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PLUNGE FROM REPUBLIC TO EMPIRE

by Wendy McElroy
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We have crossed the boundary that lies between Republic and Empire. If you ask when, the answer is that you cannot make a single stroke between day and night. The precise moment does not matter. There was no painted sign to say, “You now are entering Imperium.” Yet it was a very old road and the voice of history was saying: “Whether you know it or not, the act of crossing may be irreversible.” And now, not far ahead, is a sign that reads: “No U Turns.”

— Garet Garrett

It is difficult to pinpoint the moment at which America crossed from Republic into Empire but guidelines exist for doing so. In his treatise *Rise of Empire* (1952), the libertarian journalist Garet Garrett declared the “first requisite of Empire” to be “the executive power of government shall be dominant.” Arguably, the power most intimately connected to Empire or imperialism is conducting foreign policy, especially war.

America’s plunge into imperialism is evident in its abandonment of a constitutional clause. Article I, Section 8, Paragraph 11 (the “War Powers Clause”) reads, “[The Congress shall have power ...] To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.” The form of the declaration is not specified but the need to go through Congress is. The ability to declare war is coupled with other congressional powers over foreign affairs — namely, issuing letters of marque and reprisal as well as defining rules of

capture on land and water. Congress is granted exclusive power over what are (or were) key areas of foreign policy.

The purpose was to rein in the executive, the president, by blocking his ability to declare war and otherwise initiate foreign conflicts. Having recently broken away from a monarchy, the Framers were determined to prevent one from arising on American soil. Since a defining power of monarchy was what William Blackstone referred to as “the sole prerogative of making war and peace,” the Constitution repudiated that kingly prerogative. James Madison wrote in a letter to Thomas Jefferson (circa 1798), “The constitution supposes, what the History of all Governments demonstrates, that the Executive is the branch of power most interested in war, and most prone to it. It has accordingly with studied care vested the question of war to the Legislature.”

Even Alexander Hamilton, an advocate of centralized power, found it necessary to reassure the public that ratification of the Constitution would not give the executive the power to declare war. In *The Federalist Papers*, he explained, “The President is to be Commander in Chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the King of Great-Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces ... while that of the British King extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies; all which, by the Constitution under consideration would appertain to the Legislature.” In short, the president would have the authority to conduct war once a declaration had been approved by Congress.

As well as restraining the executive, the War Powers Clause makes war less likely for several reasons. A vote in Congress promotes public debate on the issues surrounding war, including whether there is sufficient cause for a declaration; such debate allows objections and alternatives to be considered. Moreover, an open debate makes false claims less likely to prevail. A vote from hundreds of politicians drawn from the entire nation is more likely to reflect the will of constituents — the people — than the “vote” of one man; a war to benefit a faction of society could be opposed by those who would pay the price. A delay, even one counted in hours, allows for negotiation or other circumstances to change.

Despite the War Powers Clause, World War II was the last war for which Congress issued an official declaration of war. Korea, Vietnam, the Persian Gulf, Afghanistan, Iraq, and the shifting police actions in the Middle East originated through the action of presidents in a fashion akin to those of kings or dictators.

The War Powers Clause has been supplanted by Article II, Section 2, Paragraph 2 which states, in part, “The President shall be Commander in Chief of the army and navy of the United States, and of the Militia of the several States, when called into the actual service of the United States.” The clause is interpreted to mean that the executive has a “right” to declare hostilities without involving Congress.

How did the executive wrest the power to create empire away from Congress? In brief: the Korean War.

The Korean War watershed

In 1951, the anti-interventionist Sen. Robert A. Taft contested the constitutionality of the Korean War. He stated, “[In] the case of Korea, where a war was already under way, we had no right to send troops to a nation, with whom we had no treaty, to defend it against attack by another nation, no matter how unprincipled that aggression might be, unless the whole matter was submitted to Congress and a declaration of war or some other direct authority obtained.”

The Korean War (June 25, 1950 – July 27, 1953) is often viewed as a footnote to World War II. In reality, it was a pivot point in American foreign policy. Subsequent wars bear the fingerprints of Korea.

Since America’s early days, presidents have sent troops into combat abroad without a declaration of war. In the 19th century, however, such conflicts were usually limited and minor. The Barbary Wars (1801–1805, 1815) against tribute-seeking pirates in the Mediterranean are an example. Thirty-five Americans died in action; 64 were wounded. By contrast, 54,246 Americans died in Korea, with 103,284 being wounded. The goal of the Barbary Wars was to prevent pirate attacks on American shipping vessels; the Korean War was open-ended and politically motivated. And the Barbary Wars were sanctioned by the passage of at least ten congressional statutes.

The Founding Fathers envisioned circumstances in which a presidential response to aggression would not require congressional approval. A resolution brought before the Constitutional Convention by Madison and Elbridge Gerry reserved the power to initiate war to Congress but “with the reservation that the president need not await authorization from Congress to repel a sudden attack on the United States.” The independence of action was meant to counter a sudden attack and not to conduct a sustained conflict.

Korea did not attack America. Nor did the two nations have a treaty. Nevertheless, Harry Truman was eager to intervene.

Three years before, on March 27, 1947, he had announced the Truman Doctrine by which America pledged to assist any country that resisted communist aggression. In the wake of World War II, the United States and Soviet Union vied for global dominance through a Cold War (circa 1947–1991). The Soviet Union encouraged the spread of communism in order to expand its sphere of influence; the United States pursued containment by extending military and financial aid to “vulnerable” nations. The Truman doctrine had been vigorously resisted in Congress by isolationist Republicans who viewed it as a program for imperialism. Rep. George Bender of Ohio accused Truman of authorizing “a program of military collaboration with all the petty and not so petty dictators.” The president was aware of how difficult it would be to push war in Korea through Congress. And, yet, Korea epitomized the Cold War politics upon which Truman focused.

Why? Prior to World War II, Korea had been a colony of Japan. After Japan fell, America and Russia divided the peninsula at the 38th parallel, with America in the South, Russia in the North. Subsequent negotiations toward unification failed. Then, in June 1950, North Korea invaded the South with the backing of Soviet tanks and equipment.

How did America join the warfare? Congressman Howard Buffett explained,

On June 25, 1950, the U.N. Security Council demanded a cease-fire and called on members to render every assistance to the United Nations in the execution of this resolution. Nothing was said about entering the conflict.... But at 12 o'clock noon, on June 27, President Truman ordered United States air and sea units to give the Korean Government troops cover and support. That order put our military forces into the Korean civil war on the side of the South Koreans. At 10:45 that evening, 11 hours later, the Security Council requested members of the U.N. to supply the Republic of Korea with sufficient military assistance to repel invasion.

The later request was actually a recommendation rather than a demand to live up to UN commitments. The resolution read, “*Recommends* that the Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area.” [Emphasis in the original.] In an article entitled “Bush versus I.F. Stone and Eisenhower,” John Nichols commented, “Instead of going to Congress and asking for a formal declaration of war, the president [Truman] gamed the system by claiming that U.S. participation in the United Nations required him to send American boys to again die in Asia not five years after World War II had finished.”

Since Truman, it has become common for presidents to draw upon global authority in order to commit American troops to war without Congressional approval.

Conclusion

Prior to World War II, a strong current of noninterventionism influenced American foreign policy. The noninterventionists believed that America fared best when it did not militarily intrude into the affairs of other nations except in strict self-defense. World War II derailed their objections but, when war ended, noninterventionism reemerged within some circles.

The Korean War occasioned a neglected episode of history called “The Great Debate” on the propriety of the Korean War and wider principles, for example, when and by whom a declaration of war should be made. The noninterventionists and the U.S. Constitution lost.

One reason was the presence of a new argument — that nuclear war would require an immediate response from the president, who could not waste time seeking congressional approval. But that alleged need cannot explain why the Korean War was declared through what one historian called “a wink and a smile.” Nor does it justify presidential declarations thereafter when nuclear war was not threatened. Moreover, if nuclear war was ever plausibly threatened, it could be viewed through the lens of Madison’s and Gerry’s resolution. That is, a sudden attack required an exception to the otherwise exclusive right of Congress to declare war. As it was, the mere possibility of such an attack was enough to de facto strip Congress of that right in all subsequent circumstances.

George Friedman, geopolitical forecaster, explained how the transfer of that power affected the American Republic. “If there is a single point where these matters [Republic and Empire] converge, it is in the constitutional requirement that Congress approve wars through a declaration

of war and in the abandonment of this requirement since World War II. This is the point where the burdens and interests of the United States as a global empire collide with the principles and rights of the United States as a republic.” Empire won.