December 11, 2006 The Iraq Study Group released its report last week, giving the president several recommendations to consider in prosecuting the war. Similarly, the incoming Democratic leaders in Congress promise to urge the President to take a new course in Iraq. Meanwhile, one newly elected member of Congress was asked on national television about the Iraq war. She responded by saying she had no real opinion, and that foreign policy was “up to the president.” In each instance, it is assumed that the president will make Iraq policy. I’m not talking about the details of actual military operations in Iraq; I’m talking about the broader policy questions of how long our troops will stay, how many will stay, and how victory will be defined. The media, Congress, and the American public all seem to have accepted something that is patently untrue: namely, that foreign policy is the domain of the president and not Congress. This is absolutely not the case and directly contrary to what our founding fathers wanted. The role of the president as Commander in Chief is to direct our armed forces in carrying out policies established by the American people through their representatives in Congress. He is not authorized to make those policies. He is an administrator, not a policy maker. Foreign policy, like all federal policy, must be made by Congress. To allow otherwise is to act in contravention of the Constitution. Library of Congress scholar Louis Fisher, writing in The Oxford Companion to American Military History, summarizes presidential war power:

The president's authority was carefully constrained. The power to repel sudden attacks represented an emergency measure that allowed the president, when Congress was not in session, to take actions necessary to repel sudden attacks either against the mainland of the United States or against American troops abroad. It did not authorize the president to take the country into full-scale war or mount an offensive attack against another nation.

But it’s not simply the decision to wage war that is left to Congress. Consider also the words of James Madison:

Those who are to conduct a war cannot in the nature of things, be proper or safe judges, whether a war ought to be commenced, continued, or concluded. They are barred from the latter functions by a great principle in free government, analogous to that which separates the sword from the purse, or the power of executing from the power of enacting laws (italics added).

So Congress is charged not only with deciding when to go to war, but also how to conduct-- and bring to a conclusion-- properly declared wars. Of course the administration has some role to play in making treaties, and the State Department should pursue beneficial diplomacy. But the notion that presidents should establish our broader foreign policy is dangerous and wrong. No single individual should be entrusted with the awesome responsibility of deciding when to send our troops abroad, how to employ them once abroad, and when to bring them home. This is why the founders wanted Congress, the body most directly accountable to the public, to make critical decisions about war and peace. It is shameful that Congress ceded so much of its proper authority over foreign policy to successive presidents during the 20th century, especially when it failed to declare war in Korea, Vietnam, Kosovo, and Iraq. It’s puzzling that Congress is so willing to give away one of its most important powers, when most members from both parties work incessantly to expand the role of Congress in domestic matters. By transferring its role in foreign policy to the President, Congress not only violates the Constitution, but also disenfranchises the American electorate.