidents and their supporters on Capitol Hill. But alliances between congressional opponents and disaffected executive branch officials also abound. Critics of the second Strategic Arms Limitation Talks (SALT II) drew considerable support from officials in the Defense Department.[18] In the mid-1980s, officials in the State Department encouraged congressional interest in the Philippines as a way of putting pressure on President Reagan to end support for Ferdinand Marcos.[19] When Secretary of Defense Dick Cheney canceled the V-22 Osprey, the marines lobbied on Capitol Hill to save the

plane. And when President Bush began to consider a Defense Department proposal to sell advanced weaponry to Saudi Arabia after the Gulf War, State Department officials opposed to the plan told the media the sale would damage the Middle East peace talks.[20]

Once the prevalence of cross-cutting alliances on foreign policy is recognized, the normative aspects of executive branch conflict take on a new light. Most commentators urge members of Congress to follow the lead of the White House on the grounds that the executive branch possesses greater technical expertise and better comprehends the national interest (a result of the president having been elected in a national election). But on many occasions the experts in the executive branch disagree among themselves over which policies serve the national interest. In circumstances such as these, then, it is hardly surprising that many members regard presidential initiatives with skepticism. By the same token, on most every issue, some group in the executive branch welcomes congressional involvement. As one congressional staffer put it when asked if foreign policy officials obeyed the directives laid down by the appropriations committees: "Sure they'll do it. *Someone* there wants to!"[21]

The electoral, technocratic, and adversarial fallacies each distort our understanding of Congress and foreign policy. In particular, the three fallacies prompt pessimistic conclusions about the congressional role in foreign policy. My goal in this book is to challenge these conclusions and to present a more balanced assessment of Congress's role in foreign policy. The chapters that follow show that while politics invariably colors congressional debates, it does not make members of Congress inherently unfit to decide foreign policy. Indeed, politics often drives members to address the substance of foreign policy—although in ways that sometimes irritate Irreconcilables and Skeptics alike—and thereby to discharge Congress's constitutional duty to oversee the making of U.S. foreign policy.

In trying to provide a more balanced assessment of Congress's role in foreign policy, I am not claiming that congressional activism is cost-free or that it guarantees that the country will choose wisely in foreign affairs. As critics from across the political spectrum like to point out, Congress can be inefficient, it can miss the significant in a rush for the trivial, and it can choose bad policies. Yet the deficiencies of congressional activism should not blind us to its virtues or lead us to overlook the vices that attend congressional deference to the executive branch. Contrary to what both Irreconcilables and Skeptics claim, U.S. foreign policy on balance benefits from congressional activism.

ORGANIZATION OF THE BOOK

The chapters that follow explore Congress's role in the making of foreign policy. I should emphasize that I use the term *foreign policy* to encompass the entire array of policies that affect the U.S. role in the world. An all too common failing is to equate foreign policy with crisis policy or national security policy. As Chapter 7 discusses at greater length, such a limited conception of foreign policy channels the discussion to precisely those areas where presidential power is the strongest and congressional influence the weakest. Conversely, studies that focus on decisions to use force miss an entire class of issue areas such as foreign aid, human rights, and trade where congressional activity and influence is extensive.

By the same token, I use *foreign policy* to include defense issues. Although defense and foreign policy are often treated as distinct policy domains, it is far more difficult to disentangle the two than the different labels might otherwise suggest. During the heated debates in the 1980s over the MX missile and the Strategic Defense Initiative, for example, what was at stake was not only the future of specific weapons systems but also the means by which the United States would deter the Soviet Union and (if the Reagan administration was to be believed) the course of the Strategic Arms Reduction Talks (START). Likewise, the decisions being made today about the size, composition, and purpose of U.S. military forces after the cold war both flow from and place significant limits on America's role in the world.

The first three chapters begin the examination of Congress's role in the making of foreign policy by exploring the whats, whys, and whos of congressional activism. Chapter 1 traces the history of congressional involvement in foreign policy and reviews the developments that have encouraged members of Congress to become more active since the end of the Vietnam War. Chapter 2 examines the constraints and incentives that individual members face when dealing with foreign policy. While it is often assumed that electoral pressures discourage sustained legislative interest in foreign policy, members have personal and political incentives to undertake detailed substantive work. Chapter 3 discusses the roles played by committees, the floor, party leaders, and congressional staff. Although critics make much of the fact that many committees claim jurisdiction over some aspect of foreign policy, the real power remains in the hands of the traditional foreign policy committees. The distribution of power among these committees, however, has changed dramatically.

Chapters 4, 5, and 6 review the tools that members of Congress use to make their preferences felt in foreign policy. Chapter 4 surveys efforts to

dictate the substance of foreign policy through legislation. Because of the limitations inherent in substantive legislation, members often are less interested in passing a bill than they are in using it as a lever to force the administration to change its policy. Chapter 5 shows how members use procedural legislation to design decision-making processes that incorporate congressional preferences into executive branch decisions. Chapter 6 analyzes several nonlegislative means that members use to influence foreign policy. Much of what commentators dismiss as congressional posturing turns out on closer inspection to be attempts to use the media to change the terms of debate and thereby the content of policy.

The final two chapters examine Congress's impact on foreign policy. Chapter 7 addresses the question of influence. It explores how Congress's importance varies across the different types of foreign policy, ranging from almost none in crisis policy, to a modest amount in strategic policy, to a substantial influence in structural policy. Nonetheless, Congress remains a junior partner to the president. It is by no means a coequal of the president and it does not control foreign policy. Chapter 8 concludes the study by assessing the vices and virtues of congressional activism. The conventional wisdom holds that Congress unnecessarily politicizes foreign policy and hampers the ability of presidents to carry out their duties as the representative of the nation. On closer inspection, these criticisms fall short.

1 FOREIGN POLICY ON CAPITOL HILL

WHEN GEORGE BUSH became president, he set out to restore comity to an executive-legislative relationship on foreign policy that had become frayed during the Reagan years. Disturbed by the fact that Congress and the White House had come to challenge not only each other's policy proposals but also each other's motives, Bush used his inaugural address to call for "a new engagement between the Executive and the Congress." He reminded his audience of a time when America's political differences "ended at the water's edge," and he concluded that the "old bipartisanship must made new again."[1]

President Bush never achieved the new engagement he hoped for. Although Congress and the White House cooperated on some foreign policy matters, his decisions on the Gulf War, China's trade status, aid to El Salvador, and other issues came under sharp attack on Capitol Hill. Yet the failure to establish a new engagement owed less to a lack of effort on the part of the president or members of Congress than to the premise on which the idea rested. For all the president's nostalgia about politics stopping at the water's edge—a nostalgia shared by Irreconcilables and Skeptics alike—conflict between the president and Congress is deeply rooted in both constitutional theory and historical practice. The Constitution divides foreign policy between the executive and legislative branches, thereby creating, in Edward Corwin's famous phrase, "an invitation to struggle for the privilege of directing American foreign policy."[2] And while that invitation does not preclude cooperation where Congress and the president share the same policy preferences, where they do not members of Congress have gladly tried to put their own mark on foreign policy.

Of course, when presidents and pundits wax nostalgic about the White House and Congress working hand in hand on foreign policy they long not