

THE
U.S. CONSTITUTION
AND THE
POWER TO GO TO WAR

Historical and Current Perspectives

Edited by GARY M. STERN
and MORTON H. HALPERIN

Prepared Under the Auspices of
The Center for National Security Studies



Contributions in Military Studies, Number 150

GREENWOOD PRESS
Westport, Connecticut • London

Contents

Acknowledgments	vii
Introduction <i>Gary M. Stern and Morton H. Halperin</i>	1
1 Historical Survey of the War Powers and the Use of Force <i>Louis Fisher</i>	11
2 Constitutional Constraints: The War Clause <i>Peter Raven-Hansen</i>	29
3 Statutory Constraints: The War Powers Resolution <i>Ellen C. Collier</i>	55
4 Treaty Constraints: The United Nations Charter and War Powers <i>Jane E. Stromseth</i>	83
5 International Law Constraints <i>Jules Lobel</i>	107
6 Judicial Constraints: The Courts and War Powers <i>Harold Hongju Koh</i>	121
7 Constraints on “Covert” Paramilitary Action <i>Gregory F. Treverton</i>	133
8 “Covert” Paramilitary Action and War Powers <i>Gary M. Stern and Morton H. Halperin</i>	149

9	Emergency War Powers <i>John Norton Moore</i>	159
10	Common Ground <i>Gary M. Stern and Morton H. Halperin</i>	167
Appendix		179
Selected Bibliography		181
Index		191
About the Editors and Contributors		197