

Working paper: *An Imperial Presidency or A Presidency Deterred?*

War powers experts have often argued that Congress's power to authorize armed conflict has *de facto* been a dead letter since the beginning of the Cold War due to the existence of a massive standing military and a judiciary unwilling to adjudicate cases in the war powers context. Indeed, President Truman was able to conduct the Korean War—a conflict which yielded nearly forty-thousand U.S. fatalities—without ever securing formal congressional approval by calling it a “police action.” Yet, in the seventy years since the outbreak of the Korean conflict, there has never again been a major U.S. conflict undertaken unilaterally by the president, and executives have sought congressional approval for the use of military force on many occasions since 1950. This article argues that this observed pattern is best explained by a theory of Congressional Deterrence: an unwillingness of the president to use major military force absent formal congressional approval out of a fear of congressional attack later on. Examining twelve postwar crises, we see clear evidence that presidents subsequent to Truman saw the Korean War as a precedent *not to follow*, and instead viewed undertaking major conflict unilaterally as so risky politically as to make it simply unfeasible. If true, this would imply that the congressional power to authorize conflict is still quite relevant today and that U.S. presidents are far less “imperial” in the war powers context than often believed.