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by

Katherine Elizabeth Ellison

A dissertation submitted to the Graduate College in partial fulfillment of the requirements for the degree of Doctor of Philosophy Department of History Western Michigan University April 2013

Doctoral Committee:

Edwin A. Martini, Ph.D., Chair
Sally E. Hadden, Ph.D.
Mark S. Hurwitz, Ph.D.
Kathleen G. Donohue, Ph.D.
This project offers a fundamental rethinking of the origins of the imperial presidency, taking an interdisciplinary approach as perceived through the interactions of the executive, legislative, and judiciary branches of government during the 1930s, 1940s, and 1950s. In light of the end of the Cold War and twenty-first century recurrence of the imperial presidency after the September 11, 2001 attacks, the original thesis proposed by historian Arthur M. Schlesinger Jr. in *The Imperial Presidency* and other works based on the periodization of the Cold War is in need of updating.

By utilizing legal theories, political science models, and historical analysis, this project creates a more complete concept of how governmental players and bodies interacted in the post-World War II United States, creating an environment conducive to the construction of an imperial presidency in the future and de-centering the executive overall. A combination of legal realism, rhetorical analysis, the two presidencies theory, rally effect concepts, and political models such as the attitudinal model, cue theory, and distributive politics take this project beyond a simple historical study by focusing on the background, mindset, and behavior of political actors involved, not just their documents.

Tying all of this together, I argue, is the concept of continuous warfare, a liminal zone of political malleability between traditional peace and traditional war, which
governmental actors utilize for their purposes, prerogatives, and agendas. Stretching beyond the Cold War and into the present day, the ambiguous nature of continuous warfare systematically persuaded Congress and the Supreme Court of the United States to give up their governmental checks on the Commander in Chief during the forties and fifties. This perpetual imbalance of power creates a sturdy structure that might house an imperial president. Additionally, the American people, manipulated by governmental actors within the allowances of continuous warfare, came to accept this liminal zone as a new version of “peace” in the United States, creating the illusion of safety and security, a “house of peace.” The American public’s willingness to accept continuous warfare under the pretense of peace reinforced the structural imbalance of power that continues to house a strong executive.
ACKNOWLEDGEMENTS

In President Harry S. Truman’s memoirs, he noted that “Within the first few months I discovered that being a president is like riding a tiger. A man has to keep riding or be swallowed.” In my own experience, I quickly discovered that writing a dissertation has much of the same thrilling fear as Truman’s take on the presidency. One simply has to keep writing, no matter the other distractions, pitfalls, or bumps that occur along life’s road. Many people and organizations made my own personal “tiger ride” as smooth as possible.

Foremost, my advisor Dr. Ed Martini provided valuable insight well beyond the dissertation writing process. Though my topic was at times a learning experience for us both, Martini never failed to give constructive criticism, hopeful praise, and lend direction throughout this project’s inception and completion. Beyond this, I could not have asked for a more ambitious, talented, and all around good guy to be my advisor, serve as a role model, and guide me through the seemingly perpetual turmoil of academia. For this, I am deeply grateful.

Along with Dr. Martini, the other members of my dissertation committee, Drs. Mark Hurwitz, Kathleen Donohue, and, Sally Hadden helped to create a perfect forum for the interdisciplinary nature of this project. In particular, Dr. Donohue inspired me not only to continue my graduate education but also to take an interest in the activities of government due to her own research on executive power. Although I never had the
pleasure of taking a course taught by Dr. Hadden, our interactions during this project and beyond, have left me in awe of her almost imperceptible ability to move between the fields of law and history amongst many others. Her critiques continually posed questions that helped to make this project whole. Finally, Dr. Hurwitz allowed me the opportunity to expand my historical viewpoint to the very closely related field of political science, public law in particular. Dr. Hurwitz’s perspective helped me to see the holes in my historical analysis and better understand how the Court and government operate.

Beyond my committee, I would like to thank my officemates over the last five years, Chris Jannings, Francis Bonenfant, Bill Watson, Samantha Steele, and Adam Quigley for providing, not least of importance, entertainment, encouragement, and a sometimes-necessary escape from the rigors of academe. Along with the 4419 crew, I owe a debt of gratitude to the Western Michigan University Department of History for providing me with a home for my doctoral study, an opportunity to grow as a student and teacher, and the funding for many of my supplies and excursions that made this project possible.

Additionally, the staff and librarians of the Harry S. Truman Library and Museum, Library of Congress, Dwight D. Eisenhower Presidential Library, University of Kentucky Special Collections, University of Louisville Louis D. Brandeis School of Law, Special Collections and Rare Books at the Tarlton Law Library, and Franklin D. Roosevelt Presidential Library deserve thanks for their help in finding documents and
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Lastly, my parents Mary and Allen Temple, my father-in-law Terry Ellison, my friends Adam Engel and John Byczynski along with many other friends and family have provided endless moral and financial support throughout my education for which I could never thank them enough. Most of all, my husband Phil never failed to play devil’s advocate or lend a well-thought out opinion about my work. His constant companionship, encouragement, and unconditional love were key factors in my sanity over the last several years. His own daily work in the legal world provided additional insight and humor that helped to break up the monotony of historical research. I look forward to beginning our life post-student, finally!

Katherine Elizabeth Ellison
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INTRODUCTION

“Carry the battle to them. Don’t let them bring it to you. Put them on the defensive. And don’t ever apologize for anything.”

--President Harry S Truman

On the morning of September 11, 2001, Americans awoke to televised horror as they learned that terrorists, with a plot to use jetliners as missiles, had attacked the United States. The live television image of a Boeing 767 careening head on into the South Tower of the World Trade Center in New York City burned into the American psyche, leaving the average person scared, worried, and most of all, confused. Americans had come to take the relative peacefulness of American life for granted, as 9/11 was the first time in sixty years that the United States had experienced an act of war on home soil. As an eerie silence settled in the skies over the United States, Americans braced themselves for war.

In this time of extreme emotional duress, Americans turned to their president, their Commander in Chief, to lead them through the haze, to explain how this could happen in a time of peace in the United States and in the twenty-first century. In a televised address that evening, President George W. Bush, having served less than eight months in office, noted, “Our first priority…is to take every precaution to protect our

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citizens at home and around the world.”  In his folksy style, Bush thoroughly melded the nation with the American concept of home. Speaking of the 9/11 victims as “moms and dads” and “friends and neighbors,” Bush relayed how terrorist attacks might shake the foundations of the biggest buildings but “they cannot touch the foundation of America.”

The American home, one filled with peace since Pearl Harbor in 1941, was suddenly under attack by unknown enemies, yet President Bush sought to reassure Americans that their house was, and would, remain standing. A house—the home—had always served as the ultimate symbol of the American dream and as a representation of safety and security for all Americans. At the end of his speech, Bush reflected this mindset when he asked for prayers, for those whose “safety and sense of security had been threatened.” Historian Elaine Tyler May commented on this American home metaphor during a time of war in Homeward Bound, noting, “The self-contained home held out the promise of security in an insecure world.” However, the events of September 2001 were well beyond the threats of the Cold War and pressure of sudden nuclear annihilation on which May focused, leaving twenty-first century Americans to wonder about their future safety in a suddenly war-wracked country.

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4 Bush, “Address to the Nation.”

5 Merriam-Webster defines a house as both a building that serves as living quarters and a protective shelter or refuge. This definition is synonymous with “home.”

6 Bush, “Address to the Nation.”

War was the one threat that had largely managed to leave the United States untouched at home with the exception of the attack on Pearl Harbor in 1941 and the September 11, 2001 terrorist attacks. One reason why these events were so traumatizing for Americans was the direct impact they had on the perceived safety of the American home. After the 9/11 attacks, Bush proclaimed that the new “Department of Homeland Security” would “give law enforcement the additional tools it needed to track down terror here at home.”\(^8\) Warfare had never been a comforting idea. A war on American soil stood in opposition to the very concept of home as a place of safety and security, a place of peace.

However, for the past sixty-seven years, Americans have been embroiled in a war that managed to let them feel largely comfortable, safe, and at peace at home. Historian Michael Sherry argued in *In the Shadow of War* that a culture of war has indoctrinated Americans since the 1930s. Sherry claimed that warfare so much surrounded Americans that war became acceptable as a general part of American life. “War’s shadow hung over the nation,” Sherry noted, “but its substance was hard to grasp.”\(^9\) Legal scholar Mark Tushnet noted that modern war was a “condition” not a state of things, a “more-or-less permanent condition,” suggesting warfare went far beyond the traditional parameters of

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the battlefield. How was it possible that Americans, so threatened by attacks at home, would embrace war, the preeminent concept of danger to their home, wholeheartedly?

The answer lay in the fuzzy nature of the liminal zone between traditional war and traditional peace that Americans had come to accept since the late 1940s. This condition led Americans to believe they were living in an era of peace while political actors within the government—legislators, judges, and even presidents—quietly manipulated the concept of war beyond what they told to the public, in order to fulfill personal political agendas. In 1945, President Harry Truman initiated the beginning phase of this “continuous war.” This war was nontraditional in nature, formulated from ideas, concepts, and words that undergirded all future traditional armed conflicts and periods of relative peace. Continuous warfare provided a “twilight phase” between traditional peace and war where the horrors of war subsided but the associated executive and governmental powers did not.

Truman and other presidents concealed this condition by building around it a “house of peace.” The outward appearance of peace, promulgated through covert activities, fuzzy language, and federal subservience to the executive throughout the 1940s and 1950s, helped Americans, unknowingly, embrace the idea of warfare. While the Cold War eventually overshadowed continuous warfare until the fall of the Soviet Union in the early 1990s, this state of war continued until the present day, cloaked by political language and actions that suggested a greater desire for peace than war. Taking this understanding at face value, Americans were at home, safe, and comfortable in the government’s house of peace.

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Like any home that might last for decades, the building of this house of peace included a sturdy underlying structure. Just as traditional homes are set on a firm foundation, with strong walls, and secure roof, the government constructed the house of peace with similarly well-founded political elements. This governmental structure would come to house an increasingly strong executive with the possibility of generating imperial presidents.

The Executive as Architect

Executive power itself has been a topic of debate in the United States since the formation of the constitutional government in 1789. Given the United States’ foundation in republican virtue, separated power, and democratic principles, it was reasonable that Americans had (and have) an innate suspicion of any person holding such a powerful office as that of president. It was this suspicion that maintained the pressure on established governmental checks, the separation of powers that allowed the United States government to continue to function. However, if this suspicion is set aside and the checks weakened or neglected, there is potential for a disruption in the balance of powers. This disruption would cause the power of the Federal government to become unbalanced between the three branches, giving more power to one branch over the other two. The most dangerous situation for the country is when the power shifts toward a strong executive with the possibility of a single tyrant controlling the nation by his personal prerogatives.

However, not every powerful president was or might be a danger to the United States. The very nature of executive power was malleable so that the president could have more power in certain situations, such as times of war. During warfare, the
president gains more power through his constitutionally sanctioned role as Commander in Chief.\textsuperscript{11} In this position, he controls the nation’s military and militias, and the people recognize him as the protector of this American home.

Though the president retains his role as the head of the American military even without warfare, the power commensurate with the role of the Commander in Chief is directly related to war. The Framers of the Constitution meant for this unique power to be temporary, redistributed once the conflict was over. Nevertheless, some presidents have gone beyond their constitutional role, usurping power from the other branches in order to accomplish their agendas.\textsuperscript{12} When this usurpation goes unchecked by members of Congress and the US Supreme Court, the presidency is out of control and might become imperial.

Historian Arthur Schlesinger, Jr. first recognized this scenario in his 1973 book, \textit{The Imperial Presidency}. Schlesinger contended, “When the constitutional balance is upset in favor of presidential power and at the expense of presidential accountability, the presidency can be said to become imperial.”\textsuperscript{13} Schlesinger’s work was poignant and

\textsuperscript{11} Article 2, Section 2 states: “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…” U.S. Constitution, art. 2, sec. 2.

\textsuperscript{12} Things such as executive orders, signing statements, and executive decrees fit here and set no constitutional precedent. Historically, there has been much debate over how much power the Framers intended to grant the president through the CINC Clause. Major arguments include: 1) The Framers were purposely vague so the president could assume any powers he needed in an emergency situation (including future situations, like nuclear war, that the Framers could not have actually predicted), 2) the Constitution grants purposely limited power to the president only through control of the military troops with Congress having the real power to “make war”, and 3) the CINC Clause gives the president war-making power through his control of the troops and Congress’ war power is merely a technicality. While nearly every book on executive power includes some discussion of these arguments, an in-depth discussion of these issues can be found in Louis Fisher, \textit{Presidential War Power} (Lawrence: University Press of Kansas, 1995).

timely, recognizing that Richard M. Nixon was the epitome of an imperial president. According to Schlesinger, Nixon’s ability to abuse the power of the presidency supposedly came from years of Cold War, which extended the emergency situation and with it, the power of the president as Commander in Chief. “The Cold War, by generating a climate of sustained and indefinite crisis, aborted the customary reversion of power to the coordinate branches. The most visible sign of growing presidential imperialism was the transfer of the power to go to war from Congress to the executive,” noted Schlesinger.\(^\text{14}\) Despite Schlesinger’s conclusion about Nixon’s presidency and the eventual termination of the Cold War, the imperial presidency reappeared in full force during the twenty-first century.\(^\text{15}\)

The explanation for this return of the imperial presidency was not the Cold War, as Schlesinger originally contended, but continuous warfare—a phase between traditional peace and traditional war that started after World War II and continued to the present. While historians often overlooked Harry Truman’s accomplishments by contrasting them with Franklin Roosevelt’s achievements, it was under Truman’s leadership that the presidency changed and the circumstances of modern warfare and the state of continuous

\(^\text{14}\) Schlesinger, Imperial Presidency, xv.

\(^\text{15}\) George W. Bush has been cited as another imperial president who falls outside the timeframe of the Cold War. For more on this, see: Charles Savage, Takeover: The Return of the Imperial Presidency and the Subversion of American Democracy (New York: Little, Brown, 2007); Jane Mayer, Dark Side: The Inside Story of how the War on Terror turned into a War on American Ideals (New York: Doubleday, 2008). Not knowing what to do about the disconnect between the end of the Cold War and George W. Bush’s presidency, Savage argued that Vice President Dick Cheney was the link between Bush and Richard Nixon. For Savage, it was Cheney (who acquired his first White House job during Nixon’s presidency) who worked to rebuild the imperial presidency after its collapse, only resurrecting it once he was vice president under George W. Bush. Mayer’s focus neglected a connection to the Cold War specifically, but did relate the foreign relations nightmare of torture to Bush’s rise to power. She argued that a misconstrued understanding of Bush’s presidential power as Commander in Chief allowed his staff to circumvent legal restraints on his actions.
warfare created a structure for imperial executive power that was lodged in the house of peace.

While Truman was not an imperial president, he laid the groundwork for the unstoppable executive power that would override the power of Congress and the court for future presidents. Despite Roosevelt’s command of the executive branch, the power he used would have been, theoretically, restored to the other branches of government after World War II concluded, restoring the balance intended by the Framers of the Constitution. Roosevelt did not live to see World War II end, however, leaving Truman to keep his power in the only way he knew possible: his inherited role as a wartime Commander in Chief. Prior to this point, the power of the Commander in Chief was temporary, with presidents only utilizing this role during periods of war when command of the military was necessary. The Roosevelt-Truman switch in 1945, the first use of the atomic bomb, US-Soviet hostilities, and the creation of the National Security State all coalesced to create a state of continuous warfare, and with its heightened security, the illusion of peace.

In Building A House of Peace: The Origins of the Imperial Presidency and the Framework for Executive Power I argue that the convergence of continuous warfare, relinquishment of congressional power, and judicial neglect in the period from 1941 through 1960 marked the origin of the imperial presidency. This combination of factors, cloaked by demonstrations of peace by political actors unwilling to give up the profits of

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warfare, subsequently created an underlying structure for executive power, applicable in the present day. This approach moves the discussion of presidential power outside of Schlesinger’s Cold War framework and seeks to de-center the executive, instead focusing on the legislature and judiciary that allowed presidential power to increase independent of a strong individual, sometimes culminating in an imperial president. Though not all presidents have chosen to utilize the full limit of this power, the underlying structure, the house of peace, remained intact to conceal presidential prerogatives.

Previous Residences

The scholarship dealing with executive power in the American presidency has developed steadily throughout the existence of the United States. Early scholarship stemmed from the presidency as defined by the Constitution and included such documents as the Federalist Papers, which first sought to clarify the powers of the president.\(^{17}\) In “Federalist No. 69” Alexander Hamilton set out to define the powers of the president compared to those of the King of Great Britain and the Governor of New York. “This [Hamilton’s explanation] will serve to place in a strong light the unfairness of the representations which have been made in regard to it [executive power],” Hamilton claimed in “Federalist No. 69,” already contending with conflicting ideas about the role of the president as early as 1788.\(^{18}\) This initial debate over the role of America’s chief executive continued as the office developed from one president to the next, but as the


position of president became synonymous with the man serving in the office, beginning with President William McKinley in 1897, the scholarship expanded.\textsuperscript{19}

By the twentieth century, scholarship concerning executive power clearly dealt with the constitutional grant of power or executive power as defined by the individual in the office. One example of this early individualistic scholarship is political scientist Richard E. Neustadt’s \textit{Presidential Power and the Modern Presidents}.\textsuperscript{20} In this work, Neustadt claimed, “The search for personal influence is at the center of the job of being President.”\textsuperscript{21} The focus of Neustadt’s text was on individual presidents and the individual skills, techniques, and personality quirks that made them effective, powerful presidents.\textsuperscript{22} These things included professional reputation, presidential prestige, and ability to persuade, with each dependent on the individual in the office. For Neustadt and other similar scholars, there was no underlying structure to executive power outside of the limitation of the Constitution, and each individual made the office his own.

\textsuperscript{19} McKinley was the first president in the line of modern presidents noted for his individualistic stance on the issues and active campaign techniques, standing in stark contrast to earlier party candidates such as Benjamin Harrison and Grover Cleveland who followed the party platform and left their administrations to control by strong Congresses. Although there are potential earlier exceptions to the partisan president, such as Abraham Lincoln or Andrew Jackson, these were a rarity. Additionally, though the more endearing and exuberant Theodore Roosevelt often overshadowed McKinley’s presidency, McKinley is often cited as the first president who took his own stand on the issues. For a good discussion of this and why McKinley deserves more merit overall, see: H. Wayne Morgan, \textit{William McKinley and His America} (Kent, OH: Kent State University Press, 2003).


\textsuperscript{21} Neustadt, \textit{Presidential Power}, xxi.

\textsuperscript{22} Neustadt’s 1990 edition includes presidents from Franklin Roosevelt through Ronald Reagan.
Neustadt’s work and other individualist authors continued to be important for the investigation of one particular president, but by the time that Vietnam, Cambodia, and Watergate coalesced in the early 1970s, it became more difficult to attribute abuses of power at the Nixonian level to a single man. It was because of Richard Nixon that Schlesinger first revised the concept of executive power, defining the imperial presidency in 1973. Beyond Nixon’s own manipulative skills and deceitfulness, there was another force at work expanding executive powers outside the bounds of the Constitution—war. The Commander in Chief (CINC) Clause of the Constitution had always stood as a possibility for expanded executive power, but the temporary nature of its use had made it less a threatening expansion of power than a necessary one. However, the Cold War took the CINC outside the temporary bounds intended by the Constitution, and gave the executive free rein through the use of “inherent powers.” The Framers had not actually written these assumed powers into the text of the Constitution but presidents garnered them from the purposeful vagueness of that document. Schlesinger’s structuralist work defined the Cold War as the precursor to excessive executive power or the imperial presidency.

Structural scholarship, with Schlesinger at the fore, flourished until the beginning of the 1990s, when the end of the Cold War brought a crisis for the study of executive power. If the Cold War had been the impetus for the imperial presidency, was the United States now safe from a gross misuse of executive power in the future? Would it now be

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left up to the individual in office to create a strong presidency? Would the constitutional balance of power finally be restored, specifically when it came to the war powers?

Executive power scholars overall were at a loss for where to place the origin of executive power (and abuse of power), in the individual or in some underlying structure. Los Angeles Times reporter Robert Shogun’s 1991 book, The Riddle of Power: Presidential Leadership from Truman to Bush looked back at earlier individualist concepts like ideology, values, and character in determining powerful presidents.²⁴ Concurrently, Neustadt published an updated version of his book in the early 1990s, working off his original individualist perceptions.

Other constitutional scholars now saw the danger of the CINC Clause in the Constitution and sought to reexamine its meaning and potential use. Constitutional law scholar Louis Fisher fit into this genre and returned to an examination of the Constitution’s war powers and the presidency.²⁵ His work, Presidential War Power, outlined the use of the CINC Clause from the framing of the Constitution to the modern day, contending through an historical survey that the Framers’ intended separation of war powers had gradually dissolved, leading to an excess of power in the executive branch due to the president’s role as the “sole organ” in dealing with foreign affairs.²⁶

Nonetheless, Schlesinger retained his original structuralist approach throughout this crisis in scholarship. In a new 2004 introduction to his classic work, Schlesinger qualified his earlier conclusions by contending that it was not necessarily the Cold War


that created the possibility of the imperial presidency but international crises overall.

“Once again,” Schlesinger noted in 2004, “international crisis has resurrected the Imperial Presidency…The impact of 9/11 and of the overhanging terrorist threat gives more power than ever to the Imperial Presidency.”27 However, by the time authors like Charlie Savage targeted Bush as an imperial president in books like Takeover: The Return of the Imperial Presidency and the Subversion of American Democracy, the War on Terror had been in existence for less than a decade.28 By the end of Bush’s first term in office he had established himself as a unitary executive—a president with complete control over the executive branch of government. Arguably, it was under this role that Bush went on to abuse his executive powers through the establishment of several questionable military and security policies.29 With Nixon’s abuse of executive power coming only after more than two decades of Cold War in Schlesinger’s earlier analysis, scholars continued to question the likelihood that 9/11 could create the same impact.

27 Schlesinger, Imperial Presidency, xvii, xxiv.


Building a House of Peace

*Building a House of Peace* fits most closely within the subset of post-revisionist structural scholarship, seeking an underlying structure for executive power that goes beyond the individual and beyond the Cold War. Schlesinger’s Cold War structure was incomplete, neglecting the significance of the other branches in creating executive power, and the long-lasting impact of the liminal zone between peace and war. In addition, *The Imperial Presidency’s* and other Cold War-framed works’ arguments became more fragile in the post-Cold War United States. *Building a House of Peace* closes these gaps, taking a thematic and interdisciplinary approach to executive power from the perspective of the other branches while expanding the structure of power beyond the Cold War period and into a more complicated zone of continuous warfare that casts doubt on the American meaning of peace at home. Since this dissertation is largely restricted to the period from 1941-1960, it also intersects several other fields of scholarship including those dealing with the Cold War (including the Korean War), the atomic bomb, the National Security State, Harry Truman, Franklin Roosevelt, and Congress and the court when concerning warfare and executive power issues.

The year 1941 marked the beginning of the United States’ entrance into World War II, Franklin Roosevelt’s utilization of the power of the Commander in Chief, and the beginning of the working relationship between Roosevelt and Soviet leader Joseph Stalin. While the focus of Building a House of Peace is on Truman’s ascension to the presidency, an understanding of Roosevelt’s position at the time of his death is necessary to see the changes in the Truman administration and understand the position of important players who carryover between the two administrations.

In addition, because Truman’s continuous warfare and expansive executive power extended beyond his own administration, it is necessary to bridge the gap between Truman and Dwight Eisenhower. Building a House of Peace ends in the year 1960 for two main reasons: inclusion of the Korean War and Eisenhower’s utilization of the completed house of peace concept through his New Look and Atoms for Peace programs. The end of the Korean War in 1953 offers the chance to examine the theory of continuous warfare beyond Truman and beyond traditional armed conflict. Additionally, by 1954 Eisenhower had a chance to transition fully from the Truman administration to his own prerogatives as president, allowing an examination of his use of executive power as seen through executive orders, legislative initiatives, and military actions short of war, which

relate to his role as Commander in Chief during continuous warfare. How he then put his prerogatives into action during the remainder of his presidency illustrated the sturdiness of the house of peace.

The Many Rooms

The house of peace has many rooms. In John chapter 14, verse 2 of the Bible, John wrote, “In my Father’s house are many rooms.” The many different churches or religions may be the “many rooms” that John references, which add complexity to the study of Christianity, just as the variety of fields of scholarship utilized in this analysis, including the subjects of history, political science, and law add complexity to the house of peace. Since each of these fields has its own terminology and methodology, it is important to define clearly the purpose in using individual terms along with tracing the development in these fields of the study of executive power. Each of these fields also has its own purpose—a study of the past events and circumstances versus the creation of a predictive model versus an application of concepts to real life circumstances. For example, in utilizing secondary literature concerning the Supreme Court’s behavior during the 1952 Youngstown v. Sawyer case, it is necessary to discuss Jeffrey A. Segal and Harold J. Spaeth’s “Attitudinal Model” from the realm of political science.\(^\text{31}\) Instead of using this model to predict future court decisions or explain a case outcome, this work uses the concept behind the model (various elements that create a jurist’s attitude and

ideology, which in turn affects his/her decision) to examine Youngstown and other court decisions historically from the perspective of the justices.

*Building a House of Peace* is truly an interdisciplinary project. The purpose of this project configuration is not simply an examination of the actions of the legislature and judiciary, often left to the realm of political scientists and legal scholars, because each of these fields offers their own unique perspective on how the branches of government work. Political models and legal theories serve as starting points as to how one might go about examining Congress and the court, and how these institutions function. With the addition of historical analyses of circumstances, biographical information, and differing periodization, the actions of the people and institutions in a particular scenario come into focus, offering the most complete picture of what occurred. Since the period under investigation in *Building a House of Peace* is a familiar one, this combination of a multitude of perspectives offers a new way of viewing the people, events, and circumstances of the 1940s and fifties, which reveals more detail than traditional analyses in the individual fields of history, law, or political science would allow.

In the first chapter, “Laying the Groundwork: From Roosevelt to Truman,” the focus is on delineating the distinct differences between Franklin Roosevelt and Harry Truman when it came to foreign affairs. As an experienced executive, Franklin Roosevelt understood both the practical and political elements involved in retaining a bond with the Soviet Union. In one regard, the American-Soviet alliance guaranteed an American victory with decidedly fewer casualties than may have been the case if the Soviets had not put forth their forces in the brunt of battle. Looking beyond World War
II, a partnership with the Soviets guaranteed a safer world, alleviating the threat of capitalism against communism and vice versa.

On the other hand, Harry Truman was relatively inexperienced as an executive when he ascended to the presidency, forcing him to rely on Roosevelt staffers, aides, and advisers who had not been privy to Roosevelt’s mindset. As a result, Truman was unable to see the larger picture and instead was open to persuasion by those around him and his own personal feelings about the Soviet Union and its leader, Joseph Stalin. Likewise, Truman’s reliance on the administrative staff helped create a structured presidency more adaptable to future administrations.

As a result, in sketching out these differences there is a distinct division between Roosevelt as Commander in Chief and Truman as Commander in Chief. A realization of this shift leads to a better understanding of why Truman made certain decisions regarding the end of WWII and the US-Soviet relationship. The results of this shift between the two men with obvious differences in skill, management style, and knowledge of foreign affairs, forced Truman to attempt to retain his power as Commander in Chief through the manipulation of the politically malleable post-war confusion that would come to be the hallmark of continuous warfare.

In the second chapter, “Pouring the Foundation: Continuous Warfare and the Commander in Chief,” continuous warfare, its definition, creation, and use by the president as Commander in Chief are the focus. The cause of this continuation of war from traditional warfare, to preventive war, and finally cold war, rooted in the period of 1945 through 1950, is the combination of suspicion of and discord with the Soviets, the use of the first atomic bomb, and Truman’s extension of the military and creation of the
National Security State. Combined, these factors created the possibility of a state of continuous warfare and with it, the beginning of the imperial presidency.

Part one of this second chapter discusses the background of the Commander in Chief, as a specific power listed in the Constitution, and as scholarship has discussed it. It is particularly important to outline how other presidents have utilized the role of Commander in Chief in order to differentiate the circumstances under which Truman held the position post-WWII. An emphasis on continuous warfare shows that Truman’s power extended beyond the traditional warfare of World War II and began before the limited war in Korea.

Chapter Two also intertwines a discussion of the changing nature of war in the period just after WWII. Cold War scholarship has largely ignored this period, including it as either part of WWII or the beginning of the Cold War, if mentioned at all. This phase deserves its own representation as a period of neither peace nor war, however. In a 1946 debate in Congress over the universal military training program, Representative James Wadsworth (R-NY) advocated that the then current condition was a “twilight zone,” which meant that the United States was at neither peace nor war, but in-between. “The war is not over in a technical sense,” Wadsworth noted, yet the United States was also not at peace as it still squabbled with the Soviet Union over post-war agreements, adjusted to the nuclear age, and continued the military apparatus at home.32 This twilight zone between peace and war is at the heart of the definition of continuous war, linking

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individual bouts of traditional armed conflict without allowing any of the advantages of war to subside.  

Chapter Three, “Installing the Floor: The End of Congressional War Power,” focuses on how members of Congress reacted to the first large-scale, undeclared war, the Korean War of 1950. As part of the larger structure of executive power, the other branches of government must relinquish their “check” on executive prerogative, allowing the power to build in unrestricted fashion and setting constitutional precedents that would be difficult or impossible to reverse. When discussing warfare and the Commander in Chief role of the president, the most significant role that leaders of Congress have is the power to declare war. Article 1, Section 8 of the Constitution states, “The Congress shall have Power...To declare War.” This single line has been an issue of debate in the modern era due to the now typical use of “undeclared war” or “imperfect war” by the president. 

The intention of this third chapter is to assess why, during this period, members of Congress essentially gave up the power they did have to restrict the executive. While

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33 According to political scientist Fritz Grob in *The Relativity of War and Peace: A Study in Law, History, and Politics* (1949) there are many distinctions concerning the idea of “war” and “peace” found in common usage, legal doctrine, and court decisions. These terms include: state of war, de jure war, de facto war, belligerency, act of war, state of peace, intermediate state, state of hostilities, measures short of war, armed intervention, armed reprisals, pacific blockade, imperfect war, imperfect state of war, limited war, limited state of war, partial war, partial state of war, incomplete war, incomplete state of war, quasi war, and quasi state of war. Of these terms, not a single one represents the “twilight zone” situation found in modern warfare on a continuing basis. Fritz Grob, *The Relativity of War and Peace: A Study in Law, History, and Politics* (New Haven, CT: Yale University Press, 1949), 36.

34 U.S. Constitution, art. 1, sec. 8.

debate has focused on the constitutional clash between the president’s ability to control the armed forces and Congress’s role in declaring war, there is also an historiographical gap about another element of congressional power. Despite the president’s ability to usurp congressional war power by sending troops and instigating a “war” without a formal declaration, Congress still had the ability to “control the purse.” The ability to control the allocated funds toward war would allow Congress to stop a war, but the legislature has never applied this power to the modern undeclared war without drastic political repercussions.  

Congressmen gave up their power during this “twilight zone” period because of the changing nature of war and insecurities regarding new methods of war, and because of benefits that occurred by lax use of congressional power. Prior to World War II, the US experienced a retreat toward isolationist views in government. Isolationist politicians argued against any foreign involvement because of the perceived threat that these posed to the US at home. Gradually, as WWII expanded abroad, Roosevelt and internationalist legislators sought to break down this concern. Internationalists largely contended that an isolated US was a target to belligerents and seen as weak overall. The attack on Pearl Harbor in 1941 confirmed this perspective and helped to shift legislators away from the old isolationist ideas.

As WWII went on, congressional leaders became increasingly disinterested in foreign affairs due to the secretive and complex nature of modern warfare. This was in

part due to the bipartisan agreement between legislators for the duration of the war where knowledge of foreign affairs might only cause upset, but also due to the concealment of information from Congress, such as the Manhattan Project to build the atomic bomb. When the Korean War later encouraged congressmen to abdicate their ability to declare war, individuals in Congress expressed anger but continued to yield to the executive in foreign affairs, maintaining financial and political benefits during an unpopular war.

With a strengthened executive and apathetic Congress, the final check on executive authority remained with the Supreme Court of the United States. The court represents a unique part of the federal system of government. Originally cited as the “weakest branch” by constitutional Framer Alexander Hamilton, the modern court has grown into a powerful position amongst the branches, acting as a bastion of justice against Congress and the executive in the eyes of the public. Though the court has little ability to protect itself against encroachments by the other branches, its own position as an independent institution of the people has generally served as efficient security. In addition, with its lifetime appointments and the near inability to impeach a justice, the Supreme Court serves as the sole interpreter of the Constitution. With its discretionary jurisdiction this role is unassailable by the other two branches.

37 Hamilton, “Federalist No. 78,” FP, LOC. Hamilton claimed, “the judiciary is beyond comparison the weakest of the three departments of power; that it can never attack with success either of the other two; and that all possible care is requisite to enable it to defend itself against their attacks.”

38 Of course there is FDR’s notorious Court-Packing Plan in 1937, where the court was forced to “save itself” through a switch from a conservative majority to a liberal majority in support of Roosevelt’s New Deal. Despite this “switch in time that saves nine” by the court, Roosevelt suffered more from the situation, losing valuable votes by conservative democrats in Congress, which led to a slowing of his New Deal program. For a thorough discussion of this event, see: William E. Leuchtenburg, The Supreme Court Reborn: The Constitutional Revolution in the Age of Roosevelt (New York: Oxford University Press, 1995).
As a result, Chapter Four, “Framing the Walls: The Supreme Court’s Final Check on Executive Power,” focuses on the court’s decisions regarding executive power questions from 1941 to 1960. In 1933, the court, unfavorable to domestic presidential power, ruled sympathetically that the president was the “sole organ” in foreign affairs in the case of United States v. Curtiss-Wright Export Corp.39 Two landmark decisions, the case of Korematsu v. United States (1944) dealing with Japanese internment during WWII and the case of Youngstown v. Sawyer (1952) regarding Truman’s seizure of the steel mills under the parameter of wartime necessity, confirm this earlier decision. The court’s opinions in both cases, despite their clear difference in outcomes, have served to increase executive power during periods of war. A focus on the Youngstown case revealed the court’s struggle with the changing nature of war during this period and the clash in interpreting the extent of the CINC powers of the president during an undeclared war.

In this section, use of political science and legal concepts were necessary due to a major gap in historical study of the court’s decisions and its justices’ behavior. An examination of attitudinal theory, strategic factors like presidential prestige and the rally effect, along with external issues like press coverage and election year effect reveal historical significance.40 In turn, this investigation illustrates how and why the court gave up its power to check the executive branch during war. When warfare, congressional


apathy, and court support coalesce, executive power has the ability to go completely unchecked to the point of an imperial presidency.

In the final chapter, “Moving In: Eisenhower’s House of Peace,” the focus is on connecting the outcome of the Truman presidency with its creation of continuous warfare, the benefits to the executive and Congress, and the new legal standards set by the court, to the Eisenhower Administration and its first involvement in “war” beyond Korea. Evidence suggests that Eisenhower took the house of peace to the next level by orchestrating a worldwide Atoms for Peace program that boasted peaceful uses of atomic energy. At the same time, however, Eisenhower continued an elaborate buildup of the military state, including nuclear weapons testing, through his New Look program. Congressional disregard for military operations during the 1950s and a court focused elsewhere on civil rights issues continued to support these actions by the Eisenhower Administration. Eisenhower completed the conversion to a permanent continuous war, by concealing the elements of this war with peaceful prerogatives that lulled the American people into believing they were safe and at peace at home.

Breaking Ground

To date, the discussion of executive power has been widely deliberated through a focus on the executive branch and individual man in office, most predominantly within a Cold War framework. This work reassesses executive power from the perspective of Congress and the court through an interdisciplinary analysis in order to reveal an underlying structure to the growth of executive power. The interdisciplinary nature of this project serves not only to extend its usefulness beyond a particular field, but also to
illustrate the importance of utilizing cross-disciplinary techniques in research with the aim of revealing a more complete picture not based around a singular perspective.

My analysis of executive power relies on the undergirding factor of warfare but moves beyond the traditional restrictions of the Cold War by reexamining modern warfare as continuous since the late 1940s, when the government constructed a house of peace to conceal the need for war. This new concept of “continuous warfare” adds increased significance to the overall importance of executive power and the president’s role as Commander in Chief in the post-1945 period, and the American relationship with warfare at home. Through the construction of a house of peace, Truman and others were able to preach peace while practicing war, which began an indefinite increase of executive power through a permanent structure that remains intact today.
CHAPTER I

LAYING THE GROUNDWORK: FROM ROOSEVELT TO TRUMAN

President Franklin Roosevelt, then in his fourth term in office, sat in the living room of the “Little White House” in Warm Springs, Georgia working diligently on the afternoon of April 12, 1945. Roosevelt’s companion, Lucy Mercer, commissioned the artist Elizabeth Shoumatoff to paint a portrait of Roosevelt during this Warm Springs vacation. Shoumatoff’s portrait illustrated the Roosevelt who had led the country through its worst economic depression and into the second major world war, which threatened democracy and freedom. The face of the president was worn, with sunken eyes highlighted by dark circles and framed by a swath of gray hair. This chosen depiction was in spite of Mercer’s attempt at having Shoumatoff paint something more flattering than the most recent public photos of Roosevelt. Roosevelt’s mouth was set resolutely in a position that gave no hint of his former ebullience but left the viewer to reflect on everything that Roosevelt saw, said, and did in over twelve years in office. Complaining of a terrible headache, Roosevelt slumped into a coma just a few moments later. Just past three-thirty that afternoon, Franklin Roosevelt died, having never regained consciousness.¹ In his wake, he left a family, a country, and a world to mourn his passing. Additionally, Roosevelt left behind his presidency, less than two months into his fourth term, to Vice President Harry S. Truman. Much like Shoumatoff’s painting, Roosevelt’s plans for the post-war world and the remainder of his presidency endured

unfinished as Truman orchestrated a subtle though definite change in Rooseveltian policy.

By the time Roosevelt’s death was announced to the country that evening at five forty-nine Eastern War Time, Truman had been at the White House just over ten minutes.\(^2\) According to Truman’s diary entry from that day, the first he ever wrote, he “did not know what reaction the country would have to the death of a man whom they all practically worshipped.”\(^3\) This haphazard entry on the most important day of Truman’s life was not simple hyperbole. In reality, both the country and the world felt the weight of the loss of Roosevelt. According to one article in the *Los Angeles Times*, “Every American regardless of his political affiliation or philosophy, feels not only the sadness in the passing of the president but appreciation in the very great loss...history will record him as one of our greatest presidents.”\(^4\) In Moscow, the Soviet Government honored Roosevelt like no other American president, with extensive press coverage and black-bordered flags flying above the wall of the Kremlin.\(^5\) The *Los Angeles Times* again reported, “The government of the Soviet Union expresses its sincere sympathy to the American people in their great loss.”\(^6\) Political leaders in England and France likewise

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\(^2\) Underhill, *FDR and Harry*, 198. Roosevelt had died on the afternoon of April 12, 1945, but Truman was not notified until a couple hours later when he received a call from Steven Early, telling him to come to the White House immediately. HST diary entry, April 12, 1945. *Off the Record: The Private Papers of Harry S. Truman*, ed. Robert H. Ferrell (New York: Harper & Row, 1980), 14-16.

\(^3\) HST diary entry, April 12, 1945, Ferrell, ed., *Off the Record*, 14-16.


expressed their sympathy for the United States and lowered flags to half-staff throughout their empires. At home, Roosevelt’s state funeral stretched through a mourning Washington D.C. Roosevelt had planned, in advance, every detail himself. As Truman soon found out, this was a typical instance of Roosevelt’s personal domination over all facets of his life and presidency.

Unfortunately for Truman, he was relatively unknown to the world around him and almost entirely unfamiliar with the details of the world situation on April 12, 1945. After Truman took the oath of office approximately an hour and a half after finding out about the president’s death, he immediately called a meeting of the Cabinet. Truman again reflected in his diary, that he “was not familiar with any of these things [World War II, Winston Churchill, or Joseph Stalin] and it was really something to think about…” Truman sought counsel in the expertise of the Roosevelt Cabinet, hoping to get up to speed quickly on the situation abroad. This plan backfired, however, when it became obvious that Roosevelt had largely served as his own Secretary of State and had relied upon a multitude of advisors before making a decision. The abrupt death of Roosevelt in April of 1945 during a key moment in world history altered the course of American history, shifting it toward permanent involvement in international politics and a new type of warfare that Truman embraced. Roosevelt’s method for running the country and the

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7 United Press, “Stalin, Churchill, Other Leaders Send Regrets; Underhill, FDR and Harry, 199. According to the Home of Franklin D. Roosevelt National Historic Site park rangers, though Roosevelt had planned his funeral and burial himself, his family was unaware of this until after he was buried in Hyde Park, New York, when his son finally read a sealed letter from his father stating the above information. The only aspect that actually differed from Roosevelt’s wishes was his burial plot; he had wanted to be placed directly under the heavy marble tombstone bearing the Roosevelt name. Knowing the stone would be difficult to move when it came time to bury Eleanor in the same plot, the family opted to place FDR and Eleanor’s graves just forward of the stone.

8 HST diary entry, April 12, 1945, Ferrell, ed., Off the Record, 14-16.

9 HST diary entry, April 12, 1945, Ferrell, ed., Off the Record, 14-16.
war focused solely on his own unique management of the Executive Branch and personal skills as president. Truman stood in stark contrast to Roosevelt in background, style, skills, and beliefs, which changed the presidency and bred a continuous war based on ambiguous concepts of war and peace in the post-WWII world.

From the state of Missouri, Truman diverged greatly from the East Coast elite Roosevelt, but both were worthy politicians for an era steeped in turmoil. Truman had tried his chances at entrepreneurship after the Great War by opening a haberdashery with an Army friend, but soon fell into politics with his natural Midwestern friendliness and honest demeanor. After the haberdashery failed, Truman became an elected Eastern District County Judge of Jackson County, Missouri, which included his home, Independence. In this position, Truman found his calling. As a judge, Truman focused on the simple issues that most people in his district were concerned about, like road maintenance. By focusing on the needs of his constituents, Truman found success in politics. Likewise, his Midwestern upbringing naturally encouraged conviviality and collegiality, which later became trademarks of his personal management style as president. Though Truman lost his reelection in 1924, he won his seat again in 1926 and served until 1934. By the federal midterm elections of 1934, Truman had connected with Tom Pendergast, a notorious Kansas City political boss. A relation to one of Truman’s Army associates, Pendergast helped to propel Truman out of Missouri and into the US Senate, where he flourished as a politician. Once in Washington, Truman drew a lot of flak as the “gentleman from Pendergast,” but after his colleagues realized he was not only hard working and honest, but a straight talker, he gained his own place in the Senate.10

10 Underhill, *FDR and Harry*, 48-49, 50. County judges in Missouri were akin to the role of county commissioner in other states.
Truman’s association with Pendergast, though initially a handicap, helped teach him the basics of politics including the necessity of keeping friends and connections in important places. Truman later drew on his newfound connections in Congress to help him create a working structure for the presidency, which later presidents could utilize.

It was as a senator that Truman honed his skills of collegiality while becoming a steadfast supporter of Roosevelt, his New Deal, and later his actions in World War II. Truman repeatedly voted on the side of New Deal legislation and sided with Roosevelt on the ill-fated Judicial Reform Bill of 1937. However, Truman’s reputation came from his formation of the Senate Special Committee to Investigate the National Defense Program, which investigated wartime contracts and expenditures. Truman first got the idea for this committee, better known as the “Truman Committee,” when he decided to go on his own fact-finding trip in 1940 to investigate complaints of wasteful spending in war production at Fort Leonard Wood in Missouri. With the complaints confirmed by the situation at Fort Leonard Wood, Truman decided to form a committee, based on his knowledge of a similar committee during the American Civil War, to investigate “waste and inefficiencies in war production” nationwide.\(^\text{11}\) The location of a new camp or defense plant often appeared as part of a deal by congressmen and businessmen to direct money to their districts, and the Truman Committee sought to make sure these deals were legitimate contracts and that the agreements were carried out efficiently.\(^\text{12}\) The Truman

\(^{11}\) Underhill, *FDR and Harry*, 49; Robert H. Ferrell, *Choosing Truman: The Democratic Convention of 1944* (Columbia: The University of Missouri Press, 1994), 6-7; Underhill, *FDR and Harry*, 51, 50-51. Truman was a voracious reader with the American Civil War as a major topic of interest. As president, he received many Civil War books as gifts. HST to Clark thank you letters, box C69, folder 3, Tom C. Clark Papers, Tarlton Law Library, University of Texas at Austin. (Hereafter cited as Clark Papers, TLL).

\(^{12}\) Underhill, *FDR and Harry*, 50.
Committee vehemently compared allocated military base and camp funds to the actual amount spent, seeking both an understanding of defense needs and more realistic spending goals for such necessities.\(^\text{13}\) Likewise, the committee held hearings regularly in response to complaints or concerns from industry and manufacturers, such as the petroleum industry, which questioned domestic price regulations during World War II.\(^\text{14}\) Additionally, bomb production sites fell under the purview of the Truman Committee’s investigations, including secret atomic bomb production facilities, though information regarding the actual products was not a direct concern of the committee.\(^\text{15}\) In this role, the Senate began to think of Truman as the “watchdog of the war effort.”\(^\text{16}\)

It was Truman’s involvement in his Senate committee that put him on the list of frontrunners for the vice presidential nomination for Roosevelt’s fourth term in 1944, and Truman’s jovial nature kept him on the top of that list. The Truman Committee allowed Truman to gain considerable prestige within the Senate and likewise help push policy prerogatives.\(^\text{17}\) Additionally, Truman looked like a promising candidate because he got along so well with the other senators. The Roosevelt campaign had to consider their long-term goals of forming the United Nations organization and negotiating peace treaties when WWII ended. Truman’s relationships with members of the Senate would

\(^{13}\) For examples see: Senate Special Committee to Investigate Contracts Under the National Defense Program, *Investigation of the National Defense Program*, 77th Cong., 1st sess., S. Rpt. 480.

\(^{14}\) For an example of this, see: Senate Special Committee to Investigate Contracts Under National Defense Program, *Truman Committee Hearing*, 77th Cong., 1st sess., 1942.

\(^{15}\) For an example of this, see: Senate Special Committee to Investigate Contracts Under National Defense Program, *Bombsite Production*, 78th Cong., 2d sess., 1944.


\(^{17}\) Underhill, *FDR and Harry*, 51.
be a formidable asset, to both Roosevelt and Truman once he took over as president. In the case of domestic issues, Truman was also the right candidate, as his “border state” association allowed the ticket to hold onto the southern delegates without being specifically associated with southern issues, mainly the growing uproar around African American civil rights. Other contenders for the nomination included Associate Justice of the Supreme Court of the United States William O. Douglas, Vice President Henry Wallace, and Director of War Mobilization James Byrnes. What everyone besides Roosevelt knew was that whomever Roosevelt chose as vice president would surely be the next president of the United States, as Roosevelt’s condition was rapidly deteriorating by 1944. In a 1964 oral history, Edward McKim, a longtime friend of Truman, remembered attending a White House reception in September of 1944. Afterward, outside of the White House, McKim turned to Truman and told him, “turn around and take a look at that place; that was where [you are] going to be living.” According to McKim’s account, Truman replied, “’I’m afraid you're right, Eddie.’ … ‘And it scares the hell out of me.’”

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18 Ferrell, Choosing Truman, 6-7, 14; Underhill, FDR and Harry, 51. Henry Wallace was largely disregarded as a vice presidential contender due to his controversial trips abroad and ultra-progressive stance on New Deal politics. Although Wallace may have been the best choice to carry on Roosevelt’s plans at home and abroad, his liberal stance did not sit well with an increasingly Republican and conservative Congress, which Roosevelt needed support from in the end phase of World War II. Roosevelt’s first choice, after much debate, seemed to be William O. Douglas, but after prodding from his staff, FDR finally gave into the idea of Harry Truman. Roosevelt’s staff disliked the idea of Douglas as a candidate because he had no political experience, only legal and judicial. Truman found out just days before the Democratic National Convention that he was FDR’s final choice. John C. Culver and John Hyde, American Dreamer: The Life and Times of Henry Wallace (New York: W. W. Norton and Company Inc., 2000), 319-321; Ferrell, Choosing Truman, 51.

There is some debate over how many times Truman actually met with Roosevelt during FDR’s last administration. Though Truman preferred to claim he met with the president frequently, he was more likely treated the same as Roosevelt’s other vice presidents—set aside to watch as the master did his work. This was evident in Truman’s lack of knowledge regarding the building of the atomic bomb, Roosevelt’s postwar plans, and his political relationship with leaders of the Soviet Union.20 Truman had slightly less than three months to adjust to being vice president before Roosevelt’s death threw him into the presidency with all its power in a contentious period of war. The results of this abrupt shift between Franklin Roosevelt and Harry Truman, two men with obvious differences in skill, management style, and knowledge of foreign affairs, led to a hazy zone somewhere between peace and war that typified continuous warfare and with it, the foundation of the imperial presidency.

Skillset

The skillset that Truman brought to the White House in 1945 was vastly different from that brought by Roosevelt in 1933. Foremost, the two men came from exceedingly different backgrounds, and Truman was by no means a natural born leader. With Truman, what one saw was generally what one got. As a machine politician during the 1930s and 40s, Truman was all too familiar with the concept of loyalty and knew that it worked both ways. Truman’s loyalty to Roosevelt policies initially cloaked his lack of leadership skill. As president, Truman initially pledged to uphold Roosevelt’s legislation and ideals, which he believed would maintain his positive relationship with the Senate.

20 Underhill, FDR and Harry, 62.
Truman only deviated from this loyalty when his own Midwestern isolationist beliefs began to alter the already wavering US-Soviet policy at the end of World War II. Truman’s lack of foresight and inability to lead the country to peace, led to the initial blunders between the Soviet Union and US. The shift between Roosevelt and Truman at this time was significant because Truman’s lingering isolationism disallowed him to see the United States in the truly international format that Roosevelt had intended. This subsequently caused Truman to heighten defense of the United States through an ill-fated preparation for war that resulted in a new, continuous state of war. Global threat and increased defense marked the often murky, liminal zone between peace and war known as continuous warfare. This “war” mimicked the beginning phase of a preventive war militarily and the political benefits of a traditional war while maintaining a rhetorical exterior of peace.

With no clear plan for peace and no clear plan for war with the Soviet Union, Truman floundered between the two due to his lack of leadership skill. The near limitless political malleability of such a state, between peace and war, further disguised Truman’s continuous war and allowed him to operate within this fuzzy zone instead of choosing one path or the other. One significant problem with historian Arthur M. Schelesinger Jr.’s analysis of Truman and Roosevelt in The Imperial Presidency was that he disregarded the significance of the shift between Roosevelt and Truman and the importance of the two presidents’ difference in skills and management styles, instead relying on external events to create the Cold War.²¹

Unlike Truman, Roosevelt did not have to adjust to the presidency. Roosevelt’s leadership skills were almost innate. As a member of the upstate New York elite, Roosevelt naturally came to think of society hierarchically.\textsuperscript{22} Coming from a wealthy family with more than 2000 acres along the Hudson River Valley where neighbors included members of the Vanderbilt family and descendants of theLivingstons, Roosevelt felt that he was at the top of this social hierarchy. In turn, Roosevelt never really had to work at anything and perceived himself as a natural born leader.\textsuperscript{23}

According to political scientist Richard E. Neustadt, “Roosevelt, almost alone among our presidents, had no conception of the office to live up to; he was it. His image of the office was himself-in-office.”\textsuperscript{24} Since Roosevelt believed he belonged at the top of the social hierarchy, as the president of the United States, he did not need a period of adjustment. The plethora of legislation engineered by the Roosevelt administration during the first hundred days of his first term in office was evidence of this mindset. Roosevelt began his term with an exhibition of what appeared to be innate skill, which immediately established his reputation. Neustadt argued that reputation was one source of personal effectiveness or “actual power.” Though all presidents have some powers as a right of the office, it is how they use these powers to be effective that yields their actual

\textsuperscript{22} Woolner, Kimball, and Reynolds, eds., \textit{FDR’s World}, 2.

\textsuperscript{23} Though Roosevelt attended and finished Groton School and later Harvard College, he was a mediocre student at best.\textsuperscript{23} Some criticized Roosevelt as not being very intelligent, though he held one of the finest educations available. Roosevelt did not even bother to finish law school before taking the bar exam, and at his first real job at Carter, Ledyard, and Milburn, a Wall Street law firm, Roosevelt told coworkers that his true aspiration was to run for elected office. This instance illustrated the perceived ability to lead held by Roosevelt. Underhill, \textit{FDR and Harry}, 42; “Youth and Marriage,” Roosevelt Institute, accessed July 1, 2011, http://www.rooseveltinstitute.org/policy-and-ideasroosevelt-historyfdr/youth-and-marriage. FDR was admitted to practice law in 1907 in New York, but he never earned his law degree from Columbia, quitting after just a few semesters.

\textsuperscript{24} Neustadt, \textit{Presidential Power}, 136.
power. Roosevelt loved the presidency for the personal power it gave him, while Truman loved the presidency as an institution; therefore, Roosevelt was a powerful president because of his personal skill while Truman laid the groundwork for other powerful presidents by bolstering the institution of the presidency through his organization and structure.  

Personal power is not the only element needed to maintain a strong and effective executive, however. Both Roosevelt and Truman utilized their individual skills of influence on members of Congress. Presidential relations with Congress define the president’s ability to achieve his policy preferences. In this regard, presidential power is not just the formal powers vested in the presidency but additionally the ability of a president to influence those around him, specifically Congress. One of the foremost goals of a president is to convince others in government that particular actions are right for them. This persuasive power has to be more than just charm or reason, however. Political scientist Fred Greenstein purported that the key qualities that relate to a president’s job performance are proficiency as a public communicator, organizational capacity, political skill, vision, cognitive style, and ability to manage emotions. In Roosevelt and Truman’s relations with Congress, they experimented with these qualities, yielding very different relationships.

In his own administration, Roosevelt honed his skills of persuasion by holding together the delicate New Deal coalition; he used these skills to deal with Congress as

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25 Neustadt, Presidential Power, 54, x, 10-11, 149.

well. Although Roosevelt never served in either house of Congress, he understood the importance of presidential relations with Congress through his experience as Assistant Secretary of the Navy under President Woodrow Wilson. As a part of the Wilson administration, Roosevelt witnessed the consequences of poor presidential-congressional relations firsthand with the failure to approve the Treaty of Versailles and US involvement in the League of Nations. As president, Roosevelt learned to pressure Congress to do what he wanted by drafting his own legislation in the executive branch. Roosevelt followed up this legislation by holding face-to-face meetings with congressmen and senators, telling them to act quickly. If need be, Roosevelt would likewise wield the promise (or threat) of patronage.27

However, Roosevelt’s greatest skill in dealing with Congress came from his masterful ability to communicate effectively. Roosevelt did not aim his fireside chats and speeches at just the public, but also at Congress as well.28 For example, in Roosevelt’s first fireside chat on the Emergency Banking Act, he stated that the legislation was “promptly and patriotically passed by the Congress.” Roosevelt continued, “I want to tell our citizens in every part of the Nation that the national Congress—Republicans and Democrats alike—showed by this action a devotion to public welfare and a realization of the emergency and the necessity for speed…”29 In this instance, Roosevelt was commenting to the people on congressional action, but also sending a message to Congress that this was exactly what he wanted, bipartisanship and speed. In one of his

27 Underhill, FDR and Harry, 96; Woolner, Kimball, and Reynolds, eds., FDR’s World, 4; Underhill, FDR and Harry, 96.

28 Underhill, FDR and Harry, 99, 97.

29 Franklin Roosevelt, Fireside Chat on Banking, March 12, 1933, APP.
later fireside chats on wage stabilization in 1942, Roosevelt more clearly threatened Congress before his national audience:

I have told the Congress that inaction on their part by that date will leave me with an inescapable responsibility to the people of this country to see to it that the war effort is no longer imperiled by the threat of economic chaos. …In the event that the Congress should fail to act, and act adequately, I shall accept the responsibility, and I will act. …The President has the powers, under the Constitution and under Congressional Acts, to take measures necessary to avert a disaster which would interfere with the winning of the war.30

Though Roosevelt generally preferred and cultivated genial relations with Congress, he was never afraid to wield the power of the executive as he saw fit. While excessive executive power might have alarmed the public, Roosevelt cleverly utilized the medium of radio to place the blame for problems on Congress. As the above example indicated, Roosevelt also tied the subject to a prominent public interest issue, winning the war.

In this regard, Congress was left to make the next move, but would be held accountable not only by Roosevelt, but by their constituents as well. Schlesinger disagreed, instead painting Roosevelt as subservient to Congress until the US entrance into World War II gave him power as Commander in Chief. “The second Roosevelt, for all his popularity, preferred—certainly in his first two terms—to base his actions on congressional legislation rather than on executive prerogative,” Schlesinger claimed.31 However, Schlesinger ignored Roosevelt’s skills, background, and language when dealing with Congress, which subsequently lessened the overall significance of the 1945 Roosevelt-Truman shift in Schlesinger’s analysis. Roosevelt’s crafty, intimidating approach to relations with Congress would not work for all presidents and thus remained

30 Franklin Roosevelt, Fireside Chat, September 7, 1942, APP.
31 Schlesinger, Imperial Presidency, 95.
a non-structural staple of Roosevelt’s personal power as president, which contrasted sharply with Truman’s structural approach.

Despite a clear Democratic majority in Congress throughout Roosevelt’s time in office, Roosevelt misplayed his power over the Congress after his election landslide in 1936. In many ways, Congress, with its shrinking Republican minority, was supportive of Roosevelt’s New Deal and later, war, plans. The public seemed squarely behind Roosevelt and his New Deal after 1936. Roosevelt attempted several failed plans during his second term that greatly reduced his power over the Congress. The first in this line of schemes was the failed Judicial Reform Bill of 1937. Roosevelt and the Justice Department, headed by Attorney General Homer Cummings, had formulated Roosevelt’s “Court Packing Plan” in secret. Over the course of several weeks between Roosevelt’s election in November and his revealing of the court plan, Roosevelt carefully considered and scrutinized the possibilities available to alter the Supreme Court’s anti-New Deal stance. Roosevelt rejected the idea of a constitutional amendment when he decided that the time involved and complicated procedure was more than he wished to take on. Instead, a reform bill appeared to be the most expedient and useful method to allow Roosevelt to alter the conservative majority of the court. This plan focused on the appointment of new judges for each federal judge who had worked at least ten years, was over age seventy, and refused to retire. In the United States Supreme Court alone,

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32 Although the public clearly was behind Roosevelt as president, illustrating this by giving him a landslide election in 1936, public opinion against the New Deal did begin to shift as the “Roosevelt recession” began to take hold. This shift in public sentiment largely called into question the vast government spending on New Deal programming. Bradford A. Lee, “The New Deal Reconsidered,” *The Wilson Quarterly* 6, no. 2 (Spring 1982): 64.

Roosevelt would have been able to appoint up to six judges who were more sympathetic to his prerogatives, enough to change the panel in favor of the New Deal.

While historians and political scientists generally considered Roosevelt a skillful politician, he woefully misjudged the power of his post-election mandate in 1937. Whereas many in Congress and the country had been open to some sort of change in the Supreme Court, the more appropriate method seemed to be a constitutional amendment, which the people’s own representatives could decide on. Roosevelt’s plan came off as a poorly concealed lunge for complete executive control akin to a dictatorship. As the bill lay in consideration in the Senate Judiciary Committee, a remarkable thing appeared to happen with the Supreme Court; it suddenly reversed its previous conservative stance and began validating New Deal legislation.  

This supposed “switch-in-time” served to disintegrate the necessity of Roosevelt’s Judicial Reform Bill and essentially save the Supreme Court. In actuality, the court had not orchestrated a sudden and drastic shift in response to Roosevelt’s 1936 election or his Court-Packing Plan but had gradually adjusted their outlook on constitutional doctrine over time. This much more gradual change first appeared in the 1934 case of *Nebbia v. New York*, in which the court upheld New York’s law regulating milk prices. With this minor decision, contends legal historian Barry Cushman, the court broke down the distinction between public and

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34 McKenna, “Prelude to Tyranny,” 428; Eriksson, *Supreme Court*, v. The cases in which the court appeared initially to “switch” suddenly included *West Coast Hotel Co. v. Parrish* (decided March 29, 1937), where the court upheld minimum wage laws, and *NLRB v. Jones & Laughlin Steel Corp.* (April 12, 1937), which dealt with labor disputes under the pretext of the interstate commerce clause within the purview of the National Labor Relations Board. See *West Coast Hotel Co. v. Parrish*, 300 U.S. 379 (1937) and *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937).
private enterprise on which earlier conservative decisions had rested. In the end, Roosevelt got his way with the court and they upheld much of his New Deal.\textsuperscript{35} However, his overzealous Court-Packing Plan was largely a flop that caused him to lose a great amount of support in the eyes of both the public and the Congress.

After further problems from 1937 through 1938 with increased labor activism and an increased economic downturn known as the “Roosevelt recession,” Roosevelt attempted another scheme, this time to alter his relations with Congress, again using his communication skills. Prior to the 1938 midterm elections Roosevelt attempted to keep a number of conservative Democrats from running for Congress, hoping to have them replaced by New Dealers.\textsuperscript{36} The “purge of 1938” began with Roosevelt’s fireside chat of June 24, 1938, where he noted:

\begin{quote}
In the coming primaries in all parties, there will be many clashes between two schools of thought, generally classified as liberal and conservative. Roughly speaking, the liberal school of thought recognizes that the new conditions throughout the world call for new remedies. … The opposing or conservative school of thought, as a general proposition, does not recognize the need for Government itself to step in and take action to meet these new problems. It believes that individual initiative and private philanthropy will solve them—that we ought to repeal many of the things we have done and go back, for instance, to the old gold standard, or stop all this business of old age pensions and unemployment insurance, or repeal the Securities and Exchange Act, or let monopolies thrive unchecked—return, in effect, to the kind of Government we had in the twenties.\textsuperscript{37}
\end{quote}

Roosevelt noted that he \textit{would not} be involved in the primaries, although he emphasized:


\textsuperscript{37} Franklin Roosevelt, Fireside Chat, June 24, 1938, APP.
As the head of the Democratic Party...charged with the responsibility of carrying out the definitely liberal declaration of principles set forth in the 1936 Democratic platform, I feel that I have every right to speak in those few instances where there may be a clear issue between candidates for a Democratic nomination involving these principles, or involving a clear misuse of my own name.  

Then in July of 1938, Roosevelt set out on a cross-country tour where he aimed to utilize not only his eloquence but also his popularity to end the reign of conservative Democrats in the November election. However, after early July primaries in Iowa and Indiana, it quickly became apparent that Roosevelt’s support alone could not make or break a Democratic candidate. By August, Roosevelt’s purge had ended before it ever began. Though Roosevelt crisscrossed the country and gave a number of speeches, they were not the tough-hitting political rhetoric that most had predicted to occur. After the November vote, the conservative bloc in the Senate had increased to approximately forty senators who would now be able to take a stance against the more liberal New Deal policies. Every candidate allegedly on Roosevelt’s purge list had survived reelection.  

Both the Court-Packing plan and the Roosevelt purge illustrated Roosevelt’s desire for control through his personal power, whereas Truman would demonstrate his desire to have a working relationship with Congress more compatible with a long-term structure for presidential control and more conducive to working in a period of political confusion over war and peace.

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38 Franklin Roosevelt, Fireside Chat, June 24, 1938, APP.

It was as a US senator that Truman learned how to get things done in Washington and acquired the skill of always being conscious of the public’s watch. Truman’s opinion of presidential relations with Congress came from a different perspective than Roosevelt, that of an insider. Truman knew who to pressure to accomplish one thing or another. In a 1946 memorandum by James H. Rowe Jr., an employee of the Bureau of the Budget, titled “’Cooperation’ or Conflict?: The President’s relationships with an opposition Congress,” Rowe quoted a portion of “Federalist No. 70”, in which Alexander Hamilton wrote:

They [Congress] often appear disposed to exert an imperious control over the other departments; and as they commonly have the people on their side, they always act with such momentum as to make it very difficult for the other members of the Government to maintain the balance of the Constitution.

Rowe sent this memo to White House Counsel Clark M. Clifford in December of 1946 when it became evident that Truman would be dealing with a Republican majority Congress in 1947. What Rowe suggested throughout the memo and by quoting Hamilton was that the president must be aware of public opinion and not stray too far from it in order to maintain control over Congress. As a former senator, Truman was very much aware of the significance of public opinion and its direct relation to those elected to Congress. As president, Truman kept this insider information in mind when dealing with congressional issues. Truman gave an example of his self-consciousness in a March 1950 letter to Secretary of State Dean Acheson. Truman noted that he privately referred to Senator Joseph McCarthy, anticommmunist crusader, as “a pathological liar” and to

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40 Underhill, *FDR and Harry*, 50.

41 James H. Rowe Jr. to Clark Clifford, December 1946, box 3, file 5; Clifford Papers, Truman Library (Clifford Papers hereafter cited as CP. Truman Library hereafter cited as HSTL); Hamilton, “Federalist No. 70,” FP, LOC.
Senator Kenneth Wherry as “the block-headed undertaker from Nebraska.” Truman went on to say, “Of course, we can’t do that publicaly [sic], but there’s no doubt that’s exactly what they are.” In this statement, Truman showed that while he was not always on friendly terms with all members of Congress, he was aware that to challenge them publicly could be detrimental. Roosevelt risked this detriment repeatedly because of his own perceived preeminence, but future presidents adopted Truman’s conservative stance.

During his presidency, Truman also utilized several skills for retaining a strong relationship with Congress, such as cultivating relationships with those who might be effective liaisons. Rowe had suggested in his 1946 memorandum that the president should use liaisons in Congress if possible. By liaisons, Rowe meant that the president should essentially seek to keep some reliable congressmen closer than others and use them to pass information from the executive to the legislature and vice versa. People like Democratic Representative Sam Rayburn of Texas, who was a good friend of Truman’s and loyal to the administration, would have been a fine choice under Rowe’s analysis. Although Rayburn was friends with Truman, he also served as an elder statesman in the House, which allowed him to gain the confidence of Republicans and draw together liberals and conservatives within his own party. Truman did retain Rayburn as a friend throughout his life, but to what extent he used Rayburn’s position in the House is unknown.

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42 HST to Dean Acheson, March 31, 1950, box 161, file 1; Acheson Papers, HSTL. (Acheson Papers hereafter cited as AP).

43 HST to Dean Acheson, March 31, 1950, AP, HSTL.

44 James H. Rowe Jr. to Clark Clifford, December 1946, CP, HSTL.
Taking a more formalistic, structured approach, Truman expanded his skill for keeping liaisons by making the upkeep of these relationships an official duty of his appointments secretary, Matthew Connelly. Connelly himself was a holdover from Truman’s days as a senator, where he had served as the chief investigator for the Truman Committee and as an executive assistant to Truman.\footnote{Richard E. Neustadt, “Notes on the White House Staff Under President Truman,” June 1953, SMOF: Neustadt box 10, file 5; Truman Papers, HSTL (Truman Papers hereafter cited as TP).} As appointments secretary in the White House, Connelly was in charge of favors, patronage, requests for help, and all “the countless personal involvements between Members of Congress and the Chief Executive.”\footnote{Neustadt, “Notes,” June 1953, TP, HSTL.} In a confidential 1953 report, “Notes on the White House Staff Under President Truman,” Neustadt (a former Truman special assistant) wrote that Connelly was so busy with congressional relations that he even had an assistant to help maintain these relationships. The assistant, Joseph Feeney, worked “as a liaison man with certain individuals and groups in Congress.” Neustadt claimed, “His [Feeney’s] role was always pretty much a mystery, even around the White House, but personalities and patronage were the framework in which he operated.”\footnote{Neustadt, “Notes,” June 1953, TP, HSTL.} Despite congressional complaints about Truman’s policies during the latter forties and early fifties, through Connelly and Feeney, along with his own personal friendships, Truman maintained a relatively harmonious relationship with Congress, which stemmed directly from his personal knowledge of the inner workings of the legislature.

Outside of dealing with Congress, both Roosevelt and Truman had to commandeer public opinion in order to achieve their ultimate policy and political goals.
Roosevelt understood that control of public opinion guaranteed a president more power over Congress, reelection, and a promising historical legacy, so he sought to use his skills of manipulation to control the public’s perception of him as president. Neustadt believed that “The search for personal influence is at the center of the job of being president.”

While this personal influence may come from simple popularity, a more viable route for any president to take involved a crafted manipulation of the public or his public image. This followed along the lines of the Law of Anticipated Reactions. Essentially, people do as they must while theorizing what would be the probable reaction. Inherently, rational people continually weigh their options based on what they think may be the outcome. People do not act haphazardly and see what happens, but make their own predictions ahead of decisions. Neustadt contended that if others think highly of someone, that someone will have a greater opportunity for influence. Roosevelt wanted this greater opportunity for influence so he attempted to control carefully the public’s understanding of him, so that when they weighed their options, they stood on the side of Roosevelt and his policy.

A personal letter from Felix Frankfurter, Harvard Law professor and later Supreme Court Justice, to Roosevelt in the fall of 1933 illustrated how Roosevelt’s associates viewed his manipulation of his public image. As Frankfurter wrote to Roosevelt, he was reacting to the newspapers he read while in Oxford, England. In direct reference to Roosevelt’s most recent fireside chat, Frankfurter wrote, “I ventured [sic] to

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48 Neustadt, Presidential Power, xxi.


50 Neustadt, Presidential Power, 52.
tell you that not the least important basis for your hold on the people is their feeling that you are a truth-teller and not a miracle-worker.” Roosevelt’s most recent truth had been telling the people the hard reality that economic turnaround would not happen overnight. Though this may have been a truthful analysis passed on to the public from the great leader, in reality, it also setup the New Deal for greater longevity and continuing public support despite programs that would ultimately do little to end the Great Depression. It was to Roosevelt’s benefit to shape the public opinion by explaining the difficulty of the economic situation in terms they could understand. Any failure on the part of the New Deal programs to reinvigorate the economy would simply seem a part of this hard reality and no reflection on Roosevelt himself.

Roosevelt’s manipulation of people was a lifelong endeavor that began at a very young age and continued into his presidency. One aspect of Roosevelt’s skills of manipulation included the cloaking of his emotion. Roosevelt traded regular outward emotions for constant ebullience, charisma, and good humor. Roosevelt may have learned this trick as a child. After Roosevelt’s elderly father suffered a heart attack in 1891, leaving him an invalid, Roosevelt “tried to spare his father anxiety by masking his own emotions and projecting a calm, cheerful demeanor.” This was one characteristic that epitomized Roosevelt, who, even in the darkest of times, was cheerful and humorous. However, Roosevelt was just as good at physical deception as he was at emotional deception. During his college days, Roosevelt kept his courtship and later engagement to

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51 Felix Frankfurter to FDR, October 29, 1933; box 2, file 4; Papers of Felix Frankfurter; Franklin D. Roosevelt Library, Hyde Park, NY (Papers of Felix Frankfurter hereafter cited as FFP. Franklin D. Roosevelt Library hereafter cited as FDRL).

Eleanor Roosevelt a complete secret from his overbearing mother. This was no small task, considering the familial bond between Franklin and Eleanor.  

After he became involved in politics, Roosevelt further honed his manipulative and deceptive skills. One innate problem for Roosevelt during his early political career was his elite status, a considerable problem to overcome in order to win a majority of votes from middle and lower class citizens. Seeing promise, political journalist Louis M. Howe joined Roosevelt’s campaigns to help mold his image into something acceptable to the public. With Howe’s help, Roosevelt quickly learned that being part of the aristocracy was something to overcome, not flaunt. This was simply the first step in Roosevelt’s creation of a public political persona. Roosevelt knew to project himself as a man of the people, despite his elite background, and proved to be inwardly devious and complicated. As president, the wealthy, elite Roosevelt illustrated deception in his ability to take on issues that affected real people through his countless New Deal work programs, rural electrification projects under the Tennessee Valley Authority, and his famous fireside chats that boiled down complicated issues to a friendly conversation that anyone could understand. To most people around Roosevelt, even his family, he was so adept at his man of the people role that his closest companions did not even know the real man and lost sight of his underlying political ambitions.  

Roosevelt’s greatest public deception undoubtedly came from his ability to conceal his disability after 1924. Americans in the twenties, thirties, and forties were

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very familiar with Roosevelt’s plight with poliomyelitis; however, what most did not know was that Roosevelt remained completely paralyzed from his waist down. The majority of Americans who knew of his illness unknowingly assumed he had recovered. Knowing that the public would see his disability as a major weakness in a leader and would keep him from high-level politics, Roosevelt went to elaborate lengths to hide it from the public. Few photographs exist of Roosevelt in his wheelchair; the handful that do survive are personal family photos. Roosevelt’s public persona was so mammoth by his 1932 run for the presidency that he was able to make a deal with the press to never photograph him in his wheelchair. At the same time, Roosevelt opted to avoid any public appearance in his wheelchair. On the campaign trail, Roosevelt spoke from the rear balcony of his train car or from his personal automobile. With immense upper body strength, Roosevelt propped himself upright on stiff metal leg braces. Roosevelt had his pants cut long and his leg braces painted black so they nearly disappeared under his clothing. Podiums gave him a place to balance while cars and chairs blurred the fact that he could not stand. Foremost, Roosevelt went to outstanding lengths to stage public appearances. Arriving hours ahead of time in some cases, Roosevelt was able to make sure no one saw him in a wheelchair. Additionally, bystanders saw Roosevelt hoisting himself between two people to give the illusion of walking in many public forums. Combined with Roosevelt’s jovial outward emotions, those who knew of his disability said he did not act like a disabled man and hence, most were able to overlook his paralysis.55

55 The primary evidence for Roosevelt’s physical deception lies in the artifacts at the Home of Franklin D. Roosevelt National Historic Site and Franklin D. Roosevelt Presidential Library and Museum, where his leg braces, automobiles, and photographs are on exhibit. The agreement between Roosevelt and the media not to publish photographs displaying his disability is a well-known one, though no documentary
However, Roosevelt used his disability when he needed to politically. Generally known for appearing completely healthy, Roosevelt appeared in 1924, shortly after his paralysis, at the Democratic Convention on crutches in order to nominate Al Smith. Though Smith lost the nomination, Roosevelt gained political prestige. Roosevelt appeared courageous for overcoming his illness and appearing on stage with crutches in a weakened state, and he gave an invigorating nomination speech that earned him nods from leading Democrats. Roosevelt used his disability as a strength in certain circumstances; he more easily persuaded people because they wanted to believe this man with such an incredible story of recovery.\(^5\) How Roosevelt chose to use or hide his disability was a unique political attribute that only he could utilize for his benefit.

In addition to his public persona, Roosevelt also carefully watched public opinion through the use of surveys, illustrating his skill for gauging public interest. Although public opinion did not control Roosevelt’s policies, he used frequent polls to determine how he needed to steer the public in the right direction. In one example, early on in the war effort, Roosevelt tested his power as Commander in Chief in the public’s eye. Attorney General Oscar Cox noted a tally of opinion poll results in a 1943 memorandum on the question of whether or not the president as Commander in Chief needed to consult Congress before making important decisions on the war effort. Nearly eighty percent of Americans polled said it was perfectly acceptable for the president to make decisions without Congress under these circumstances. This initial poll was only for the Roosevelt evidence in its support exists. The Roosevelt library supports the story, however, referring to it as a “gentleman’s agreement” based simply on trust between the two parties—a method of bygone eras. “Roosevelt Facts and Figures,” Franklin D. Roosevelt Presidential Library and Museum, accessed October 15, 2012, http://www.fdrlibrary.marist.edu/facts.html.\(^5\) Brinkley, *Roosevelt*, 19; Davis, *FDR: The War President*, 6; Kenneth S. Davis, *FDR: The New York Years, 1928-1933* (New York: Random House, Inc., 1985), 17; Davis, *FDR: The War President*, 5.
administration’s use, but in the memorandum between Cox and Roosevelt advisor Harry Hopkins, Cox noted:

An attempt ought to be made to get across to the public some of the historical and other reasons why the Chief Executive, in time of war, has to have a good deal of scope in decisions in the same way that a Commanding General in the field does. …After this is done, there ought to be another poll run, with the idea in mind that the poll itself would be made public and have its own effect on public opinion.\footnote{Oscar Cox to Harry Hopkins, February 13, 1943; box 157, file 6; President’s Secretary’s Files; Papers as President, Roosevelt Papers; FDRL (Roosevelt Papers hereafter cited as RP).}

This instance not only illustrated Roosevelt’s skill in gauging public opinion, but also the extent to which he and his administration attempted to manipulate that opinion. By making the opinion poll public, those who did not agree with the president’s overwhelming decision-making power as Commander in Chief might strongly reconsider it in the face of a contrary opinion held by the majority polled. Additionally, Congress had to answer to a public that stood in support of their Commander in Chief.

As president, Truman was not nearly as adroit as his predecessor at molding the public, yet he brought his own skills of persuasion to the political game. Whereas Roosevelt often meant for his speeches to manipulate public opinion or create a certain image, Truman’s presentations were generally straightforward attempts to outline public policy that were simply persuasive in their honesty. When Neustadt reminisced about the Truman staff in his 1953 report, he focused on Truman’s speeches to the public and his relationship with the media. Neustadt contended that lawyers, economists, and public administration people were the ones busy writing Truman’s speeches, not professional speechwriters. As a result, Truman’s speeches were not generally captivating, but they were informative and clearly illustrated the administration’s policies. Truman’s speeches were generally short and choppy with no attention paid to eloquence. This “earth,
combative speaking style” served to be strangely persuasive since the public associated it with Truman’s own ordinariness and willingness to work hard. However, whereas Roosevelt utilized every opportunity to manipulate the public, his policies, and his staff, Truman’s staff could easily manipulate him. As special counsel to the president, Charles Murphy helped prepare many speeches for Truman. Murphy could easily influence the presentation to the public through the word choice, chosen issues of importance, and timing. Unlike Roosevelt, a natural leader, who maintained ultimate expertise on all administration issues, Truman instead relied upon others. This reliance was evident in Truman’s presentation at press conferences. Truman initially won respect from the press for being a “straight talker.” If Truman did not know the answer to a question, he did know exactly who in his administration could answer it and pointed the reporter in that direction. Truman was also adept at peppering his discussions with profanity if the conversation warranted it, showing glimpses of his temper. The press appreciated this as a dramatic change from the evasive Roosevelt administration that never gave a straightforward answer to any question.58

Though Truman’s bluntness initially won him accolades publicly, his lack of skill in public presentation created a continuous problem for him as he moved toward his second term in office. Truman noted in his diary entry for February 8, 1948, “I hate headline hunters and showmen as a class and individually. It’s too bad I’m not a showman. My predecessor was, and I suppose profited politically by it.”59 Truman continued, “Fate put me here, and fate can keep me here or put me out—and out would

58 Neustadt, “Notes,” June 1953, TP, HSTL; Underhill, FDR and Harry, 60, 64, 61; Neustadt, “Notes,” June 1953, TP, HSTL; Underhill, FDR and Harry, 112, 35, 112.

59 HST diary entry, February 8, 1948, Ferrell, ed., Off the Record, 123.
suit me better.” Truman was certainly no showman and what little skill he possessed in this arena seemed to dissipate rapidly when contrasted with Roosevelt. Part of Truman’s difficulty with the media stemmed from his characteristic stubbornness. Though both Roosevelt and Truman had certain goals in mind throughout their presidencies, Roosevelt understood the art of manipulation and deception in order to achieve those goals and make the people around him believe they wanted to achieve them as well. Truman held steadfast to his own ideals and often neglected public opinion when it did not mesh with his personal policies. In a diary entry from January of 1947, Truman jotted, “Read the morning papers as usual. Some gave me hell and some did not. It makes no difference what the papers say if you are right.” Later in May of 1948, Truman wrote to his sister Mary Jane that he “had thought that pictures and the radio would cure the news liars—but they—the liars—have taken over both.” What these notes illustrated was that Truman failed to appreciate the connection between the media, the public, and the need for devious strategies that Roosevelt embraced.

As Truman’s outward appearance and presentations faltered throughout his second term in office when he dealt with an unpopular war and a burgeoning state of continuous warfare, he turned toward more covert means to achieve his prerogatives. It was Truman’s ultimate lack of skill that forced him to lead a campaign of “fuzzy language.” Since Truman did not possess the overt rhetorical power of Roosevelt, who could simply speak to the people and convince them to follow his plans, he had to turn to

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60 HST diary entry, February 8, 1948, Ferrell, ed., Off the Record, 123.

61 HST diary entry, January 1, 1947, Ferrell, ed., Off the Record, 106.

more covert activities. Truman had lost face with the public and could not openly manipulate them as Roosevelt had, so he began to use purposely-ambiguous language. This fuzzy language was most evident in Truman’s discussions of war and peace after World War II (See Chapter 2). Use of confusing and often vague language and terminology, making the truth “blurry” or “fuzzy,” allowed Truman to continue his defense goal, extending the benefits of war under the pretext of peace, while avoiding a direct confrontation with the unpopular sentiments of the American public. Militarization of propaganda during the early fifties under the new national security state apparatus allowed the president complete control over propaganda as Commander in Chief, giving Truman the ability to mold continuous warfare into whatever he wanted. Though Truman did not directly create continuous warfare, the nondescript nature of the often murky, liminal zone between peace and war following WWII lent an advantage to Truman in his national defense plans, which helped to solidify this state of nontraditional war.

One final skill as Chief Executive upon which Roosevelt and Truman varied a great deal revolved around the concept of the “inner circle.” Most presidents rely upon someone or a group of people to act both as a sounding board for ideas, policy, and other administrative prerogatives and to serve as advisers. Those kept closest to the president, whom he relied upon most frequently, might become known as his inner circle. These personal connections often aided the president in his daily tasks and made the executive office run more efficiently. Neustadt contended that the president’s “strength or weakness…turns on his personal capacity to influence the conduct of the men who make

Neustadt’s analysis held true in the president’s relationship with Congress, but also in his personal relationships amongst his staff and Cabinet. Though presidents generally make the final decision on important issues, their connection to their closest advisers can greatly impact the direction in which those decisions turn.

Roosevelt had few close, personal advisers upon whom he relied for information that might impact his final decisions, showing a lack of skill in creating an inner circle. James Roosevelt, the president’s son, argued that Roosevelt had no confidants. As discussed above, Roosevelt rarely, if ever, showed his true demeanor to those around him. This aloofness allowed Roosevelt to manipulate people in a very calculated manner for his purposes, but it also removed the true availability of any close advisers, confidants, or friends. Roosevelt’s son also argued that Eleanor Roosevelt, the First Lady, failed to be a confidant despite her sharing in one of the closest relationships the president maintained. Instead, Roosevelt had a frequently changing circle of people around him, as opposed to a more permanent inner circle. This constantly changing group of people, who always agreed with the president, allowed Roosevelt to keep his upbeat mood and continue his persona. However, these friends were essentially


65 William L. Neumann, “Roosevelt’s Options and Evasions in Foreign Policy Decisions, 1940-1945, in *Watershed of Empire: Essays on New Deal Foreign Policy*, eds. Leonard P. Liggio and James J. Martin (Colorado Springs: Ralph Myles, Publisher, 1976), 163. Eleanor Roosevelt and FDR had a strained relationship at best, due to his indiscretions. However, they also had an agreement to stay married and both worked toward his political goals. Roosevelt often utilized Eleanor’s connection to the lower rungs of society and her mobility to find out what was really happening across the country. Her loyalty sometimes baffled those around Roosevelt who knew about their personal problems. However, Eleanor might never have had the chance to make such an impact on American society and the world if she had not been married to Roosevelt; therefore, she utilized his place in history to her own advantage as well. Roosevelt and his wife were not close in a traditional, married partner sense, but they were political allies who worked closely together. Despite this, they seemingly led separate lives.
artificial. Additionally, as can be seen in his archives, though people often offered Roosevelt advice and Roosevelt often asked specific questions of certain people, he rarely followed this information unquestioningly. This leads one to believe that Roosevelt’s outward joviality was truly a persona and he made most decisions entirely on his own. Few presidents would have the confidence to follow Roosevelt’s lead in this arena.

The few relationships Roosevelt pursued within his staff seemed to be more for his own use than personal respect associated with a trusted adviser or inner circle. Roosevelt’s relations with General George C. Marshall, the Army Chief of Staff, and Admiral Harold R. Stark, the Chief of Naval Operations, became more important from 1940 through 1941 when the United States was rearming for war. “Roosevelt established very close and direct working relationships with both chiefs. He came to rely upon them and their staffs for war plans, strategic and rearmament advice, legislative initiatives for the armed forces, and getting those initiatives through Congress,” noted historian Mark A. Stoler. Roosevelt’s manipulation of the Joint Army-Navy Board complicated the idea of a truly close relationship, however. By using Marshall and Stark as military experts, the president could push his own legislative initiatives through Congress without a fight. The Lend-Lease Program, Cash and Carry, and the Destroyer-Bases Deal of 1940 that helped to propel the United States into World War II, even if unofficially, were all orchestrated by Roosevelt and carried out with the backing of Marshall and Stark. To emphasize this difference between an inner circle-type relationship and one of

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manipulation and deception, Roosevelt met with the Joint Army-Navy Board whenever he pleased, which meant as a group or individually. There was little purpose for meeting with the two chiefs individually, unless it was to play them, or their information, off one another in typical Roosevelt style. Additionally, Roosevelt demanded that no one kept notes of any of these meetings.\(^{68}\) It stood to reason that someone should have carefully noted advice, which Roosevelt intended to use in whole, for future reference, but Roosevelt flourished when he maintained uncertainty amongst his staff and complete control in his decisions.

The lack of notes from Roosevelt’s meetings acted as another indicator that he led a highly individualistic administration, which relied upon manipulative tactics and neglect of an inner circle. In the 1946 Rowe memorandum on presidential relationships with Congress, Rowe noted under “suggestions for improvement” that there be a secretary appointed to take notes at meetings. Rowe avowed, “The serious flaw in the Roosevelt conferences was that the five men had pleasant conversations and ‘settled’ a great number of problems. But there was no one who wrote down what they agreed to” or followed up on this information. This lack of notes caused “too much unnecessary bitterness and frustration” between Roosevelt’s staff, Rowe noted.\(^{69}\) Purposeful creation of tension that resulted in animosity was an inappropriate action for Roosevelt to take with those who were supposed to be his closest advisers, yet he did it continually, hosting regular Monday morning meetings. This again suggested that Roosevelt was using the people and information for his own purposes and did not want agreements kept in notes.

\(^{68}\) Stoler, “FDR and the Origins,” 71-72.

\(^{69}\) James H. Rowe Jr. to Clark Clifford, December 1946, CP, HSTL.
to restrict him later. Finally, though Roosevelt appeared to rely heavily on Hopkins and Secretary of State Henry Stimson as advisers whom he saw more frequently than any other during World War II, it is impossible to know to what level Roosevelt truly relied upon their advice as opposed to manipulating them for his own purposes.  

In contrast to Roosevelt, Truman relied heavily upon his staff, Cabinet, and other advisers, showing great political skill in getting along with others. Unlike Roosevelt’s self-led presidency, Truman focused on improving the institution of the presidency through these close relationships. Truman also saw having and making friends as a major priority during his lifetime. One prominent example of this trait can be seen in Truman and his wartime companions in his unit during World War I. Though Truman only knew these companions as fellow soldiers in a war, Truman remained friends with them for life. Truman retained this skill inside the White House and sought to foster a close inner circle of people who were true friends and confidants to the president. In his confidential, post-Truman administration report from 1953, Neustadt claimed:

Truman was an exceptionally kindly man, a most considerate, even humble human being in all of his relations with subordinates. …in the White House office, there was always informality and at least surface friendliness, generally a high morale, reflecting the President’s own attitudes and personality.

Truman held a great respect for the institution of the presidency as well as the staff who worked within it. While Roosevelt engineered everything and everyone within his administration, Truman relied upon his staff members as a true inner circle and a part of the structure of the executive branch on which future presidents would rely.

70 Rowe to Clifford, December 1946, CP, HSTL; Brinkley, Roosevelt, 79-80.

71 Greenstein, Presidential Difference, 40-41; Underhill, FDR and Harry, 37.

72 Neustadt, “Notes,” June 1953, TP, HSTL.
The increase in size of the presidential staff under Truman also illustrated to what extent he relied upon them as president. Aside from Truman’s abrupt transition to the presidency in 1945, the presidential staff grew steadily throughout his time in office. Whereas Truman had sixteen staffers in 1948, prior to his reelection, his staff grew to twenty-two full time members by 1952. In comparison, Roosevelt’s staff, even with his reorganization of the Executive Branch and overall increase in Executive Branch staff, only numbered seventeen members in 1944, which included those officials of the Office of War Mobilization. In addition, under Truman, part-time personnel, officials of other agencies, and private citizens may all have been included as executive “staff” at one time or another on top of this official count. Truman met with his full staff and military aides six mornings a week, in comparison to Roosevelt’s once a week meeting with important officials. These daily meetings generally lasted around thirty minutes and staffers were encouraged to bring up any issue they wanted, or the president might in turn quiz them for information on certain issues. Truman was also able to move physically around the White House to a much greater extent than Roosevelt, so he frequently stopped into staffers’ offices to find out information or visit outside of these official meetings. Due to the collegial nature of the Truman administration and the president himself, staffers felt important to Truman’s decisions and readily offered their own advice. Truman, unwilling or unable to play people off one another in the way Roosevelt did, often relied upon this information to make decisions.

Truman also utilized the Executive Cabinet far more extensively than Roosevelt. In a 1945 letter to Attorney General Tom C. Clark, Truman considered the idea of

73 Neustadt, “Notes,” June 1953, TP, HSTL.
lunching at least twice a week with the full Cabinet at the White House. These lunches “would keep all of us in closer touch,” Truman argued, and “also give me an opportunity to have the whole Cabinet in my complete confidence as to what is going on.” Unlike Roosevelt who practically disregarded his Cabinet members, Truman sought to direct the Executive Branch through the Cabinet, creating a structured presidency that operated outside of personal presidential attributes. Truman relied upon his Cabinet as experts and regularly sought their advice, which he followed closely.

Management Style

Aside from each man’s individual skills as chief executive, Roosevelt and Truman also utilized unique management styles based on their own personalities, prior experience, and abilities. Even though Roosevelt and Truman were different in management style, this difference marked a turn away from an individualistic perspective of the presidency toward a more formal, structured institution that could support an imperial presidency. Greenstein noted that “The United States is said to have a

74 HST to Tom C. Clark, August 27, 1945, box 83, file 1; Clark Papers, HSTL (Clark Papers hereafter cited as CLP).

75 HST to Tom C. Clark, August 27, 1945, CLP, HSTL.

76 Political scientist Richard Tanner Johnson designated three different management styles in his 1974 book, Managing the White House: An Intimate Study of the Presidency. These styles included competitive, collegial, and formalistic management. Alexander George, Johnson’s colleague, expanded upon these styles in the 1980s, basing them on personality characteristics or “dimensions” that political scientists could easily track to an individual president. Generally, the formalistic style is defined by “specialized committees that are governed by rigid rules with decisions made at the top by the president” including an emphasis on defined procedures and finding the best policy overall. In a collegial management style, a team makes decisions in a more informally structured situation. In this style, the president sits closer to the center, rather than at the top of the decision-making structure and might reach out to those below him for information. The goal in this style would be the most consensus-based overall policy. Finally, in a competitive system, overlapping assignments promote competition with the president acting as arbitrator. Here, again, the president sits at the top of the structure and utilizes “multiple channels of communication” with no distinct policy goal articulated. Although Johnson’s original framework was criticized for being too rigid and not allowing much flexibility between styles, his competitive style and
government of laws and institutions rather than individuals, but…it is one in which the matter of who occupies the nation’s highest office can have profound repercussions.”

Greenstein was correct in presuming that the man in office can make a difference, but it is the underlying structure of power that any president might seek to utilize, which controls the potentiality of an imperial presidency. In the case of Roosevelt, Roosevelt’s competitive management style set up a vast amount of power housed in a single individual, Roosevelt the mediator. Truman’s collegial style, which was more easily copied and adjusted by future presidents, set up a more structured system that worked for anyone in the position of president if they were willing to take advantage of it.

Additionally, because of Truman’s collegial nature, his policies focused on creating more structured teams available at the president’s disposal for decisions and advice, such as the National Security Administration, the Central Intelligence Agency, and the Joint Chiefs of Staff.

In order to understand better the significance of this change in management style from Roosevelt to Truman, one must better understand how each president instituted his method. As previously mentioned, Roosevelt gleaned many of his executive skills from his own personal upbringing and struggles. Roosevelt’s presidential management style was no exception, and one might easily trace many of his methods to his background. As


Greenstein, Presidential Difference, 2.
a young man with an overbearing mother, Roosevelt quickly learned how to use misdirection or devious manipulation in order to both hide his true feelings and get what he wanted. Likewise, Roosevelt’s struggle with polio and paralysis caused him to adjust his relationship with his family members long before he became president. During his initial recovery from polio, Roosevelt went to extreme lengths to avoid the demands of his family. These moves included the pitting of one family member against another, such as Roosevelt’s wife Eleanor and his mother Sarah. Eleanor and Sarah spent their time nursing Franklin Roosevelt back to health embroiled in a bitter argument over whether he should resign himself to being a disabled country gentlemen coddled by his mother for the rest of his life or to working his way back into politics and dealing with his disability head-on. Roosevelt preferred the latter but found it difficult to reason with his mother or go directly against her wishes and her money. Since Eleanor felt equally strongly about Franklin’s ultimate recovery and return to politics, he used her to fight the battle with Sarah. Additionally, Roosevelt distanced himself from his family in order to avoid confrontation on many issues. This included the permanent separation of Franklin and Eleanor’s sleeping arrangements. Roosevelt used these same attributes in creating his unique, competitive management style as president, in which he forced people against one another, avoided confrontation on the issues, and created an impervious, deceptive persona.

Just as Roosevelt did with his family, he sought to figure out a way to manipulate his staff in order to get the best result according to his needs. Foremost, Roosevelt never

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78 Davis, *FDR: The War President*, 42. 5; Brinkley, *Roosevelt*, 17. At the Home of Franklin D. Roosevelt National Historic Site in Hyde Park, New York, visitors may observe Franklin and Eleanor’s separate sleeping arrangements in the main house, Springwood, along with their later complete separation through the building of Val-Kill and Top Cottage, Eleanor and Franklin’s individual cottages.
lacked talented advisers, but his push for bipartisanship and the bringing together of experts in a variety of fields outside of politics created instant turmoil in his administration. While Roosevelt installed people he knew would be easy to control in certain positions, such as Donald Nelson who led the War Production Board, he also had to figure out a way to deal with the variety of advice and expertise coming from his own coalition of the best and brightest. Roosevelt’s solution was a management style of fierce inter-staff competition, in a “competitive adhocracy,” a term coined by Neustadt. What Roosevelt discovered in appointing so many intellectual experts to his administration was that they were extremely ambitious and he could make them very competitive when played off one another. According to Neustadt, “Competitive personalities mixed with competing jurisdictions” defined Roosevelt's competitive adhocracy. Under this style, different officials, agencies, or staffers held responsibility for identical tasks and policies. Their competition between each other to get the best information the quickest yielded the greatest results to Roosevelt who did minimal work to get the most information and held the final decision on the task. Since Roosevelt was the only one who knew the extent to which he was orchestrating this competition, who was involved, and exactly what would be the repercussions for a task undone, people did as he told them to do. Competitive adhocracy “worked to make him [Roosevelt] the referee and thus concentrate power in the White House.” However, as noted by the lack

79 Brinkley, Roosevelt, 28, 85-86.
80 Neustadt, Presidential Power, 132.
82 Kimball, The Juggler, 4.
of an inner circle in the Roosevelt administration, this competitive management style created bitter feuds and caused most to resent Roosevelt even as they followed his command. No other president has ever used a competitive management style to the extent of Roosevelt’s competitiveadhocracy, which depended for its success on his acquired background and skills.\textsuperscript{83}

Despite Roosevelt’s lack of desire to make a clear-cut decision on an issue, he was largely unable to give up his hold on the power of decision-making within the White House. According to Truman’s diary from 1948 regarding his issues with foreign policy, “I was handicapped by lack of knowledge of both foreign and domestic affairs—due principally to Mr. Roosevelt’s inability to pass on responsibility. He was always careful to see that no credit went to anyone else for accomplishment.”\textsuperscript{84} Truman knew that Roosevelt could not possibly have done all the work himself, yet somehow Roosevelt usually came out with the credit for successes. Roosevelt did not, in fact, like to make firm decisions, leading to further and further complications surrounding an unresolved issue. A decision made closed off an opportunity for the president, so Roosevelt kept stretching the process.\textsuperscript{85}

Roosevelt’s complicated competitive management style essentially allowed him to engineer the White House staff for his own sole benefit. In a more hierarchical management pattern, Roosevelt would have been the last to know the details and make decisions, but Roosevelt set his own deadlines to fit his prerogatives and manipulated the

\textsuperscript{83} Mitchell, \textit{Making Foreign Policy}, 15.

\textsuperscript{84} HST diary entry, May 6, 1948, Ferrell, ed., \textit{Off the Record}, 134.

\textsuperscript{85} Davis, \textit{FDR: The War President}, 9
information gatherers around him, so he was always the first or second to know the most valuable information. As a result of Roosevelt’s placement at the helm of all information and decision-making opportunities, he often gave the illusion that he did not need his Cabinet and could effectively run everything himself. Most famously, Roosevelt operated as his own Secretary of State, which seemed to fit with Truman’s above analysis of the Roosevelt presidency. As a result of his time as Assistant Secretary of the Navy, Roosevelt felt that he had a special knowledge of foreign affairs and perpetually sought to bypass advice from all Cabinet members dealing with foreign affairs and military operations. Likewise, Roosevelt’s creation of the Joint Army-Navy Board, the precursor to Truman’s Joint Chiefs of Staff, was in effect, his own method for disregarding the Secretaries of State, War, and Navy. The Joint Army-Navy Board could provide Roosevelt with military advice directly from members of the military instead of having it filtered through his Cabinet. In a memorandum to Edward Stettinius, Roosevelt’s formal Secretary of State, from March of 1944, Roosevelt discussed his desire to establish a free port on the gulf of lower California below the Mexican-American border. In a show of Roosevelt’s ability to be his own Secretary of State, Roosevelt planned to disregard the State Department’s negative recommendation on this plan as the Mexican Government stood in opposition. Roosevelt told Stettinius, “My information, which comes from a better source, is to the contrary.”


keeping at policy meetings illustrated his feeling that he did not need a record of information he saw as less significant than that which he already possessed.88

In contrast, Truman’s management style was considerably more collegial than Roosevelt’s, yet allowed him to hold a firm position as final decision maker. Truman’s daily meetings with the White House staff promoted the camaraderie and loyalty that Roosevelt’s administration had forfeited for competition. Most markedly, Truman’s managerial style reflected that of a Senate office. Whereas Truman remained primarily informal and accessible to staffers, advisors, and others inside the White House, he only dealt with actual decisions as they came up. Unlike Roosevelt, Truman rarely pieced together bits of information from a variety of sources in order to make a decision. Instead, Truman was more likely to rely on those around him or what he read for the information that allowed him to make decisions.89 Truman did not engineer the process behind his information-getting but relied upon those with assigned duties to do as they should. In a January 1946 letter to Secretary of State James Byrnes that Truman wrote but never sent, Truman illustrated his managerial philosophy. Truman wrote:

As you know, I would like to pursue a policy of delegating authority to the members of the cabinet in their various fields and then back them up in the results. But in doing that and in carrying out that policy I do not intend to turn over the complete authority of the President nor to forgo the President’s prerogative to make the final decision.90

This position ultimately caused some problems for Truman as those around him learned that they could much more easily manipulate him than his predecessor. People who were not hardened supporters of the New Deal and Roosevelt philosophy swarmed around

88 Kimball, The Juggler, 203.
89 Greenstein, Presidential Difference, 40; Neustadt, Presidential Power, 144-145.
90 HST to James F. Byrnes (unsent), January 5, 1946, Ferrell, ed., Off the Record, 79.
Truman. Men like Treasury Secretary and later Chief Justice of the Supreme Court Fred M. Vinson, Matthew Connelly, and naval aide Jake Vardaman advocated a change from many of Roosevelt’s earlier policies, pushing Truman further from the upkeep of his predecessor’s legacy. Truman replaced many “New Dealers” from the Roosevelt administration with more conservative administrators and these men soon pushed Truman in a different direction. This change helped foster confusion over the administration’s direction, especially when it came to the post-war world, creating a perpetual zone somewhere between traditional peace and traditional war. Unlike Roosevelt, Truman enjoyed making decisions once he had the information on a topic, but never claimed to be an expert on everything like Roosevelt; Truman took the advice of those around him even to his ultimate detriment.

Truman’s stubborn decision-making ability varied greatly when compared with Roosevelt’s method of extreme complication and habitual delay related to making decisions on the record. It was from this stubborn stance that Truman’s famous “buck stops here” management style was born. Truman best illustrated this position in a July 1948 diary entry about a recent meeting with Secretary of State Marshall and Secretary of Defense James Forrestal on the Russian situation in Germany. Truman noted, “I don’t pass the buck, nor do I alibi out of any decision I make.” In this particular instance, Truman kept telling his staff to stay in Berlin, reiterating his policy of making a decision and sticking to it. Likewise, Truman made decisions quickly and moved on to other

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91 Underhill, FDR and Harry, 80, 77.
92 HST diary entry, July 1, 1948, Ferrell, ed., Off the Record, 145.
93 HST diary entry, July 1, 1948, Ferrell, ed., Off the Record, 145.
things. In a diary entry on the Potsdam Conference in the summer of 1945, Truman wrote that he “banged through” the proposals presented as part of the Minister’s agenda in one day, which both surprised British Prime Minister Winston Churchill and pleased Soviet Premier Joseph Stalin. Truman wrote to himself, “I’m not going to stay around this terrible place all summer just to listen to speeches. I’ll go home to the Senate for that.”

Whereas Roosevelt might have carefully weighed his options and information, determining the best outcome for himself personally, Truman made a decision quickly and stood by it. Greenstein implied in *The Presidential Difference: Leadership Style from FDR to Barack Obama* that presidents are more likely to leave an individual mark on the office since the modern presidency began with Roosevelt and underwent fundamental changes. In Truman’s case, his decisions did steer the country in a different direction than those of Roosevelt, but Greenstein’s analysis bypassed the underlying structure of power that included the congressional check on most presidential decisions. Whereas Greenstein’s argument implied a particular person might be a strong president, further analysis of the Truman administration and its interaction with the other branches showed that an underlying structure was necessary for an imperial presidency to occur.

**Knowledge of Foreign Affairs**

Both Roosevelt and Truman’s knowledge of warfare, foreign affairs and the subsequent relationship with the Soviet Union depended heavily upon their political

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94 HST diary entry, July 18, 1945, Ferrell, ed., *Off the Record*, 54.

methodology and their different backgrounds. Roosevelt often relied upon his own personal knowledge and experience as president, much of it coming from his extensive travel during his youth and early manhood. Principally, a young Roosevelt saw most of Western Europe on regular family trips abroad. However much Roosevelt drew on this past experience as president, the world geographically and politically varied a great deal after World War I, leaving Roosevelt’s knowledge woefully out of date. Also, after becoming ill with polio, Roosevelt did not leave the United States for years, retaining his earlier understanding of geopolitical connections.96 Additionally, Roosevelt’s only experience in the military before being Commander in Chief was his stint as Assistant Secretary of the Navy under President Woodrow Wilson from 1913 through 1920. Although Roosevelt had never served as a sailor in the military, he had a fondness for sailing and ships, and a detailed knowledge of the Navy, which impressed those around him as assistant secretary.97 However, Roosevelt’s job mostly consisted of inspecting Navy yards or ships, and making public appearances. Roosevelt did occasionally travel in this position, though mostly to Europe regarding the British Navy and American naval aide, so his knowledge of the world was again limited.

Roosevelt took away several things from his time serving in the Wilson administration, however. Roosevelt developed a nationalistic view of American government in part due to its advanced naval equipment and through an historical connection with Theodore Roosevelt’s personal views as assistant secretary of the Navy. Roosevelt also held a truly international view of the world and American relations due to


Wilsonian internationalism. One important lesson that Roosevelt learned from the
Wilson administration was not to move too quickly on important international policy,
which he observed firsthand with the failed attempt at US membership in Wilson’s
League of Nations. Foremost, the experience as Assistant Secretary of the Navy during
World War I taught Roosevelt that isolationism, which was really the belief in American
exceptionalism, was over; the United States had to play a part in world affairs in the
future.  

As president, Roosevelt relished the potential of being a true Commander in Chief
and returned to much of his previous experience with foreign affairs. In a June 10, 1940
speech given at the University of Virginia commencement ceremony, Roosevelt warned
against isolationism. Roosevelt contended:

Some indeed still hold to the now somewhat obvious delusion that we of the
United States can safely permit the United States to become a lone island, a lone
island in a world dominated by the philosophy of force.

Such an island may be the dream of those who still talk and vote as
isolationists. Such an island represents to me and to the overwhelming majority of
Americans today a helpless nightmare of a people without freedom—the
nightmare of a people lodged in prison, handcuffed, hungry, and fed through the
bars from day to day by the contemptuous, unpitying masters of other
continents.

Roosevelt pleaded that as a “lone island” the United States would not be left alone in a
safety of ignorance, which isolationists of the time believed, but would be drawn into
conflicts and left to the mercy of other more militant countries. Roosevelt recalled his

98 “Roosevelt Visits Navy Yard,” Washington Post, March 21, 1913; Associated Presss, “U.S. Sea
Aid Pledged,” Washington Post, July 30, 1918; Brinkley, Roosevelt, 14; Warren F. Kimball, “The Sheriffs:

99 Alan K. Henrikson, “FDR and the ‘World-Wide Arena,’” in FDR’s World, edited by Woolner,
Kimball, and Reynolds, 35; Franklin D. Roosevelt, “Stab in the Back” Speech, June 10, 1940, Miller
Center of Public Affairs, University of Virginia, accessed July 22, 2011,
time in the Wilson administration when isolationism had merely delayed US entrance and ultimate preparedness for an inevitable place in the Great War. Even before giving this speech, Roosevelt showed his international stance by taking an interest in the island of Fernando de Noronha off the coast of Brazil in South America. In a memorandum to Stark in April of 1940, Roosevelt discussed this island and his interest in making sure European nations would not use it if the war spread. In reality, Roosevelt was preparing for the war to spread as it was truly a global conflict, and was securing US safety.

Although Roosevelt made preparations for war long before US involvement, when he ran for an unprecedented third term in office, Roosevelt secured his place as a wartime president. While all US presidents are additionally denoted Commander in Chief at all times, the powers of the post are generally limited to periods of conflict. Additionally, most presidents see their titles as implicitly interchangeable and ceremonial, paying little heed to titles in peace versus war. Much like Roosevelt envisioned the presidency with himself as president, he also viewed himself as the sole Commander in Chief of all the military, and he jealously guarded the title. Roosevelt even objected to its use elsewhere amongst members of the military, for example, Commander in Chief of the US Fleet, Admiral Ernest King. Roosevelt first referred to himself as Commander in Chief in a memorandum to Secretary of War Harry Woodring

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100 FDR to Harold R. Stark, April 30, 1940, in *FDR Personal Letters*, 1016. Fernando de Noronha was, in fact, utilized through a special agreement between Brazil and the United States, as a post for US soldiers during World War II from 1942 through the end of the war. It would appear that Roosevelt was not just interested in preserving the island from a European war, but also using it to the US advantage when the war did spread. “History of the Archipelago,” Fernando de Noronha Online, accessed July 22, 2011, http://www.noronha.com.br/english/history.htm.
and Marshall in May of 1940 as the US prepared for rearmament, and he continued to do so throughout the war.\textsuperscript{101}

Roosevelt was not just concerned with the title of Commander in Chief, however, but with the explicit powers that came along with the title during periods of conflict. Much like Roosevelt controlled the government concerning domestic issues with his complicated New Deal programming, unique management style, and personal skills, he also sought to control all aspects of US foreign affairs and national defense with the powers inherent in the role of Commander in Chief. In a 1940 memorandum from Roosevelt to a White House economic advisor, Lauchlin Currie, Roosevelt discussed a recent resolution proposed by Wisconsin Governor and presidential hopeful, Philip La Follette. La Follette, an opponent of US entrance into World War II, sought a special council to oversee executive orders that set aside legislation dealing with national defense issues. Though the Congress could officially overturn any executive orders with more legislation, Roosevelt felt that an outright restriction on executive powers regarding national defense was unconstitutional.\textsuperscript{102} Roosevelt continued to seek legal advice on his powers as Commander in Chief throughout 1940 and 1941 as a result. In a letter from Attorney General Francis Biddle to Roosevelt, Biddle quoted an excerpt from \textit{Executive Powers Under National Emergency} published in October 1939. As Biddle stated:

\begin{quote}
'The executive has powers not enumerated in the statutes—powers derived not from statutory grants but from the Constitution. It is universally recognized that the constitutional duties of the Executive carry with them the constitutional powers necessary for their proper performance. These constitutional powers have never been specifically defined, and in fact cannot be, since their extent and
\end{quote}

\begin{footnotes}

\textsuperscript{102} FDR to Lauchlin Currie, May 29, 1940, in \textit{FDR Personal Letters}, 1033.
\end{footnotes}
limitations are largely dependent upon conditions and circumstances. In a measure this is true with respect to most of the powers of the Executive both constitutional and statutory.\textsuperscript{103}

Biddle’s information coalesced into a later statement put together by the Office of the Assistant Solicitor General and sent out to the heads of the executive departments in October of 1942. This statement, titled “The Powers of the President in Time of War,” confirmed that the president had special war and emergency powers from both the Constitution and various acts of Congress. Most importantly, however, was the president’s constitutional role as Commander in Chief. According to the statement, the Commander in Chief Clause of the Constitution “gives him [the president] not only the final decision in the conduct of actual military operations, but also empowers him to take other emergency steps in order to ensure that those operations will be successful.”\textsuperscript{104}

Roosevelt had his director of public relations send this statement to the heads of the executive departments and of various government divisions to solidify his power as president, specifically under the purview of his role as Commander in Chief. The statement reiterated the powerful blur between civilian and military matters during periods of conflict. “In total war, the line running through our ‘common strength,’ marking where the commands to the military end and demands upon the civilian begin, grows ever fainter as it is crossed and recrossed by the needs of a nation fighting for its life,” noted the statement. Whereas Roosevelt had to manipulate people carefully in his

\textsuperscript{103} Francis Biddle to FDR, November 6, 1941; box 157, file 4; President’s Secretary’s Files; Papers as President, RP, FDRL; Senate Committee of the Judiciary, \textit{Letter from the Attorney General transmitting with reference to Senate Resolution No. 185, information as to extraordinary powers available to the President during a national emergency or State of War}, 76\textsuperscript{th} Cong., 2d sess., 1939, S. Doc. 133, Serial 10469, 2-3.

\textsuperscript{104} Office of the Assistant Solicitor General, “The Powers of the President in Time of War,” enclosed with Director of Public Relations M.E. Gilford to Heads of the Various Divisions, October 31, 1942, box 69, file 4; Oscar Cox Papers; FDRL (Oscar Cox Papers hereafter cited as OCP).
earlier domestic battles, his constitutionally sanctioned role as Commander in Chief gave him more power over naysayers and a greater ability to control what happened in government.

As Commander in Chief, Roosevelt, as always, paid close attention to governmental and public relationships that might hamper his wartime goals, constantly working to shift opinions toward his own. During his first and part of his second term in office, Roosevelt focused on domestic issues and remained outwardly antiwar. The public was largely concerned with the devastating effects of the financial collapse and sought recovery, which Roosevelt reflected with his focus on New Deal legislation. In an opinion poll taken in November 1936, ninety-five percent of Americans believed that the US should not take part in another war like World War I, with seventy percent believing that the US entrance into World War I had been a complete mistake. Roosevelt used opinion polls regularly to judge how he should shift war sentiment in the public mind.105 Likewise, Roosevelt returned to his masterful use of radio to connect with the people and convince them, over time, that US involvement in the war was imminent. In Roosevelt’s fireside chat of September 3, 1939, in which he focused on the beginning of war in Europe, he proclaimed, “When peace has been broken anywhere, the peace of all countries everywhere is in danger.”106 Roosevelt also played off the still heavily isolationist tendencies of Americans later in the discussion. Roosevelt noted:

It is easy for you and for me to shrug our shoulders and to say that conflicts taking place thousands of miles from the continental United States, and, indeed, thousands of miles from the whole American Hemisphere, do not seriously affect the Americas—and that all the United States has to do is to ignore them and go

105 Underhill, *FDR and Harry*, 122, 131.

106 Franklin D. Roosevelt, *Fireside Chat*, September 3, 1939, APP.
about its own business. Passionately though we may desire detachment, we are forced to realize that every word that comes through the air, every ship that sails the sea, every battle that is fought, does affect the American future. Roosevelt then pledged not to send American soldiers to Europe and advocated neutrality legislation; however, he also emphasized his inability to prophesize the future. 

Through Roosevelt’s skills of manipulation, he knew that he could win loyalty with time. What Roosevelt did not want to do was move too quickly, much as Wilson had attempted to do regarding the League of Nations. Most likely, Roosevelt also wanted to avoid the same backlash that had come with his “Quarantine Speech” of October 5, 1937, which had officially marked his personal move toward a focus on an active foreign policy. Drawing on images of murdered women and children, and submarine battered ships sinking in flames, Roosevelt had announced, “If those things come to pass in other parts of the world, let no one imagine that America will escape, that America may expect mercy, that this Western Hemisphere will not be attacked.” Though European politicians applauded this early speech and looked at it as a firm acceptance of US support for China against Japanese aggression, those on the home front were not as thrilled with the world reaction. As described in the Christian Science Monitor, the public generally accepted Roosevelt’s speech for its utterances of peace, but many newspapers questioned the true meaning behind his words claiming he really argued for a personal mandate to do what he wanted regarding US involvement in the war or that he

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107 Franklin D. Roosevelt, “Fireside chat,” September 3, 1939, APP.
108 Franklin D. Roosevelt, “Fireside chat,” September 3, 1939, APP.
109 Underhill, FDR and Harry, 126.
110 Franklin D. Roosevelt, “Address at Chicago,” October 5, 1937, APP.
was on a crusade that involved the United States. The *Boston Herald Tribune* commented, “It may be true that ‘the very foundations of civilization are seriously threatened.’ But this time, Mr. President, Americans will not be stampeded into going 3000 miles across water to save them.” With such a backlash, Roosevelt quickly understood that it took more than one inspiring speech to sway public opinion toward another world war.

As Roosevelt slowly persuaded the public toward war while proclaiming US neutrality, he also worked behind the scenes to involve the United States in something akin to an undeclared war. Historiographically, traditionalist views of the United States’ entrance into World War II emphasized the reality of a true Axis threat to the United States, which made US involvement inevitable. Revisionist perspectives, first illuminated by Charles Beard in his 1948 work *President Roosevelt and the Coming of the War, 1941: A Study in Appearances and Realities*, and popular in the 1950s, suggested that the Axis Powers posed no actual threat to the United States but that Roosevelt instead looked for a “back door” to the war. A back door entrance into the war allowed the United States to participate without being an obvious aggressor, reinvigorating the economy and propelling the US to the status of a world power.

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112 *Boston Herald* as quoted in: “Editorial Comment Varies on President’s Address,” *Los Angeles Times*, October 6, 1937.

Warfare also allowed the president a unique opportunity to take advantage of his role as Commander in Chief and solidify his historic place as a wartime leader.

Roosevelt looked for this back door, subtly, through legislative changes that gradually involved the US more and more in the war effort before finally gaining entrance through the surprise attack on Pearl Harbor, Hawaii, in December of 1941.\textsuperscript{114} Evidence of Roosevelt’s willingness to utilize a “back door” or form of undeclared war can be found as far back as 1938, when in a memorandum to his son, James Roosevelt, he suggested that old fashioned declared war was not necessarily the best option in modern warfare. “National defense is a current day to day problem of administration in the hands of the President under our Constitution,” Roosevelt noted. “The safeguard is that war shall not be entered into except by Congressional sanction.”\textsuperscript{115} However, Roosevelt claimed:

\begin{quote}
National defense represents too serious a danger, especially in these modern times where distance has been annihilated, to permit delay and our danger lies in things like the Ludlow Amendment which appeal to people who, frankly, have no conception of what modern war, with or without a declaration of war, involves.\textsuperscript{116}
\end{quote}

Prior to 1938, Roosevelt had signed into law the Neutrality Acts of 1936 and 1937. Both of these laws effectively proclaimed the neutrality of the US, but the 1937 version held an

\textsuperscript{114} There are a number of studies suggesting that the Roosevelt administration allowed the attack on Pearl Harbor to occur, giving the US an opportunity to join the war. Though military aides suggested that Pearl Harbor might be a possible target for the Japanese, there is little evidence to prove obvious negligence on the part of the Roosevelt administration. For more on these studies, see: Charles Tansill, \textit{Back Door to War: The Roosevelt Foreign Policy, 1933-1941} (Chicago: H. Regnery Co., 1952); George Victor, \textit{The Pearl Harbor Myth: Rethinking the Unthinkable} (Washington, DC: Potomac Books, 2007); Richard Hill, \textit{Hitler Attacks Pearl Harbor: Why the United States Declared War on Germany} (Boulder, CO: L. Rienner, 2003).

\textsuperscript{115} FDR to James Roosevelt, January 20, 1938, in \textit{FDR Personal Letters}, 751.

\textsuperscript{116} FDR to James Roosevelt, January 20, 1938, in \textit{FDR Personal Letters}, 751. The Ludlow Amendment was a proposed amendment to the Constitution that would have placed a referendum on a congressional declaration of war unless the United States or her territories were attacked first. “Roosevelt Week,” \textit{Time}, January 17, 1938.
amendment that allowed for a “cash-and-carry system” under the president’s discretion.\textsuperscript{117} Cash and carry permitted the United States to trade war goods with belligerent nations under the precept that they pay for the goods up front and carry them on their own ships. Cloaked by the idea that war between other nations should not hamper the US economy and its trade privileges, the cash and carry policy effectively authorized Roosevelt to involve the US in World War II. Despite preaching neutrality, the US began open trading in war goods in 1937.

Although Roosevelt understood that US entrance into war would be a slow process, by 1939, when war in Europe was imminent, he began to look for a method of breaking free from neutrality legislation. In a memorandum from Roosevelt to Secretary of State Cordell Hull and Undersecretary of State Sumner Welles dated March 28, 1939, Roosevelt told them he wished to repeal the entire Neutrality Act without proposing any substitute.\textsuperscript{118} A few months later in July of 1939, Roosevelt remarked to Attorney General Frank Murphy that he wished to know how far he could go in ignoring the current Neutrality Act if he could not get something better in its place, even though he had signed it into law. Roosevelt asked Murphy, “If we fail to get any Neutrality Bill, how far do you think I can go in ignoring the existing act—even though I did sign it?!”\textsuperscript{119} By 1939, Roosevelt had come to the realization that cash and carry would not last forever as finances dried up due to war expenditures, and he instead sought a broader method of “lend-lease.” A lend-lease system gave the president discretion to lend or lease war


\textsuperscript{118} FDR to Cordell Hull and Sumner Welles, March 28, 1939, in \textit{FDR Personal Letters}, 873.

\textsuperscript{119} FDR to Frank Murphy, July 1, 1939, in \textit{FDR Personal Letters}, 899-900.
equipment to other belligerent countries in the interest of the defense of the United States without directly involving the US in war. Roosevelt pleaded with Congress to amend the Neutrality Act in mid-1939 to allow for lend lease, but the plan stalled. In March of 1941, Congress finally passed the Lend-Lease Act.\textsuperscript{120}

Outside of looking for a back entrance to the war, Roosevelt also sought to examine fully his role as Commander in Chief and take advantage of any power that went along with it. Prior to formal US declaration of war, Roosevelt asked for and received several reports on laws and powers that went into effect in times of war, national emergency, and threat of war. In a memorandum to Biddle in October of 1941, Roosevelt included a list of statutes he had received from the Judge Advocate General’s Office that were not dependent upon a state of national emergency specifically but rather “threatened war.” Roosevelt then requested that Biddle check on them and let him know what additional powers the Constitution or statutory law might confer on the president through an actual threat of war.\textsuperscript{121} According to Judge Advocate General W.B. Woodson, “No determination is made with respect to the question of the authority to proclaim that war is imminent, that war is threatened, and so forth.” Woodson noted, “It is assumed such declarations are a function of the President.”\textsuperscript{122} Through this series of correspondence between Roosevelt, the Office of the Judge Advocate General, and the Attorney General, it became apparent that Roosevelt’s power as Commander in Chief

\begin{footnotesize}
\begin{enumerate}
\item House Committee on Foreign Affairs, \textit{To Promote the Defense of the United States}, 77\textsuperscript{th} Cong., 1\textsuperscript{st} sess., 1941, H. Rep. 18, 6; \textit{FDR Personal Letters}, 902, Editor’s Note; Underhill,\textit{ FDR and Harry}, 139.
\item FDR to Biddle, October 31, 1941; box 157, file 4; President’s Secretary’s Files; Papers as President, RP; FDRL.
\item W.B. Woodson to FDR, October 24, 1941; box 157, file 4; President’s Secretary’s Files; Papers as President, RP; FDRL.
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was largely unrestricted as he, as president, was the one with the sole ability to determine within what state of war, emergency, or threat the United States was involved. A later memorandum by M.E. Gilford, Roosevelt’s director of public relations, to the heads of various divisions affirmed this understanding. In Gilford’s 1942 memo, he enclosed a statement on “The Powers of the President in Time of War” prepared by the Office of the Assistant Solicitor General for reference. Biddle was quoted from September of 1941 at the top of this statement. Biddle noted, “The magnitude of the threatened disaster is the measure of the president’s power and duty to take steps necessary to avert it.”

Roosevelt and Biddle had effectively connected the power of the president as Commander in Chief to the determination of the magnitude of the threat, emergency, or war. This connection, combined with Roosevelt’s skills and abilities as president, gave him full reign over the US involvement in World War II. When Roosevelt asked Congress for a declaration of war in December of 1941, he received a near unanimous answer in favor of entering World War II, officially.

After seeing the boom in the economy during World War I, Roosevelt sought to create this same situation during periods of peace. Roosevelt attempted this primarily through his cooperative of business, labor, and government most often associated with the New Deal’s social, economic, and political liberalism. Like many of the time, Roosevelt firmly believed that if given the choice, other countries would choose to be like the United States. Roosevelt’s understanding of American exceptionalism or

123 Office of the Assistant Solicitor General, “The Powers of the President in Time of War,” enclosed with Director of Public Relations M.E. Gilford to Heads of the Various Divisions, October 31, 1942, box 69, file 4; OCP; FDRL.

124 Brinkley, *Roosevelt*, 75. The Senate voted unanimously for the declaration of war and the House voted 388 to 1 in favor of declaring war. Only one pacifist congresswoman, Jeanette Rankin (R-MT), voted against the declaration.
Americanism quickly became synonymous with the New Deal once he was president. In turn, Roosevelt sought to extend the New Deal policies to the rest of the post-WWII world.\textsuperscript{125}

Since the New Deal was a program instituted during a period of peace, Roosevelt intended for there to be a lasting world peace after World War II ended as well. In a letter to Progressive newspaper editor William Allen White in December of 1939, Roosevelt stated, “I do not entertain the thought of some of the statesmen of 1918 that the world can make, or we can help the world to achieve, a permanently lasting peace.” Roosevelt’s concept of a “permanently lasting peace” was “a peace which we would visualize as enduring for a century or more.”\textsuperscript{126} This statement seemed contradictory to what Roosevelt’s expressed as New Deal Americanism and to the later talks at Yalta near the end of World War II, when Roosevelt noted that peace might be possible for fifty years. However, Roosevelt’s policies had always been those of a realist.\textsuperscript{127} Roosevelt did not know how to fix the economic collapse when he became president in 1933, but he tried and tried again; the same was true of his wartime policies. While his ultimate goal was peace, this might mean fifty years as opposed to a century, or it might mean some countries remaining armed despite peace agreements.

Roosevelt’s policy regarding US-Soviet relations was very much along the same lines as his plans for the postwar world, constantly in flux. According to Kimball, Roosevelt did not have a set policy but rather “reacted, shifted, rethought, and


\textsuperscript{126} FDR to William Allen White, December 14, 1939, in \textit{FDR Personal Letters}, 967.

\textsuperscript{127} Kimball, \textit{The Juggler}, 101, 186.
recalculated” constantly. Though Roosevelt’s military aides were trained to see the world for what it was on a factual basis, Roosevelt often acted on a hunch when it came to military and political policy. Roosevelt’s dealings with the Soviet Union were no different from anything else, so he turned to public opinion polls and instinct to guide him. According to a confidential opinion poll from the summer of 1944, a majority of those polled believed that the US could trust the Soviet Union to cooperate with them after the war was over. Roosevelt utilized opinion, hunches, and his natural assumptions, based on personal optimism and reformist impulses, to frame his overall US-Soviet policy of cooperation. Roosevelt continued to adjust his tactics and strategy in dealing with the Soviets throughout the war, but this basic premise never changed.

Though Roosevelt followed a policy of cooperation with the Soviets even to a fault, according to some politicos of the 1940s, those closest to him recognized this initially unfavorable stance as a major piece in the bigger picture of future world peace. Felix Frankfurter agreed with Roosevelt’s policies early on, noting in a personal letter to Roosevelt, that he approved of Roosevelt’s recognition of the communist government and willingness to cooperate with them. “[S]trange as it may seem to some of the politically myopic opponents of your Russian policy,” Frankfurter contended, “your note to [Soviet leader Mikhail] Kalinin is calculated to mark the beginning of a most important chapter in the pursuit of world peace.”

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128 Kimball, The Juggler, 8.

129 Stoler, “FDR and the Origins,” 74; Letter with attached report Hadley Cantril to Grace Tully for FDR, July 26, 1944; box 157, file 6; President’s Secretary’s Files; Papers as President, RP; FDRL; Kimball, The Juggler, 8, 14.

130 Frankfurter to FDR, October 29, 1933; box 2, file 4; FFP; FDRL.
As demonstrated by his lack of an inner circle and skills of manipulation, Roosevelt saw relationships politically, including those with foreign government leaders. Roosevelt likewise saw nothing wrong with maintaining a political relationship with the Soviet Union, no matter how unpopular communism was in the United States. Roosevelt told close associates that there was not a huge difference between the communist Soviet Union and the United States. Logically, as the US leaned toward an increasingly planned economy and the USSR became more democratic over time, the two countries would come to resemble one another more closely. As a result, Roosevelt agreed officially to establish diplomatic relations with the Soviet regime in November of 1933 after meeting with Russian diplomat Maxim Litvinov in hopes of improving trade if nothing else. As Roosevelt saw it, there was nothing to gain by refusing to recognize the communist government of the USSR, but there might be opportunities with recognition. Along with trade, Roosevelt believed that a US-Soviet friendship might encourage the USSR to continue to keep control over her nearby warring neighbor Japan, and eventually join an alliance of “great powers” that oversaw the world.  

Frankfurter gushed about this possibility in his letter to Roosevelt in 1933. Frankfurter cited, “Apart from beneficial economic consequences, your termination of the hostile and anomalous relations between Russia and the United States may, in view of the new constellation of the Great Powers, be of really momentous significance to the world’s peace.”

After the United States became involved in the war effort, Roosevelt sought to back the Soviets despite their initial pact with Germany. Roosevelt sent Hopkins to the

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131 Davis, *FDR: The War President*, 223; Brinkley, *Roosevelt*, 64; Underhill, *FDR and Harry*, 118; Kimball, *The Juggler*, 1; Frankfurter to FDR, October 29, 1933; FFP; FDRL.

132 Frankfurter to FDR, October 29, 1933; FFP; FDRL.
USSR in July of 1941 to make a personal connection with Stalin. Hopkins returned with a favorable impression of the Soviets, though he viewed those below Stalin as mechanical or machine-like. Although Stalin appeared lacking in human emotion, Hopkins viewed him as an “intelligent-machine,” and Roosevelt quickly promised aid to the Soviets. By the end of July, Roosevelt had sent 6.5 million dollars in goods to the Soviet Union with an estimate of 29 million dollars total sent by October. Roosevelt worked to send more goods to the Soviets, but immediately began to feel the pull of those in his administration who disliked the Soviets. Roosevelt kept pushing for a US-Soviet alliance, however, and in November of 1941, shortly after Germany invaded Russia, he extended Lend-Lease to the Soviet Union. This extension of Lend-Lease suggested that Roosevelt understood the strategic importance of the Soviet Union, not just in creating a lasting world peace, but also in winning the war for the Allies. Later, Roosevelt and Churchill agreed to a policy requiring unconditional surrender from Germany largely in support of Stalin, who worried incessantly about a US-British alliance with Germany to end the war.133

In order to help foster his personal power as Commander in Chief and oversee these somewhat unstable political relationships, Roosevelt created a foreign policy of “personal diplomacy” when dealing with the Allies during the war. Personal diplomacy fit Roosevelt’s style, and it depended on personal contacts with world leaders and a close shaping of American foreign policy to reflect Roosevelt’s ever-changing criteria.134 As an advisor, Frankfurter commented to Roosevelt:

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The impact of events on this side [US-Soviet policy] makes one thing more clear than ever to me—that the guidance of foreign relations must substantially be in your own hands...there is such interaction among various issues that do not seem immediately related that vital decisions must be made by one who sees these interconnections and is not too immersed in the specific problems as they arise from day to day.  

Realistically, Roosevelt was the only one who truly understood the interconnections between his outwardly haphazard ideas and policies, so he had to rely upon himself or those closest to him to deal with the world leaders.

Since Roosevelt’s own immobility prevented him from frequent travel abroad for personal meetings with Churchill and Stalin, he relied upon certain emissaries who fit his qualifications, mainly agreeing with his personal policy and expertise. One example was Roosevelt’s reliance upon the advice of former Soviet Ambassador Joseph E. Davies instead of those pegged as Soviet experts like George F. Kennan or Charles E. Bohlen. Historians can trace Roosevelt’s reasoning behind this strange admission of outside expertise back to Davies’ ability to predict early on that a German-Soviet pact would form when England refused to create a united front against Germany. Roosevelt trusted Davies and believed that his reports and observations about what went on in the Soviet Union were those of an impartial observer, giving Roosevelt maximum decision-making ability. Davies’ popular book, *Mission to Moscow*, which came out in 1941 and was made into a movie during the war, showed the Soviet Union in an extremely positive

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135 Frankfurter to FDR, October 29, 1933; FFP; FDRL.

136 Though the relationship and correspondence between Roosevelt and Churchill is well documented, Roosevelt also attempted to develop a relationship with Stalin. Roosevelt tried to get Stalin to come to the United States or meet with him several times. Roosevelt was well aware that Stalin was apt to believe that England and the United States were teaming up against the Soviet Union, and sought to meet with just Stalin in 1943 to quash this potential problem. Unfortunately, squabbling over the second-front prevented this “meeting of the minds” from ever taking place. FDR to Joseph Stalin, May 5, 1943, in *FDR Personal Letters*, 1422-1423.
light and served as political propaganda. Others within Roosevelt’s administration, like Major General John Deane who served in the US Embassy in Moscow during WWII, disagreed with Davies’ interpretation. In a letter between Deane and Marshall in December of 1944, Deane noted that while he did not dislike the Soviets, he had never seen the inside of a Soviet home, suggesting that Davies’ *Mission to Moscow* was an over-the-top political piece designed to sell a US-Soviet alliance to the American people.\(^\text{137}\)

The anti-Soviet feelings within Roosevelt’s administration continued to increase throughout the duration of the war and during peace negotiations, but Roosevelt sought to fend off naysayers. One of the most common issues Roosevelt dealt with was the complete disregard for the Soviets shown by US military leaders. In a memorandum to Chief of Staff Admiral William Leahy on January 6, 1944, Roosevelt noted, “I think the Joint Staffs should always remember that Russia should not be overlooked when any agreements are made.”\(^\text{138}\) This memo was in regard to military agreements over the status of Italian prisoners of war, but a more serious issue came up less than a week later. Roosevelt wrote to Hull on January 12, 1944, to reprimand the combined chiefs of staff that they were exceeding their authority in not allowing the authorization for the Soviet representation for the Allied Control Commission in Italy to go through. The combined chiefs claimed they were holding out until there was a decision on the representation of France, but Roosevelt had not given them this command.\(^\text{139}\)

\(^{137}\) Davis, *FDR: The War President*, 224; Major General John Deane to General Marshall, December 2, 1944; box 5, file 6; President’s Secretary’s Files; Papers as President, RP; FDRL.

\(^{138}\) FDR to William D. Leahy, January 6, 1944, in *FDR Personal Letters*, 1482. Emphasis added by author.

\(^{139}\) FDR to Cordell Hull, January 12, 1944, in *FDR Personal Letters*, 1483.
One topic that caused repetitive problems for Roosevelt was Poland and the Polish government in the postwar world. As early as March of 1942, Roosevelt told Welles not to talk about the post-war position of small countries since it would “cause serious trouble with Russia.” Welles originally wrote to Roosevelt about Polish Prime Minister Wladyslaw Sikorski’s request to restore Poland’s original boundaries with Russia. In 1944, the Polish Question came to the fore in discussions amongst administration officials. In an interview between journalist Louis Fischer and Stettinius in January of 1944, Fischer asked Stettinius for his opinion on the Soviets. Stettinius replied, “we have to get on with the [R]ussians. We need them in war and peace.” However, Stettinius also noted the concern over Poland when prompted by Fischer, who commented, “[I]t seems to me that [S]talin wants a strong, independent Poland under his control.” Stettinius quickly replied, “I see the possibility of their forming a puppet government. [W]e are watching this carefully.” Fischer’s interview with Hull echoed the same cautiousness as Stettinius. Hull noted, “All relations with [R]ussia have to [be] handled with infinite care,” and the US was “in the dark” on many things related to the Soviet Union’s postwar stance.

It became evident by 1944 that Roosevelt’s policy of cooperation with the Soviet Union was losing face value amongst his administration officials, aides, and Cabinet, but Roosevelt continued this policy until his death in April of 1945. A memorandum from Stimson to Roosevelt in January of 1945 contained a December 1944 letter between

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140 FDR to Sumner Welles, March 7, 1942, in *FDR Personal Letters*, 1290.
141 FDR to Sumner Welles, March 7, 1942, in *FDR Personal Letters*, 1290.
142 Interview with Stettinius, January 20, 1944; Louis Fischer Papers; FDRL.
143 Interview with Hull, January 19, 1944; Louis Fischer Papers; FDRL.
Generals Deane and Marshall emphasizing the need for a new policy in dealing with the Soviets. According to Stimson’s memo, the American ambassador to the Soviet Union, generals, chiefs of staff, and the Secretary of War all felt that the letter was an accurate depiction of the problems and changes needed regarding the US-Soviet relationship.\footnote{Stimson to FDR, January 3, 1945; box 5, file 6; President’s Secretary’s Files; Papers as President, RP; FDRL.}

The December letter noted, “Everyone will agree on the importance of collaboration with Russia—now and in the future. It won’t be worth a hoot, however, unless it is based on mutual respect and made to work both ways.”\footnote{Deane to Marshall, December 2, 1944; box 5, file 6; President’s Secretary’s Files; Papers as President, RP; FDRL.} Deane also noted that while he had sat through numerous banquets where the friendship between the US and USSR was espoused, it always came across as phony. Deane stated, “This picture may be overdrawn, but not much.”\footnote{Deane to Marshall, December 2, 1944; RP; FDRL.} Likewise, Deane reiterated, “The situation has changed, but our policy has not.”\footnote{Deane to Marshall, December 2, 1944; box 5; President’s Secretary’s Files; Papers as President, RP; FDRL.}

What the December letter required was a distinct change in US-Soviet policy that called for a greater distance between the two great powers. Deane requested that the US only give help to the Soviets if they asked for it and if it was justified to win the war. The US should grant any other non-war related requests from the Soviets only if the US received something in return. The overall concept was to make the Soviets come to the US, largely dispelling the Great Power, personal politics of the Roosevelt Era.\footnote{Deane to Marshall, December 2, 1944; RP; FDRL.} Deane additionally commented, “I feel certain that we \textit{must} be tougher
if we are to gain their [the Soviets] respect and be able to work with them in the future." While it was unclear what reaction Roosevelt had to this memorandum and policy change letter with just a few months left to his life, what was evident is that Roosevelt’s staff had already set up a drastic policy shift away from the careful Roosevelt manipulation to a more open battle between the two countries much more fitting the personality of Roosevelt’s successor, Harry Truman.

Unlike Roosevelt, Truman had firsthand experience in fighting war as a soldier during World War I, which impacted his decisions on foreign policy throughout his Senate career and presidency. When Truman was just twenty-one years old he joined the National Guard and began training as a soldier. In August of 1917, Truman finally had his chance to use this training when a presidential proclamation called the National Guard into active duty. It was not until March 1918 that Truman, then a lieutenant, sailed for Europe. Put in charge of his own combat unit, Battery D of the 129th Field Artillery Regiment, 35th Division, Truman's troops soon headed to the heat of battle in France. Later that fall, Truman’s troops joined the offensive in the Meuse-Argonne area, known as one of the most decisive battles in the entire war. By August 1918, Truman had been promoted to captain and saw combat near the village of Mittlach, France where he was wounded by shrapnel. In Truman’s Battery D, only three men were wounded during the entire Meuse-Argonne campaign with one dying later. Considering that half of the entire 35th Division had been killed in action, Truman’s group fared well. Truman attributed this miracle to his National Guard training before combat had begun and later advocated

149 Deane to Marshall, December 2, 1944; RP; FDRL.

universal military training as a senator and president as a result.\textsuperscript{151} Truman’s experience in World War I, along with his experience in the military, laid a foundation for Truman’s close connection with friends, his self-confidence in quick decision-making and his ideas about politics and foreign relations by 1945. Though Truman remained in the Officers Reserve Corps after World War I and rose to the rank of colonel, his next active duty assignment would be as Commander in Chief of the United States.\textsuperscript{152}

As a senator, Truman reflected on his own training as a soldier and the ineptness of the majority of the United States military during World War I to promote a plan of universal military training (UMT). During 1936 discussions in the Senate regarding UMT, or “compulsive military training” as it was sometimes referred to, some senators stood opposed purely on the compulsory basis, even though they noted that there was most assuredly value in military training in general. Senator William King, a Democrat from Utah, commented, “I am opposed…to compulsive military training, though I concede that there are some advantages from a physical standpoint, if not from a moral and health standpoint, in receiving reasonable military discipline and training.”\textsuperscript{153} King’s son had some military training by choice while in college, which King applauded, but the senator disliked the idea of making it mandatory for all men.\textsuperscript{154} During this same discussion, which focused on various amendments to a War Department appropriations bill, including those that would set aside funding for UMT, Republican Senator Lynn

\textsuperscript{151} Underhill, \textit{FDR and Harry}, 37.

\textsuperscript{152} Underhill, \textit{FDR and Harry}, 48, 37.

\textsuperscript{153} “War Department Appropriations,” 74\textsuperscript{th} Cong., 2d sess., \textit{Congressional Record} 80 (March 18, 1936): 3930.

\textsuperscript{154} “War Department Appropriations,” 3930.
Frazier of North Dakota moved to amend the bill to include a ban on UMT for all men at all land grant colleges.\footnote{155 “War Department Appropriations,” 3931. In absence of Frazier’s proposal, military training was being carried out at universities and colleges through the Reserve Officer’s Training Corps (ROTC) on a limited, non-compulsory basis.} 

Undoubtedly, the idea of universal training was an unpopular concept during a period of relative peace, but many, including Truman, stood opposed to any ban on the concept of UMT. Truman along with fifty-nine others voted nay on Frazier’s proposed amendment.\footnote{156 “War Department Appropriations,” 3932.} By 1940, with war just around the corner, UMT was again the topic of discussion in Congress where people like Senator George Norris, an Independent from Nebraska, attempted to soften the edges by connecting UMT not to regular enlistment but to the selective service program.\footnote{157 “Selective Compulsory Service,” 76th Cong., 3d sess., \textit{Congressional Record} 86 (July 22, 1940): 11122. Along with a renewed interest in UMT, there was a resurgence of the Plattsburg (or Plattsburgh) Training Camp Movement in 1940, which had advocated voluntary training of young men for military service without a mandatory enlistment option or reserve enlistment requirement. Started in New York in 1915, the Plattsburg Movement embraced many of the core ideals of universal military training, including the betterment of society, stronger military, and protection of democracy, but it did not have a compulsory element to it. Later advocates like Truman would suggest required military service as a component of UMT. FDR to Grenville Clark, May 18, 1940, FDR to Sumner Welles, March 7, 1942, in \textit{FDR Personal Letters}, 1290, 1026; Penelope D. Clute, “The Plattsburgh Idea,” \textit{New York Archives} 5, no. 2 (Fall 2005): 10, accessed July 21, 2011, http://www.nycourts.gov/courts/4jd/plattsburgh_city/Archives.pdf.} Under Norris’ proposed plan, the military would train all young men but they would not have to serve unless there was a draft, simply accelerating the preparation for war without enlarging the standing army. “It seems to me,” Norris noted, “we should think of it [UMT]…in terms of a permanent policy of a democracy in time of peace…to fasten upon it a system of everlasting military training.”\footnote{158 “Selective Compulsory Service,” 11122.} Democratic Senator Carl Hayden of Arizona quickly chimed into the conversation and advocated for this larger military force through compulsory universal
training. In words that would later be reflected in Truman’s own during his presidency, Hayden proclaimed, “The only thing which a dictator respects is armed force.” Hayden added, “Failure to face the facts of modern methods of warfare will leave the United States just as unprepared for a surprise attack as were France and all the other smaller nations on the continent of Europe.”159 As early as 1937, Truman had himself claimed in a speech as senator that we have to “go about war intelligently…[George] Washington said, ‘To be prepared for war is one of the most effectual means of preserving peace.’”160 Truman saw the most effective preparation for war as the training of “soldier civilians” universally who could be ready at a moment’s notice to transition from civilian life to their military role. Though UMT reached a standstill again and again, Hayden’s premonition seemed to come true with the attack on Pearl Harbor in 1941, which stood as solid reasoning for Truman’s own support for a UMT bill during his presidency.

As president, Truman appointed a fact-finding commission in November 1946 to come to some conclusion about universal military training in the United States. On May 29, 1947, the President’s Advisory Commission on Universal Training issued its report. The commission determined that universal military training was an absolute necessity for the security of the United States and for maintaining world peace and the United Nations.161 “We believe,” noted the commission, “that the adoption of universal training

159 “Selective Compulsory Service,” 11125.

160 Speech on “National Defense and its Relationship to Peace” by Senator Truman in Larchmont, NY, April 20, 1937, Pre-presidential Papers: Papers as US Senator and Vice President box 282, file 30; TP, HSTL.

would assure the peace-loving countries of the world and enhance the influence and authority of the United Nations.”162 Finally, the atomic bomb was cited by the Commission as a problem of modern war that essentially eliminated “zones of safety” and created a greater need for a readied military force. The commission recommended a six-month training plan to be put into effect immediately. Just a few days later, Truman transmitted a message to the Congress urging them to consider carefully a program of universal military training.163

Truman leaned toward a more militarized nation in preparation for warfare as a result of his own experiences. In the wake of Roosevelt’s death, this clear difference in preference created a gray area between Roosevelt’s peace plans and Truman’s preparation for war, a twilight zone between traditional peace and preventative war. Whereas Roosevelt seemed definite in his post-war plans for long-term peace, Truman found himself somewhat at odds with his predecessor. His attempt at meeting multiple goals only brought on the confusing liminal zone between peace and war. As relations with the Soviet Union faltered after World War II, Truman’s viewpoint became more significant. In Midwestern states like Missouri, isolationism held a great appeal for many people.164 Truman was exposed to this perception throughout the twenties and thirties, but Roosevelt had forever altered American isolationism with his preparation for and entrance into World War II. Still somewhat influenced by isolationist ideas, Truman began to see the Soviet Union as a continual problem for the peace of the United States, a

162 A Program for National Security, 90.


164 Underhill, FDR and Harry, 148.
peace that was longed for by isolationists and fairly well guaranteed under the concept of isolationism. Though Truman would not and could not bring the country back to an isolationist state, he turned his bitterness toward the Soviets. At a May 1945 meeting with Hopkins, not long after Truman had become president, Truman remarked to Hopkins that “he could use diplomatic language, or he could use a baseball bat if he thought that was a proper approach to Mr. Stalin.” Here, early into Truman’s presidency, his remarks suggest a dislike of the Soviet Union, or minimally, its leader Joseph Stalin. Later in that same month, however, Truman discussed with Ambassador to the Soviet Union Averell Harriman a meeting between himself, Stalin, and Churchill to “overcome the misunderstanding and difficulties which have risen since Germany folded up.” During this early period of Truman’s presidency he appeared torn between Roosevelt’s policies regarding the Soviets and his own natural intuition against making agreements with them.

At the Potsdam Conference in the summer of 1945, Truman continued this transition between Roosevelt’s ideas and his own. In his diary entry from July 16, 1945, Truman showed this by negatively comparing the Soviet looters to the Germans. The next day, however, Truman recorded in his diary, “I told Stalin that I am no diplomat but usually said yes & no to questions after hearing all the argument. It pleased him. …I can deal with Stalin. He is honest—but smart as hell.” Truman was getting along with Stalin and may have even had an advantage in negotiations with the Soviet leader due to

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166 HST presidential appointment sheet, May 21, 1945, Ferrell, ed., Off the Record, 33.
167 HST diary entry, July 16, 1945, Ferrell, ed., Off the Record, 50, 52.
168 HST diary entry, July 17, 1945, Ferrell, ed., Off the Record, 53.
his proclivity toward quick decisions, in direct contrast with Roosevelt. What was evident, early into Truman’s presidency, however, was that Truman’s contrast with Roosevelt expanded well beyond his management style to include an abrupt shift in US-Soviet policy and relations.

US-Soviet Relations

At the time of Franklin Roosevelt’s death in April of 1945, Roosevelt’s policy toward the Soviet Union had changed little since the beginning of his presidency. Additionally, Roosevelt’s concept of the post-war world had not changed since the beginning of World War II. Roosevelt’s primary concern was not, in fact, the potentially expansive post-war Soviet Union but limiting England’s empire.\footnote{Kimball, \textit{The Juggler}, 60-61.} Although Roosevelt had a close relationship with Churchill throughout the war, Roosevelt also used programs like Lend-Lease to restrain England economically. With the United States’ limitation of British expansion after the war due to financial debt owed, Roosevelt could effectively curtail what he saw as a grab for world power through colonial domination. According to Roosevelt, “America won’t help England in this war [WWII] simply so that she will be able to ride roughshod over colonial peoples.”\footnote{Elliott Roosevelt, \textit{As He Saw It} (New York: Duell, Sloan and Pearce 1946), 25} Beyond simple colonialism, Roosevelt anticipated a sequence of revolutionary wars against England that would never allow a regular program of peace to develop. In his first wartime meeting with Churchill, the Atlantic Conference, Roosevelt pushed for precautions against this to be written into the Atlantic Charter. “The peace cannot include any continued despotism. The structure of
the peace demands and will get equality of peoples. Equality of peoples involves the utmost freedom of competitive trade,” noted Roosevelt in one discussion with Churchill at the conference. The third point of the charter further evidenced this US stance, noting that the US and England, “respect the right of all peoples to choose the form of government under which they will live; and they wish to see sovereign rights and self government restored to those who have been forcibly deprived of them.” Roosevelt was not a cold warrior. Roosevelt’s feeling toward colonialism was strong evidence against a world dominated by a cold war between the super powers or any US sanctioned warfare. Roosevelt’s concern was that colonial power struggles would prevent lasting peace plans, which ultimately required British involvement.

Instead, what Roosevelt proposed for the post-war world was a system of security based around the leading countries in the world. Roosevelt’s idea was known as the “Four Policemen.” Basically, the United States, Great Britain, the Soviet Union, and potentially China would police their sectors of the world. In Roosevelt’s concept, this would fit into the plan of the United Nations, but would allow the UN to operate more efficiently globally and avoid focusing on one central location. Roosevelt did not think this idea would work automatically, however, but would have to be transitioned into after the fighting had ended. In a letter to Senator Norris regarding postwar peace plans, written in September of 1943, FDR wrote:

The real problem lies in the methods to be used to attain peace without hate. …That is why I am inclined to believe that we should have a trial or transition

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171 Roosevelt, *As He Saw It*, 37.


173 Kimball, *The Juggler*, 64.
period after the fighting stops—we might call it even a period of trial and error. …Such a period might last two or even three or four years.\textsuperscript{174}

Roosevelt’s comments foretold a postwar world torn apart by hatred and suspicion, but his transitional period of relative peace, in essence a cooling-off period absolving bitterness between winners and losers, quickly became the beginning phase of continuous warfare after his death, when Truman’s more militant choices blurred peace with war. What Roosevelt wanted was for the Four Policemen to be in charge of making sure no country within their individual sectors was arming itself. Any country going against this policy would promptly be quarantined economically and later bombed, if necessary. The Four Policemen would act as “‘guarantors’ of the peace” with the rest of the world effectively disarmed. Roosevelt’s plan for the Four Policemen was not to be confused with the later spheres of influence that developed during the Cold War. Instead, Roosevelt’s plan was more akin to a global variation of the United States Good Neighbor Policy with Latin America.\textsuperscript{175} By 1942, Roosevelt had already outlined his Four Policemen plan for the post-war world illustrating his ability to think of both the future situation in the world and the larger picture beyond winning World War II. This future plan developed near the end of the war into the United Nations’ peacekeeping force but continued to maintain a clear inclusion of the Soviet Union as one of the leading countries.\textsuperscript{176}

\textsuperscript{174} FDR to George W. Norris, September 21, 1943, in \textit{FDR Personal Letters}, 1445-1447.


\textsuperscript{176} Kimball, in \textit{FDR’s World}, edited by Woolner, Kimball, and Reynolds, 95; Kimball, \textit{The Juggler}, 85.
Roosevelt’s overall policy toward the Soviets and their inclusion in postwar plans differed a great deal from both public opinion and the opinion of those within his administration who were suspicious of communists. Roosevelt viewed the Soviet Union’s policies as “more nationalist than communist, more practical than ideological.”\textsuperscript{177} In many ways, the Soviet Union was looking out for its best interests in whatever way it saw fit, much as the United States was doing under Roosevelt. Roosevelt convinced his military chiefs to maintain the relationship with the Soviet Union throughout the 1940s in order to avoid postwar collapse and a protracted cold war. Additionally, Roosevelt had purposely left certain aspects of the Lend-Lease policy to the discretion of the president so that he could engineer postwar peace negotiations through economic restraint. Likewise, Roosevelt knew the Soviets wanted Poland above all else, and since they occupied Poland by the time of the Yalta Conference, Roosevelt knew they could easily sidetrack a peace agreement or the UN organization, so he let the Soviets keep control of Poland. In Roosevelt’s larger scheme, peace was far more significant than the Polish Question, despite the fact that many in Roosevelt’s administration and the United States believed he had made a mistake in giving in to Soviet demands. After Roosevelt’s death in 1945, however, the supposed post-Yalta breakdown in US-Soviet relations and the defeat of Germany created an increasing call for a change in policy regarding the Soviet Union.\textsuperscript{178}

Overall, Roosevelt wanted to maintain a peaceful alliance with the Soviet Union, despite continual US negativity toward communism. Creating and executing his own

\textsuperscript{177} Kimball, \textit{The Juggler}, 30.

\textsuperscript{178} Kimball, \textit{The Juggler}, 44; Underhill, \textit{FDR and Harry}, 145; Stoler, “FDR and the Origins,” 77.
policy plans, Roosevelt was also extremely conscious of public opinion. As a result, Roosevelt hedged his dealings with the Soviets by withholding a major element to the postwar peace, the secret of the atomic bomb. Those closest to Roosevelt who knew of the Manhattan Project pushed him in both directions regarding the bomb. In a handwritten letter from Frankfurter to Roosevelt on September 8, 1944, Frankfurter told Roosevelt three reasons why the US should not keep the atomic bomb project from the Soviets. He proclaimed, “knowledge of the pursuit of our project can hardly be kept from the Russians” because they had excellent scientists, some leaked information has undoubtedly already traveled to the Soviet Union, and the German science on the same type of project would soon be open to the Soviets.\(^{179}\) Frankfurter continued, “appropriate candor would risk very little. Withholding, on the other hand, might have grave consequences.”\(^{180}\) Though Roosevelt erred on the side of caution, either not comprehending the true potential of the bomb or not fully trusting the Soviets, as was supported by public opinion, his lack of honesty regarding the bomb was another of his major mistakes. It later became apparent to the US Government that Stalin and the Soviet Government were well aware of the atomic bomb. Despite Roosevelt’s desire for a peaceful postwar world, his withholding of bomb secrets may have helped to catalyze the division between the United States and Soviet Union in the years that followed World War II.\(^{181}\) Roosevelt certainly did not intend for this division to happen, however, and in a final letter to Churchill, written the day before Roosevelt’s death, he wrote, “I would

\(^{179}\) Frankfurter to FDR, September 8, 1944, box 10, file 1; Atomic Bomb Collection, Truman Library (hereafter cited as Bomb Coll. HSTL).

\(^{180}\) Frankfurter to FDR, September 8, 1944, Bomb Coll. HSTL.

minimize the general Soviet problem as much as possible.”\textsuperscript{182} Until the very end, Roosevelt maintained that cooperation between the great powers took precedence above all else.

When Truman took over the presidency after Roosevelt’s death, he altered the US policy in dealing with the Soviet Union due to his attempted navigation around Roosevelt’s less-than-articulate legacy, personal feelings of animosity about Stalin and the Soviets, and the realities of the post-war world. More often than not, Roosevelt pieced bits of information and ideas together in his mind and resigned himself to act upon them. While Truman was definitely aware of what had been happening with US-Soviet relations, he was not aware of what Roosevelt might have done to halt any problems that might arise in the transition between war and peace. Foremost, Truman had not been privy to much of Roosevelt’s work on foreign affairs prior to 1945 so he had to do an incredible amount of catching up. Additionally, Roosevelt, who strictly limited the taking of notes at meetings and conferences, was never one to voice the details of his plans, leaving those around him, including Truman, baffled as to his ultimate intentions. As a result, when Truman first entered the presidency, he found himself torn between competing notions, ending war and nebulous ideas for future peace.\textsuperscript{183} In line with what appeared to be Roosevelt’s plan, Truman attempted to work with the Soviets as long as he could, but lacking Roosevelt’s foresight for the future, US-Soviet relations broke down as Truman experienced frustration with Soviet actions. For instance, in his diary

\textsuperscript{182} Kimball, in \textit{FDR’s World}, edited by Woolner, Kimball, and Reynolds, 102.

\textsuperscript{183} Historian Robert Underhill agreed. He claimed, “there can be no question that the policy of unstinted cooperation with the Soviet Union—a policy nurtured by FDR—was quickly altered under the Truman administration.” Underhill, \textit{FDR and Harry}, 148.
entry for July 26, 1945, Truman wrote about Soviet communism, noting that it “isn’t communism at all but just police government pure and simple. A few top hands just take clubs, pistols and concentration camps and rule the people on the lower levels.” Here Truman illustrated his distaste for the Soviet form of government, yet just a few days earlier at Potsdam, Truman had noted that he could work with Stalin. In a reflective speech given in Little Rock, Arkansas, in June 1949, Truman mentioned his “friendly feeling for Russia” at the time of Potsdam. This difference in attitude within a few short days illustrated Truman’s inner struggles between Roosevelt policy and his own natural instincts, which confused the period directly following WWII, ushering in a zone of twilight between the end of traditional war and start of traditional peace.

US-Soviet policy continued to shift during the Truman administration as a result of Truman’s set of advisors, who were also not party to Roosevelt’s master plan for world peace. Though many of these men had served under Roosevelt, they had been severely underutilized and their thoughts on Soviet policies were often disregarded by Roosevelt if they did not correspond with his personal ideas. Truman served as a more active listener than Roosevelt had been and Truman’s advisors took advantage of that to press him in a different direction regarding the Soviet Union. In a decoded cable between George Kennan, Deputy Head of the US Mission in Moscow, and Ambassador Harriman from April 23, 1945, Kennan detailed the Soviet neutrality agreement with the Japanese to avoid war as long as the US was at war with Japan. According to Kennan’s sources, the Soviets had agreed to maintain this agreement until it ran out in a year’s time, but the

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184 HST diary entry, July 26, 1945, Ferrell, ed., *Off the Record*, 56-57.

185 Truman’s handwritten speech notes for a speech at Little Rock, Arkansas, June 11, 1949, box 39, file 9; CP, HSTL.
Japanese wanted more than just an agreement that the Soviet Union would not go to war against Japan. Kennan’s source suggested that the Soviet Union was strongly considering this, which directly conflicted with US plans to have the Allies defeat Japan as quickly as possible after Germany. In the cable, Kennan relayed the message that he believed his source planted this rumor, but it was just what one might expect the Soviets to say in this instance.\(^{186}\) Kennan’s opinion on the Soviet Union differed a great deal from that of Roosevelt’s key advisors on this topic, Davies and Hopkins, who believed there was a very workable relationship between the US and Soviet Union. Kennan continued to push the Soviets and communism as a threat to the US and the world throughout Truman’s administration.

Less than two weeks after Truman became president he met with Soviet diplomats for the first time and was under pressure from his administration to take a firm stance against Soviet influence. Prior to this meeting, Secretary of State Stettinius, Secretary of War Stimson, Chief of the US Military Mission to Moscow John Dean, Secretary of the Navy Forrestal, Commander in Chief of the US Fleet Admiral King, King’s Chief of Staff William D. Leahy, Marshall, and Harriman pressured Truman that a hard line with the Soviets was the only option.\(^{187}\) By August of 1945, Harriman expressed to Truman in a secret cable his concern over the Soviet’s taking of “war trophies” from Japan, mainly Manchuria’s light and heavy industry, just as it had done in Germany. In regard to the impending Japanese defeat and the future of Manchurian industry, Harriman noted, “This

\(^{186}\) Decoded Cable from Kennan to Harriman, April 23, 1945, SMOF: Map Room File box 1, file 1; TP, HSTL. All decoded cables quoted throughout this dissertation have had the spelling and punctuation adjusted to fit the standards of English grammar in order to avoid overuse of “sic” due to casual misspellings as a result of the decoding process.

\(^{187}\) Underhill, *FDR and Harry*, 149.
is another case where Stalin has increased his appetite and I recommend that we resist his demands.\footnote{Decoded Cable from Harriman to HST and the Secretary of State, August 8, 1945, SMOF: Map Room File, box 1, file 5; TP, HSTL.} Harriman’s discussion of Stalin suggested that there was no longer the subtle understanding that the Soviet Union was simply looking out for its best interest, but rather planning a wider domination. Then Undersecretary of State Acheson reiterated the change in US attitude in November in an address to a National Council of American-Soviet Friendship rally. Acheson proclaimed:

> [T]here are certain conditions that usually exist between friends, and where they don’t exist, you are almost certain to find something less than complete friendship. One of those conditions might be described as an absence of tension…friends are not forever taking each other apart—until each becomes obsessed and exasperated with the contradictions in the other’s personality…there is a good deal of this sort of thing going on in both countries [US and USSR].\footnote{Press release of an “Address by the Honorable Dean Acheson, Under Secretary of State, at a Rally Sponsored by the National Council of American-Soviet Friendship, At Madison Square Garden, New York City, November 14, 1945 at 9:00pm EST,” November 11, 1945, box 86, file 2; AP, HSTL.}

Despite Acheson spreading the blame to the USSR as well as the United States, there was little evidence to suggest that the Soviets felt the same way; instead, they focused on an obvious shift in attitude between Roosevelt and Truman as the main issue. Hopkins had sought to smooth over any tension earlier in the year by meeting with Stalin in May of 1945. Hopkins informed Truman in a secret cable that same month that Stalin believed the attitude of the US toward the USSR had cooled after German defeat, noting Stalin’s concern over the admission of Argentina to the UN despite the admission standards discussed at Yalta, the inclusion of France in the postwar reparation committee despite the Yalta decision of including only the Big Three, the abrupt curtailment of the Lend-Lease Program, the US attitude toward the Polish Question, and failure to hear from the US and England on the division of the German fleet. Truman had effectively
cut off Lend-Lease on May 8, 1945 without notice to the Soviets, and he had remained curt with Soviet envoys Vyacheslav Molotov and Andrei Gromyko in his first meeting with them as president, claiming that the Soviets did not carry out their side of the Yalta agreements.\footnote{Decoded cable from Hopkins to HST, May 1945, box 1, file 1, SMOF: Map Room File; TP, HSTL; Underhill, \textit{FDR and Harry}, 149.} Hopkins informed Truman in his cable that he tried to convince the Soviets of continued positive sentiment by the US for Russia, claiming, “Stalin expressed himself as entirely satisfied with my explanation as to the reasons for our action in regard to lend lease.”\footnote{Decoded cable from Hopkins to HST, May 1945, TP, HSTL.} Hopkins also noted, “He [Stalin] emphasized he had never questioned the right of the United States to curtail or reconsider the lend lease program to the Soviet Union, but merely felt that more warning could have been given to the Soviet Government.”\footnote{Decoded cable from Hopkins to HST, May 1945, TP, HSTL.} Additionally, Hopkins attempted to convince Truman that Stalin did not take seriously the complaints against the US but was more concerned over the evidence of an increasingly unfavorable American opinion of the USSR that might lead to problems.\footnote{Decoded cable from Hopkins to HST, May 1945, TP, HSTL.} Hopkins’ cable, if accurate, contradicted most historical analyses that point to the end of Lend-Lease as a major pitfall in US-Soviet relations. Instead, it was evident that the Soviets became aware of the change in attitude between the Roosevelt and Truman administrations and tried to bring the problems to the forefront of diplomatic discussion.

When Truman received the Clifford-Elsey report on US-Soviet relations on September 2, 1946, his perception of US-Soviet issues thoroughly solidified around his
own personal distaste for the Soviets, finally disregarding Roosevelt’s path and moving toward a liminal zone between traditional war and traditional peace that afforded greater flexibility. The report, formally titled *American Relations with the Soviet Union*, put together at Truman’s request by Clifford with the help of White House Map Room military advisor George Elsey, included “[f]actual statements, studies and opinions” from some of the foremost experts on the US-Soviet situation within the government. The report claimed, “Soviet leaders appear to be conducting their nation on a course of aggrandizement designed to lead to eventual world domination by the U.S.S.R.,” which could lead toward a third World War if left unattended by the US. What Truman read in the report was a strong recommendation, not just to avoid acquiescing to the Soviets, but to prepare a military force against them. “The language of military power is the only language which disciples of power politics understand,” the report noted. “The United States must use that language in order that Soviet leaders will realize that our government is determined to uphold the interests of its citizens and the rights of small nations,” continued the report. Undoubtedly, the report convinced Truman to continue along his path toward complete disagreement with the Soviet Union. Emphasizing increased military strength, economic and political support to smaller nations not in the Soviet sphere, and coordination of government actions toward understanding the USSR and

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informing the people, the report essentially laid out what became Truman’s plans for the national security state, the Truman Doctrine, Marshall Plan, and increasing use of the language of war.\textsuperscript{197} The advent of preparations for war during what should have been a period of peace prompted a break with traditional notions of war and peace, creating a liminal area between the two that was susceptible to various interpretations by political actors. The report also alluded to the policy of containment that became the mantra of Truman’s foreign policy. The report noted, “the United States should maintain military forces powerful enough to restrain the Soviet Union and to confine Soviet influence to its present area.”\textsuperscript{198}

Although the Clifford-Elsey report solidified Truman’s stance on the Soviet Union, it merely offered suggestions that Truman had already considered and begun putting in place by the latter half of 1945, though the details remained unarticulated, confused by fuzzy language. In Truman’s handwritten outline of his message to Congress on universal military training, he articulated, “Our strength makes it incumbent upon us take a vital part in molding the future of the world.”\textsuperscript{199} Truman continued, “We intend to use that strength to work for a just peace and a lasting peace. We can ensure that kind of peace only so long as we remain strong.” In this draft from August 1945, Truman began to articulate, through his fuzzy language, the concept of continuous warfare. A buildup of military strength, suggestive of war preparations, underscored the overwhelming message of peace repeated throughout Truman’s administration. In a

\textsuperscript{197} Clifford, \textit{American Relations}, n.p.

\textsuperscript{198} Clifford, \textit{American Relations}, n.p.

\textsuperscript{199} Handwritten outline of message on UMT, undated, box 19, file 7; CP, HSTL. Attached to this outline is a typed draft with more changes dated August 27, 1945.
phrase that did not make it into his final speech on universal military training but that condensed his new attitude toward the Soviet Union with his plan for what became continuous warfare, Truman proclaimed, “We must face the fact that the house of peace must be built on the rock of power.”

Conclusion

The abrupt shift between Roosevelt and Truman, two men with obvious differences in skill, management style, and knowledge of foreign affairs, led to a hazy zone somewhere between peace and war that typified continuous warfare and with it, the foundation of the imperial presidency. Roosevelt’s duplicitous and manipulative nature combined with his competitive management style added to his knowledge of foreign affairs, and helped him work best through personal collaboration with leaders of the great powers of the England and the Soviet Union. This collaboration essentially relied upon Roosevelt himself and his personal plans for world peace to maintain strength and viability. In Roosevelt’s absence, the simplistic though collegial Truman began to reshape US-Soviet relations around his Midwestern mentality, information from opinionated advisors, and his own perception of a looming Soviet threat and the necessity of a strong military force. Railroaded into creating a lasting world peace orchestrated though unarticulated by Roosevelt and supported by the public, Truman cloaked the United States’ buildup to continuous warfare and later inculcation of the Cold War in a language of peace, creating a malleable zone of twilight between war and peace utilized by government players for their own agenda. The convoluted language of this twilight

200 Handwritten outline of message on UMT, undated, CP, HSTL.
zone served as a point for extending the political benefits of war under the pretext of peace. As a result, Truman built his “house of peace” upon the rock of presidential and military power, supported in its foundation by the creation of a new continuous warfare.
Harry Truman stood in the unique position in April 1945 of not only gaining the position of president but also gaining the full powers of his new role as Commander in Chief, amplified by World War II, still raging in the Pacific. According to the 1850 Supreme Court Case, *Fleming v. Page*, as summarized by Special Counsel to the President Charles Murphy, “In time of war, the powers of the President as Commander in Chief are full and complete.”¹ What Truman experienced was practically indisputable executive control over all things foreign and domestic. At home, Truman set in place the bipartisan Council of Economic Advisors, and abroad, Truman altered the global position of the United States with his use of the first atomic bomb.² Warfare allowed the president more leeway with domestic issues when intrinsically linked with war, such as the economy.

New to the presidency, Truman knew no other way to achieve his agenda without this imbalance of power and sought to extend it. In the post-war world, the United States stood alone at the top as a target for hostility. In order to address this lingering threat, Truman sought to extend his wartime powers past the end of World War II hostilities, first under the extension of wartime statutes then under a period of continuous warfare, concealed by the confusing manipulation of the language of peace and war. Global threat

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¹ Charles Murphy to HST, February 2, 1951, White House Central File: President’s Secretary’s Files box 115, file 8; TP, HSTL. See also *Fleming v. Page*, 50 U.S. 603 (1850).

and increased defense marked the often murky, liminal zone between peace and war known as continuous warfare. This “war” mimicked the beginning phase of a preventive war militarily and the political benefits of a traditional war while maintaining a rhetorical exterior of peace. It was through this continuous warfare with its subtle expansion of executive power that Truman poured the foundation for his house of peace, later a façade for the imperial presidency.

Truman’s continuous warfare allowed for the permanent uprooting of the governmental balance of powers in favor of the executive. This current state of executive power, in turn, has caused the president to become imperial. In Schlesinger’s *The Imperial Presidency* he noted, “It is the assertion of inherent powers that defines the Imperial Presidency and creates precedents for the future.”³ Inherent powers are those powers not specifically written into or defined by the Constitution, but assumed through extra-constitutional means by an executive.

The defining feature of executive power as laid out in the Constitution, the Commander in Chief Clause, yielded the most likely assumption of inherent powers. Article 2, Section 2 stated, “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.”⁴ Since wartime generally assumed an emergency state, the executive was able to make decisions and take action under his role as Commander in Chief without the express consent of Congress. Legally speaking, these inherent powers fit into the role of a “military necessity,” which allowed the president or

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³ Schlesinger, *Imperial Presidency*, xii.

⁴ U.S. Constitution, art. 2, sec. 2.
government in general to employ all military tactics or procedures not prohibited by law in order to defeat the enemy. Likewise, military necessity might include various aspects of public necessity, such as invading private property rights, as well, blurring the warfront and home front within the president’s role as Commander in Chief.\(^5\) As a result, warfare became the key to unlocking executive power through the inherent powers that accompany the Commander in Chief Clause of the Constitution.\(^6\) Truman experienced this traditionally increased power when he became president during WWII, but in the postwar liminal zone somewhere between traditional peace and traditional war he took advantage of similar powers.

Like Truman, many presidents have assumed inherent powers, but their use of such powers has always come within the timeframe of a limited, emergency situation. According to President Franklin Roosevelt, as quoted in *The Imperial Presidency*, “When the war is won, the powers under which I act automatically revert to the people—to whom they belong.”\(^7\) Roosevelt, while often cited as one of the most powerful presidents in the twentieth century, assumed power through his own skill and manipulation of the office within the bounds of the Constitution. Upon attempting to step outside these bounds, governmental checks deterred Roosevelt, mainly those powers of Congress and the Supreme Court.\(^8\) When the president attempts to act “contrary to congressional will”

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\(^6\) See “Introduction,” note 12.

\(^7\) Schlesinger, *Imperial Presidency*, xiv.

\(^8\) Prior to 1937 Roosevelt has a hard time controlling the Supreme Court in regard to domestic issues like New Deal programming, his influence over the court thereafter is debatable. However, the court did illustrate its willingness to defer to the executive in foreign affairs with its 1936 decision on *United States v. Curtiss-Wright Export Corp.*, where the president was donned the “soul organ” in foreign affairs.
his power as Commander in Chief would be at its “lowest ebb” and under direct threat of restriction by Congress. Roosevelt knew that working with Congress was a safer political route. Roosevelt also intended that his powers of Commander in Chief would subside after World War II and the nation would demobilize fully, returning to a peacetime state. Roosevelt’s plans for peace did not include the continuous warfare that developed upon his death. In effect, since the cessation of the Second World War, the United States has never fully returned to traditional peace, instead entering into a state of continuous warfare that straddled both peace and war; therefore, the Executive Branch has never fully had its Commander in Chief powers rescinded. It is from here that the foundation of the imperial presidency was constructed.

The period surrounding the end of World War II and the shift from the Presidency of Franklin Roosevelt to that of Harry Truman was the murky zone where war merged with peace, marking the beginning of continuous warfare for the United States. A number of factors coalesced to cause the United States to abandon traditional warfare,

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*United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304 (1936), 311. Legal scholar Robert I. Roots argued that Roosevelt eventually manipulated his powers as Commander in Chief by declaring the Great Depression an emergency and formulating New Deal programs, laws, and administrations under his emergency powers as CINC, showing how the CINC powers could apply both domestically and in foreign affairs. Roger I. Roots, “Government by Permanent Emergency: The Forgotten History of the New Deal Constitution,” *Suffolk University Law Review* 33, no. 259 (2000): 259-260. For a good general discussion of Roosevelt’s Court-Packing Plan, see: Marion McKenna, *Franklin Roosevelt and the Great Constitutional War: The Court-Packing Crisis of 1937* (New York: Fordham University Press, 2002). Subsequently, Roosevelt’s pull with Congress subsided after the Court-Packing Plan failed. For more on these topics, see my “Chapter Four: Framing the Walls: The Supreme Court’s Final Check on Executive Power.”

marked by armed conflict and a formal declaration of war, in all but name. The situation that Truman perpetuated after WWII was, in some manner, preventive, essentially mobilizing and preparing for armed conflict in order to avoid war, yet continuous warfare did not yield a clear-cut confrontation for which to prepare or prevent. Truman and others in the government couched continuous war in the language of peace initially because it lacked a precipitating enemy, but it would eventually develop into the Cold War with the Soviet Union. The cause of this continuation of war from traditional warfare, to preventive war, and finally cold war, rooted in the period of 1945 through 1950, is the combination of suspicion of and discord with the Soviets, the use of the first atomic bomb, and Truman’s extension of the military and creation of the national security state. Combined in these factors lay the origin of continuous warfare and the beginning of the imperial presidency.

Fuzzy Language and the Twilight Zone

When Truman ascended to the Presidency, he proclaimed an agenda for settling World War II and for organizing the post-war world that would follow closely the wishes

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10 The United States Supreme Court defined “war” in the 1800 case of Bas v. Tingy. According to Justice Bushrod Washington’s opinion, “It may…be safely laid down that every contention by force between two nations in external matters, under the authority of their respective governments, is not only war, but public war.” Washington went on to state that war may be “perfect” (declared) or “imperfect” (undeclared). Though governments continue to debate the complexities of war, Washington’s opinion shows that war can be defined generally as “armed conflict.” Full decision available from: Justia.com, US Supreme Court Center, Justia.com, accessed December 6, 2009, http://supreme.justia.com/us/4/37/case.html.

11 The Cold War did become “hot” in some instances, i.e. Korea and Vietnam. However, these undeclared wars still fell within the non-traditional parameters of continuous warfare and the Cold War. For more on the Korean War, see my “Conclusion: Moving In.” Undeclared war itself, on a large scale, is an innovation of the post-1945 period. As the executive war power increased, historians have theorized that the executive also usurped Congress’ war power (its ability to declare war), making declared war an unnecessary technicality to modern warfare. For a good discussion of how undeclared war contributes to this larger period of continuous warfare, see: Edward Keynes, Undeclared War: Twilight Zone of Constitutional Power (University Park: Pennsylvania State University Press, 1982).
of the deceased Roosevelt. One of Roosevelt’s main objectives in the post-war world had been the establishment of a lasting peacekeeping organization known as the United Nations. On April 16, 1945, less than a week after Roosevelt’s death, Truman addressed Congress with a pledge to carry out the former president’s desires. “I asked for public support for a strong and lasting United Nations organization,” Truman claimed in his memoirs. “I called upon all Americans to help me keep our nation united in defense of those ideals [peace and security] which had been eloquently proclaimed by Roosevelt,” Truman noted. With the United States still very much embroiled in armed conflict, Truman began to confuse the language of war and peace with this first formal address to Congress. While the word “peace” traditionally implied a period without the threat of armed conflict, Truman’s “security” subsequently implied a necessary build-up of protective military forces, implying threat and preceding war. Despite Roosevelt’s intended military component of the United Nations to give it staying power, unlike the failed League of Nations, the notion of peace and security together as equal components seemed paradoxical. Roosevelt had originally intended a traditional lasting peace secured with offensive methods by the prevention of global rearmament by the Four Policemen—the US, England, Russia, and China—who would each secure their individual sectors of the world. Truman’s version of security paired with his plans for the national security state connoted defense, not true security. If there were a lasting peace, there would be no opposing forces from which to defend the nation.

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Roosevelt’s intentions aside, Truman made the United Nations out to be a body not for keeping the peace but for preventing traditional war. Traditional warfare implied armed conflict, but the type of war that would become prevalent in the post-WWII United States was not traditional but preventive war. Reflecting in his memoirs about the role of the United Nations, Truman contended, what “we wanted to accomplish was to set up an international organization to prevent another world war.”\(^{13}\) This comment realistically showed that Truman did not intend to keep the peace, but merely prevent another traditional world war, in which the United States, as an emerging super power, would undoubtedly have to play a role. Historian Richard F. Haynes agreed with this analysis in his book *The Awesome Power: Harry S. Truman as Commander in Chief*, where he stated, “The president envisioned a new military and foreign policy that rejected traditional isolationism and projected the United States into the role of defender of the peace.”\(^{14}\) Likewise, in a letter to Eleanor Roosevelt in March of 1948, Truman discussed his troubles with the Soviet Union and need for a strong military policy. Truman noted, “I think if you will go over the history of the relationship between Russia and us you will find that every effort was made by President Roosevelt and by me to get along with them. …Russia has not kept faith with us.” Truman continued, “The Charter of the United Nations is a document under which we could work and have peace if we could get Russian cooperation. …our Military setup is the only hope we have for peace in the World.”\(^{15}\) This new role would place the United States in the awkward position of

\(^{13}\) Truman, *Year of Decisions*, 46.


\(^{15}\) HST to Eleanor Roosevelt, March 16, 1948, Ferrell, ed., *Off the Record*, 125-126.
constant preparation for war on the off chance of an armed conflict occurring despite the considerable lack of an opponent prior to the break with the Soviets. Preceding this idea, the citizens of the United States were used to demobilizing following wars to a state of relative isolation, able to avoid entrance into armed conflict unless directly attacked. The resulting period of relative peacefulness created by the strain between this peace/security and defender/peacekeeper dynamic was not traditional peace at all, but rather part of the twilight zone of continuous warfare that government could manipulate for the public.

Truman’s intention was to give the illusion of peace while still maintaining the added powers and extra constitutional authority conferred during traditional war, mainly the expanded powers of the president, which in this era allowed Truman to build the national security state. Truman accomplished this goal by manipulating and maintaining the post-Roosevelt continuous warfare for his purposes.

This illusory duality between traditional peace and traditional war finally found expression by 1946, a year after Roosevelt had died and several months after the cessation of armed conflict with Europe and Japan. During a debate in Congress over the extension of selective service and introduction of universal military training, Representative John Vorys (R-OH) articulated the situation. Vorys claimed:

While we use the expression “peacetime soldier” and compare them with the men who bore the brunt of battle and while this is not a war period in which there is fighting going on, yet so far as the Congress and the President have expressed themselves, we are still at war and insofar as the international situation is concerned, it is quite a bit different from how we ordinarily think of peacetime.\textsuperscript{16}

Representative James Wadsworth (R-NY) put a name to the situation Vorys expressed. Wadsworth stated that the current condition was a “twilight zone,” which meant that the

\textsuperscript{16} Cong. Rec., 79\textsuperscript{th} Cong., 2\textsuperscript{d} sess., 1946, 92, pt. 3: 3600.
United States was at neither peace nor war, but in-between—an “interim period.” “The war is not over in a technical sense,” Wadsworth noted, as the government had not yet signed a peace treaty, yet the fighting was over. However, the United States was not at peace as it still squabbled with the Soviet Union over post-war agreements, adjusted to the nuclear age, and continued the military apparatus at home.17

Following Wadsworth’s twilight zone analogy, those associated with the military continued to discuss this new “war” for the prevention of traditional armed conflict. One of the most prominent of these discussions was included within a series of lectures given by George F. Kennan, former deputy chief of the US mission in Moscow and Soviet expert, at the National War College in Washington D.C. during 1946 and 1947. At the War College, Kennan served as the first Deputy for Foreign Affairs, and the administration prompted him to discuss the growing confusion in warfare terminology amidst the current hostility between the United States and Soviet Union. Originally classified, Kennan’s “Measures Short of War (Diplomatic)” talk of September 16, 1946, emphasized non-traditional methods of warfare that aligned with Wadsworth and Vorys’ analysis. Kennan’s description of war was traditional. He argued that measures of pressure and adjustment might be suitable methods of getting the US what it wanted from its opposition. However, he contended that these ideas would only be effective if the US maintained a preponderance of power, which required strength militarily. Historian Melvyn Leffler dedicated his larger work, A Preponderance of Power to this very idea. In Leffler’s perspective, “Preponderance did not mean domination” but rather creating a situation in the world that was positive for US interests and negative for opponents’

interests. Though Leffler’s analysis focused on financial and economic dominance along with strategic air control, his general perspective meshed well with the idea that US superiority was necessary and might be achieved in a variety of ways. Leffler articulated that Soviet communist expansion “threatened to transform the American way of life” eventually, though he noted there were no immediate threats in 1945, illustrating that government analysts initially minimized any potential Soviet threat. In Kennan’s lecture he held on to the idea that strength’s effectiveness came from a nation’s readiness to use it.18 “We must cease to have separate patterns of measures—one pattern for peace and one pattern for war,” Kennan claimed.19 Kennan’s grand strategy was essentially preventive war, through pressure and adjustment, but also through the building up of the military as in traditional wartime mobilization. He continued, “The price of peace has become the willingness to sacrifice it to a good cause and that is all there is to it.”20 The merging of peace with war or using war to create peace reflected a new twilight zone of continuous warfare.

While it became clearer to those in the government and the military that warfare was changing and the current terminology was confused, Truman continued to utilize abstract concepts of peace and war in order to further his own understanding of what powers belonged to the president and achieve his agenda. In an address before a joint session of Congress in the spring of 1948, Truman continued his rhetoric of the


19 Harlow and Maerz, eds., Measures Short of War, 16-17.

20 Harlow and Maerz, eds., Measures Short of War, 16.
synonymy between peace and war. “We will face the problems of peace with the same courage that we have faced and mastered the problems of war,” he said. Continuing, Truman proclaimed, “It is not enough to yearn for peace. We must work, and if necessary, fight for it.” In this statement to Congress, Truman placed peace and war on the same continuum and then perpetuated the confusing idea that the United States could achieve peace by its polar opposite, war. Truman’s contorted use of language was purposeful and made sense under the parameters of continuous warfare, in which war did not mean traditional armed conflict and peace did not mean a traditional reversion to the safety of isolationism.

As it became more apparent that there must be some underlying need for discussing war in terms of peace, Truman’s own motives crystallized around his concept of a strong yet flexible presidency. Years later, he recalled his first impression of the office of president in his memoirs. “As I took the oath of office I was conscious of how vast in scope the presidency had become,” he claimed, noting that the president was not just the Commander in Chief but also the major leader of the newly allied United Nations. Truman saw war, first as armed conflict in World War II then as continuous war, as the means to an end. By entering the office at the time he did, he assumed an extraordinary amount of power as Commander in Chief and saw a way of maintaining this power and using it to orchestrate the creation of his national security state through the flexibility of the Constitution. Leffler argued that the US had no real threats in 1945


22 Furer, Harry S Truman, 49.

23 Truman, Year of Decisions, 199.
and that the creation of the containment policy and national security state were in response to potential Soviet economic aggression. What Leffler failed to take into account in his analysis of the Cold War, however, was Truman’s background and skillset, especially in relation to the concept of the national security state.\textsuperscript{24}

In a book that Truman penned during his post-presidential years, which his daughter Margaret later edited and published, he discussed the job of the president candidly. In \textit{Where the Buck Stops}, Truman noted that there were limits to presidential power, mostly Congress’ ability to pass laws over a presidential veto. He then went on to say, “At the same time, there’s an escape valve in a time of real emergency, which is the president’s emergency powers…decisions have to be made here and now [\textit{sic}] they can’t wait.”\textsuperscript{25} Truman’s interpretation of the constitutional powers granted to the president, explicitly or inherently, focused on extreme flexibility without actually being breakable. As a result, just about anything the president wanted to do during wartime could be tucked into the emergency powers of the president, mainly that of Commander in Chief.\textsuperscript{26}

\textsuperscript{24} Leffler, \textit{Preponderance of Power}, 14, 5.

\textsuperscript{25} Harry S Truman, \textit{Where the Buck Stops: Personal and Private Writings of Harry S. Truman}, ed. Margaret Truman (New York: Warner Books, 1989), 101. In Truman’s personal and public writings, he revealed a strong feeling for the place of the president as a leader on the state level as well as worldwide. A strong executive fits this role. However, it is unclear whether Truman intended a permanent expansion of executive power through his actions or if he truly saw the period at hand as an emergency; therefore, a continued expansion of executive power was a necessity for that emergency period. In any event, this expansion of executive power was a result of Truman’s actions, despite still unclear motives at this point in the research. A news conference from December 12, 1946, reveals that Truman was aware of the six-month post-war restriction on his power due to the War Powers Acts of 1941/1942, but in a House document from April 7, 1952, Truman was still pushing to extend his powers beyond the six-month limit after a peace treaty was signed with Japan. Harry S. Truman Library and Museum, “The President’s News Conference,” Harry S. Truman Library and Museum, accessed December 8, 2009, http://www.trumanlibrary.org/publicpapers/index.php?pid=1832&st=&st1=. Committee on Judiciary, \textit{Recommendations to Extend for 60 Days the Emergency Powers}, 82\textsuperscript{nd} Cong., 2\textsuperscript{nd} sess., 1952, H. Doc. 416; Harry S. Truman, “The President’s Responsibility,” \textit{Military Review 77}, no. 1 (Jan./Feb. 1997): 202-203.

\textsuperscript{26} Truman, \textit{Where the Buck Stops}, 233, 81.
Though Truman may not have consciously intended executive power to expand, he would push for this expansion throughout his actions from 1945 onward. In an article originally published in the 1962 issue of *Military Review* Truman returned to the idea of a strong executive. He stated that under the U.S. Constitution it is not possible to distribute the president’s powers, even though there are so many, and that the “President of the United States is now the Commander in Chief of the Free World.”  

Truman saw no issue with a strong executive and the expansion of executive power, though he never readily stated that was his intended goal in continuing an emergency beyond the bounds of traditional warfare. However, in the 1962 article Truman also proclaimed, “We need to use every new technique available, every bit of new knowledge, so that in the end the President will always be prepared to face with confidence the many decisions that our position in the world and his position in the Nation require him to make.” This statement suggested that continuous warfare really was a means to an end, a “technique” to allow the president to utilize fully his role in the modern world. Due to Truman’s interpretation of his position as president, continuous warfare served the beneficial, yet unintended, purpose of extending executive power indefinitely. Despite Truman’s great respect for the office of the president as an institution, he saw a necessity at the time due to perceived threat in extending his powers; in doing so, however, Truman disregarded the permanence of continuous warfare and the precedent this would set for future executive use.

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27 Truman, “The President’s Responsibility,” 203

The twilight zone that would bring lasting continuous warfare and develop into the Cold War could not exist forever on rhetoric alone, however. The factors that lay at the heart of continuous warfare served to develop a permanent emergency state, which was far enough away from the traditional warfare of the past, yet close enough to a preventative war to warrant the maintenance of executive power so Truman could build his security establishment. In a 1950 remark, Secretary of State Dean Acheson alluded to the existence of continuous warfare. “The only way to ‘call the bluff’ of the Soviet Union would be to declare preventative war ourselves—to provoke a military showdown,” Acheson noted. He continued, “This is not a possible policy for a democracy. The Soviet Union knows that.” Instead, the United States sought to prepare indefinitely and covertly for warfare through a continuous war that mirrored armed conflict but remained elusive under the pretense of peace. What would eventually become the Cold War played an important role in continuous warfare as it solidified the defense buildup around a decisive Soviet threat. As a result, the first step toward continuous warfare was the suspicion and discord that arose from the deteriorating relationship between the United States and the Soviet Union during the latter half of World War II, which increased as the hostility escalated in the post-war world.

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29 Preventative or preventive war refers to a war to preempt a seemingly imminent attack by an enemy. During the late 1940s and beyond, the United States began mobilizing for a potential Third World War against the Soviet Union, though the US did not actually attack the Soviet Union in a preventative manner.

30 Summary of Secretary’s Remarks Before the Advertising Council, February 16, 1950, box 73, file 5; AP, HSTL.
US-Soviet Discord

The agreements between the Soviet Union and the United States started to break down at the Yalta Conference when discussion of the division of post-war Europe first took place. Subsequently, the shift from Roosevelt to Truman also exacerbated the tension. According to an article in the *Russian Review* from 1949, “the barometer of American-Soviet relations has been falling continuously since the Yalta Conference and the end of the war.”31 Truman backed up this observation in his memoirs when he noted that then US Soviet Ambassador Averell Harriman saw this deterioration at his post in Moscow. According to Harriman, the Soviets saw the United States’ desire to cooperate as softness, for which they had little respect. Concurrently, Truman claimed that the Soviet’s attitudes had bothered him throughout the latter part of the war.32 According to Leffler, “the Soviets now became the particular target of his [Truman’s] venom because they alone had the potential to capitalize on their wartime gains, exploit postwar vacuums of power, and endanger US security.”33 When Harriman took the new president aside in April of 1945 to tell him that Soviet leader Joseph Stalin was breaking his agreements, Truman realized the truth of his concerns.34

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32 Truman, *Year of Decisions*, 70, 85, 72.

33 Leffler, *Preponderance of Power*, 49.

34 Truman, *Year of Decisions*, 70, 85, 72.
With tension already underlying US-Soviet relations as Truman took office, he turned to those around him for answers to his questions. The day after Truman became president, he requested a report by Secretary of State Edward Stettinius regarding the “principal problems confronting this government in its relations with other countries.” Stettinius’ report placed the majority of concern with the relationship between the United States and Soviet Union. He confirmed Harriman’s observation that the breakdown first began at the Yalta Conference but also pointed out a problem with the uncompromising position of the Soviets on every issue of concern. Primarily, Stettinius brought up the Polish Question as a major worry. In Poland, the Soviet Union had taken control of the government, recognizing the Warsaw Provisional Government (WPG) as the rightful leadership of Poland. Previous agreements between the World War II Allies allowed Poland to hold elections in order to decide on a permanent government. The Soviets now refused to allow elections to take place, as the WPG was sympathetic to the Soviet Union’s desires. As a result, Truman continued to gather more information about the situation with the Soviet Union. He met with Harriman to discuss the situation further and plan a trip to Moscow involving former Secretary of Commerce and Roosevelt advisor Harry Hopkins as soon as May 18, 1945. This same day, Truman also met with Anna Roosevelt Boettiger to discuss her father’s dealings with the Soviet Union, and he was in steady contact with Eleanor Roosevelt for the same reason. He made it known to the former first lady that he was trying carefully to keep his agreements with the Soviets because of their suspicious, touchy nature when it came to the United States.  

However, as Truman gained a better vantage from those around him of what was really going on with the Soviet Union, he became more suspicious of them himself. Realizing that part of the problem was undoubtedly the death of Roosevelt, which had caused a schism between the Allies, Truman opted to send Roosevelt’s preferred envoy, Harry Hopkins, to Moscow to meet with Stalin. At the same time, however, Truman noted that a baseball bat might work just as well as diplomacy.\textsuperscript{37} In this regard, Truman had given up any true motivation for working with the Soviet Union, instead letting the tension fester. It already seemed to Truman as if the Soviets were completely unwilling to work with the United States by the end of World War II. By the cessation of the armed conflict, Truman saw the communist Soviet Union as a menace every bit as threatening as Nazi Germany had been.\textsuperscript{38}

The first real illustration of this Soviet menace that went beyond suspicion and general feelings of hostility had to do with Truman’s ending of the Lend-Lease Program. Truman signed an order to cut back on Lend-Lease in the first part of May 1945, after World War II had ended in Europe. The program had supplied the Allies with American war materials and supplies, benefiting the war-torn Soviet Union most of all. The military took Truman’s ending of the program too literally, causing some ships already in the process of moving supplies to the Soviet Union to turn around. Truman claimed in his memoirs that the Soviet Union took the action as a purposely unfriendly move by the United States, specifically aimed at the Soviets.\textsuperscript{39} However, in Hopkins’ meeting with

\textsuperscript{37} Truman, \textit{Year of Decisions}, 258.

\textsuperscript{38} Harry S Truman, \textit{Years of Trial and Hope}, vol. 2 of \textit{Memoirs} (Garden City, NY: Doubleday and Company, 1956), 101.

\textsuperscript{39} Truman, \textit{Year of Decisions}, 228.
Stalin on May 27, 1945, the Soviets saw the Lend-Lease fiasco as proof of a “cooling off" attitude of America toward the Soviets” but did not believe it was a diplomatic breakdown.⁴⁰ The hostilities with the Soviet Union may have started with the haphazard move by Truman to end Lend-Lease, supposedly without reading the order he signed. However, such a misunderstanding was not that significant because a working relationship was still operating between the United States and Soviet Union, and Truman quickly rescinded the order. The disruption of the Lend-Lease program was just the first physical action that escalated the hostilities between the two super powers, as Truman later reflected.⁴¹

The next immediate conflict with the Soviets came with the division of Germany. In a meeting with Harriman on May 21, 1945, Truman was ready to discuss what he called the “Russian situation,” largely the “misunderstanding” and “difficulties” in the post-German world.⁴² Despite the surrender of Germany less than a month earlier, Truman was already concerned with the Soviet Union because of prior mistrust and the Polish Question. By late July at the Potsdam Conference in Germany, which would settle the question of the division of Germany, Truman was already against the Soviets. These feelings were partly due to a paper that Secretary of War Henry Stimson wrote for Truman during the Potsdam conference, where he claimed, “no permanently safe international relations can be established between two such fundamentally different

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⁴⁰ Truman, Year of Decisions, 229.


⁴² Truman, Year of Decisions, 211; Ferrell, ed., Off the Record, 33.
Joseph Davies, a member of the US delegation at Potsdam, noted this change in attitudes toward the Soviets. He noticed both the change in Stimson’s own opinion on the Soviets, but also believed it reached “the white house.” In other words, Truman, influenced by those around him, was equally concerned about future dealings with the Soviets because of their possible underlying intentions and because they had failed to keep some of their agreements in the past. This rapidly shifting opinion of the Soviets soon after World War II was evident in the language of one of Truman’s draft speeches on foreign affairs written in 1948. Truman wrote that he initially liked the Soviets when he met them at Potsdam. However, he added, “I found after a very patient year that Russian agreements are made to be broken.” Additionally, Truman went on to refer to Soviet Minister Vyacheslav Molotov very derisively as “Molly” throughout the speech. Though Truman never delivered this speech, it put into words his feelings about the Soviets less than a year after World War II had ended and suggested that despite actual Soviet intentions, there was a growing mistrust by the US.

This suspicion spread from Potsdam and further infiltrated those in Washington. In a State Department report that summarized Kennan’s observation of an interview held between Ambassador Patrick Hurley and Stalin, Kennan recommended that the United States objectively study Soviet aims. In a top-secret Central Intelligence Group (CIG) paper, “Soviet Foreign and Military Policy,” produced in the summer of 1946, the government speculated on Soviet intentions. The paper noted, “The Soviet Government

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43 Donovan, Conflict and Crisis, 93.
44 Donovan, Conflict and Crisis, 84.
45 HST undelivered draft speech on foreign affairs, April 1948, Ferrell, ed., Off the Record, 132.
46 Truman, Year of Decisions, 85.
anticipates an inevitable conflict with the capitalist world. It therefore seeks to increase its relative power by building up its own strength and undermining that of its assumed antagonists.\footnote{Top Secret Central Intelligence Group Paper, “Soviet Foreign and Military Policy,” July 23, 1946, box 15, file 5; CP, HSTL.} The paper suggested that the United States was at risk if it did not take a strong stance against this Soviet buildup of power. However, later in the paper, the author noted, “The Soviet Union needs to avoid such a conflict for an indefinite period. It must therefore avoid provoking a strong reaction by a combination of major powers.”\footnote{“Soviet Foreign and Military Policy,” July 23, 1946; CP, HSTL.} Here the CIG suggested that the Soviet Union, while preparing for a war against capitalism, also had to avoid said war. The CIG’s analysis of Soviet intentions was remarkably like what would become the United States version of continuous warfare. Kennan’s lecture series at the National War College throughout 1946 and 1947 was further evidence of an interest in Soviet aims and intentions directly following World War II negotiations. Kennan’s talks included the true nature of the Soviets as nonresponsive to diplomatic measures. According to Kennan’s infamous “X” article in Foreign Affairs, Americans tended to think that the Soviet Union might change as a result of bargaining for its objectives. Any obvious change, however, would stand out as an attempted smokescreen with their true motives moving to the background. The Soviets believed, Kennan claimed, that capitalism did not allow for any means of preventing war and that the United States was destined for warfare.\footnote{Harlow and Maerz, eds., Measures Short of War, 5; X, “The Sources of Soviet Conduct,” Foreign Affairs 25 (1946-1947): 572; Ernest Lindley, “The Article By ‘X,’” Washington Post, July 11, 1947; Harlow and Maerz, eds., Measures Short of War, 7.} Foremost, Kennan argued that:

"[The US] must continue to expect that Soviet policies will reflect no abstract love of peace and stability, no real faith in the possibility of permanent happy
coexistence of the Socialist and capitalist worlds, but rather a cautious, persistent pressure toward the disruption and weakening of all rival influence and rival power. As a result, the Soviet Union did not share the United States’ non-warring objective of maintaining the illusion of peace through the advent of preventive war. Instead, the Soviet Union intended to cause great harm to the United States openly through whatever means necessary. This perceived threat eventually solidified generalized continuous warfare as the specific Cold War against the Soviets for the following four decades.

Kennan’s lectures on Soviet thought, power, and diplomacy likewise reinforced these arguments. In a lecture from January 1947, Kennan said that the Soviets saw the outside world as hostile. Kennan’s belief was not generalized but rather an expert opinion on the Soviet national tradition of self-preservation. Included within this tradition was also the fact that the Soviets desired to conquer the world, which would lead to an eventual conflict between the socialist state and the capitalistic countries surrounding it. The CIG’s 1946 paper also emphasized this point when it contended, “the peaceful coexistence of Communist and capitalist states is in the long run impossible… the U.S.S.R. must be considered imperiled as long as it remains within an antagonistic ‘capitalist encirclement.’” The fact that the Communist party in the Soviet Union was designed to be militant in order to overthrow capitalist Russia only further incited this conflict, as this militancy was still a perceived characteristic of the Soviet Union. As a result, Kennan called for war as the only real means of dealing with the Soviets. However, he did not necessarily endorse a traditional war, instead referring to

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52 “Soviet Foreign and Military Policy,” July 23, 1946; CP, HSTL.
those things he considered counter-pressures, like the buildup of military forces, which also served as part of continuous war.\textsuperscript{53} “[T]he main element of any United States policy toward the Soviet Union,” Kennan claimed in his \textit{Foreign Affairs} article, “must be that of a long term, patient but firm and vigilant containment of Russian expansive tendencies.”\textsuperscript{54}

The 1946 CIG paper supported Kennan’s analysis by purporting that the USSR saw conflict as inevitable; therefore, it isolated its citizens from foreign influence and put strict police controls in effect, maintained a huge military, and tried to create a self-sufficient economy. The CIG also noted that the Soviet Union would take every opportunity to expand Soviet control over areas and create discord among other countries allied against her. “The ultimate objective of the Soviet policy may be world domination,” the CIG contended.\textsuperscript{55} Overall, Kennan’s policy suggestion, known collectively as “containment,” became a major aspect of US-Soviet relations in the post-WWII environment and led to the shift from preventive continuous war to defined cold war against the Soviets. Containment did not have to lead to traditional war, in Kennan’s analysis, but it did require the United States to maintain its world dominance. The Soviets could not make an attack because of this US preponderance of power and the repercussions it would cause for the Soviet Union. In an article from the \textit{Washington Post} critiquing Kennan’s containment policy, the author agreed that “The United States

\textsuperscript{53} Harlow and Maerz, eds., \textit{Measure Short of War}, 115, 116, 29, 259, 258.

\textsuperscript{54} X, “The Sources of Soviet Conduct,” 575.

\textsuperscript{55} “Soviet Foreign and Military Policy,” July 23, 1946; CP, HSTL.
cannot afford to relax,” and pointed out the fact that this was a dire, “dark analysis.”\textsuperscript{56} However, the author also contended that this analysis was nothing new but had been building over the past few years, suggesting that Kennan’s ideas and the Cold War itself were based on earlier notions of global hostility and tension against the US, which defined continuous warfare.

The Polish Question continued to linger as the best example of Soviet untrustworthiness. American sentiment toward the Soviets shifted as they saw the Soviet Union’s desire to dominate Poland and leftover tensions from the Red Scare of the 1920s came to the surface. In Dale Sorenson’s 1979 article, “The Language of a Cold Warrior,” he created a chart based off public opinion polls concerning pro-Soviet feelings between 1946 and 1948. His findings showed a drastic decline in pro-Soviet feelings directly after WWII ended and a steady decrease thereafter. Harriman also saw Poland as a key component to the breakdown of US-Soviet relations, noting as early as April 1945 that there was little chance of a solution to the problem and that Poland could be the break between the two superpowers. The potential rift that Harriman saw regarding Poland was a view shared by British Prime Minister Winston Churchill, who described what the world might look like if it were divided into two camps.\textsuperscript{57} According to Truman in his memoirs, Churchill stated, “It is quite obvious that their quarrel would tear the world to pieces.”\textsuperscript{58} Truman backed Churchill’s ideas and saw the Polish Question as a very


\textsuperscript{58} Truman, Year of Decisions, 108.
dangerous situation because the impasse could lead to a civil war in Poland between the anti-communist Poles and the Soviet-backed Warsaw Provisional Government. In 1945, despite what seemed like an inevitable clash between the US and Soviet Union, Roosevelt, prior to his death, still saw England as the larger threat. Roosevelt’s viewpoint implied that the US would not define the Soviet Union as a threat until much later.

Though Poland served as the major concern during the end of World War II and into the post-war world, Russia continued to cause problems for the United States in other geographic regions as well. Directly after the war ended in Japan, the Soviets wanted to occupy Japan as one of the victorious Allied powers. However, the Soviet land invasion after the first atomic bomb had become moot in light of the real power of the weapon. As a result, Truman saw no reason why the Soviet Union should have any right to occupy Japan, and General Douglas MacArthur agreed. MacArthur relayed the information that “Japanese communism is dominated from Moscow” and that there were pro-communist elements brewing in Japanese society after their surrender, creating a Soviet threat to US initiatives. The 1946 CIG paper likewise reiterated that the Soviet Union would also seek to gain influence in China, Korea, and Japan at the same level or more than the United States in order to prevent these areas from becoming bases of attack against the USSR. It would have been detrimental to the US to allow any Soviet occupation to take place, which could result in a situation similar to Poland where the Soviets were steadfast in refusing to leave. In the same regard, Truman had requested a temporary base for land and sea crafts on the Kurile Islands, which the Soviets did have.

under their control. The Soviets looked at this as an insult, interpreting it as a jab at a defeated nation. Truman recalled the Kurile situation in his memoirs as another step toward complete distrust between the US and Soviets. Although the situation was eventually treated by both sides as a misunderstanding (Stalin thought Truman wanted a permanent military base), it revealed the Soviet Union’s own hostile feelings toward the United States and that they did not want US influence so close to the shores of Russia.\textsuperscript{60}

Further disagreements continued to stem from the Soviet military’s propagation of communist governments wherever they happened to advance, despite any agreements made at Yalta.\textsuperscript{61} As early as April 17, 1945, Truman found Stalin to be disagreeable about this topic. Stalin maneuvered around the Yalta agreements in order to get his way in Poland, and at the Potsdam Conference, he insisted upon negotiating everything that might benefit the Soviet Union, while tossing aside issues that the other Allies found important. One of these important issues concerned British and American rights to oil equipment that the Soviets seized from Rumania without compensation. Soviet troops occupied Rumania and Bulgaria, insisting upon recognition as communist nations, which continued to go against Allied agreements for holding elections to create stable governments for these countries. More and more satellite nations in Eastern Europe collapsed under the weight of communism and Soviet troop occupation, which caused


\textsuperscript{61} The Yalta agreements focused on creating the United Nations and rebuilding, repairing, and reorganizing post-war Europe. Specifically, the Yalta agreements mentioned “the right of all people to choose the form of government under which they will live.” It was this clause that the Soviet Union is accused of violating in its denial of allowing places like Poland to hold free elections. Modern History Sourcebook: The Yalta Conference, Feb. 1945, “Protocol of Proceedings of Crimea Conference,” Modern History Sourcebook, accessed Nov. 16, 2009, http://www.fordham.edu/halsall/mod/1945YALTA.html.
alarm for the other Allies and the United States especially. Since all previous governmental analysis of Soviet intentions had predicted their grab at world power and desire to control the majority of the world, their actions regarding these satellite nations seemed to confirm the fears of those in the US Government.

In the post-war world, the Soviet military also focused on Greece, Turkey, and Iran, which brought immediate reaction from the United States’ leadership. Largely created to deal with the Soviet incursion in Greece and Turkey, the 1947 Truman Doctrine provided economic, political, and military aide to democratic foreign countries under the threat of communism. Prior to this in mid-1946, the United States government had threatened the Soviets with United Nations action if they tried to make the Turkish Dardanelles an object of aggression. At this same time, Stalin refused to withdraw from Iran per agreements made at the London Conference, instead sending in more troops and complicating US oil concerns. On top of these strategic areas, Stalin also refused to negotiate on the occupation of Manchuria and the economic problems in Korea that might lead to civil war. By the beginning of 1946, Truman had already become fed up with Soviet actions, telling then Secretary of State James Byrnes that “I do not think we


63 Truman, Years of Trial and Hope, 103, 97; United States Department of State, “The Truman Doctrine—1947,” United States Government, accessed Nov. 9, 2009, http://www.state.gov/r/pa/ho/time/cwr/82210.htm; Truman, Year of Decisions, 52. The London Conference is also known as the International Conference on Military Trial, and while Iran is not specifically mentioned in the agreement, which largely deals with trying Axis war criminals, it does discuss the right of “liberated countries and the free governments that will be created therein” to try these criminals. By the Soviet Union refusing to vacate Iran, it was going against the creation of a free government from which the leadership could properly try Axis criminals. Lillian Goldman Law Library, “International Conference on Military Trials: London, 1945/Revision of American Draft of Proposed Agreement, June 14, 1945,” Yale Law School, accessed Nov. 16, 2009, http://avalon.law.yale.edu/imt/jack09.asp.

64 Truman, Years of Trial and Hope, 95, 76, 324, 323.
should play compromise any longer…I’m tired of babying the Soviets.”  

Truman advocated letting the US position on Iran be known and refusing to recognize Rumania and Bulgaria along with settling any remaining Lend-Lease debts with the Soviet Union. Despite all previous discussion of trying to work with the Soviets and maintain a friendly relationship, Soviet actions had pushed the already hostile Truman to make a final break with the Soviets.

This break finally came in 1948 when the Soviets and the United States reached the brink of a traditional war over the occupation of Berlin, Germany. During the Soviet Berlin blockade and subsequent US airlift of supplies, the language of war returned despite the lack of a true, armed conflict. Essentially, the Soviet Union had flooded West Berlin with currency in hopes of creating massive inflation and general unhappiness, but the other Allies changed the German mark. This caused the Soviets to blockade the supply route into West Berlin until the Allies agreed to stop exchanging currency.

According to Truman in his memoirs, “The blockade of Berlin was international Communism’s counterattack.” A statement by Molotov in May of 1948 reinforced Truman’s thoughts. In a State Department telegram from Moscow to the Secretary of State George C. Marshall, American Ambassador to Moscow General Walter Bedell Smith quoted Molotov:

USSR has always considered that it could live in peace and in good relationship with US and with all other countries. It has never pretended to interfere with the internal policies of other nations, but it cannot ignore the actions and

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65 Truman, *Years of Trial and Hope*, 552.

66 Truman, *Years of Trial and Hope*, 552.

67 Chamberlin, “American Soviet Relations,” 98; Truman, *Years of Trial and Hope*, 122-123.

68 Truman, *Years of Trial and Hope*, 123.
developments which have taken place during the past years which infringe on its legitimate interests.\textsuperscript{69}

Despite the illusion of peace that the United States had tried to maintain during this post-WWII period, the situation in Berlin prompted Truman’s language of traditional warfare to reappear, seemingly legitimized by a physically threatening situation. This counterattack was supposedly retaliation for a combination of Soviet setbacks, including Yugoslavian desires for independence and the success of the European Recovery Program or Marshall Plan, which funded the rebuilding of Europe in an effort to deter communist influence. Truman further utilized war language when he cited that “the Russians were ready to retreat” by March of 1949. The Berlin blockade finally ended on May 12, 1949.\textsuperscript{70} While the situation in Berlin placed the US and Soviet Union the closest to war since the buildup of hostility during the twilight zone, Truman’s own language in describing the situation shows that there was a “war” of some kind taking place during this period of supposed peace though armed conflict never occurred.

The Atomic Bomb

During this twilight zone period, the recent invention and use of nuclear weapons increased US hostilities and discord with the Soviets. It was not solely the existence of nuclear weapons that made the situation so ominous, but also the United States’ actual use of an atomic bomb. Until the US used the bomb against Japan, the true nature of its existence was largely misunderstood or disregarded. Both Secretary Stimson and Byrnes

\textsuperscript{69} General Walter Bedell Smith to Marshall, telegram, May 10, 1948, box 15, file 5; CP, HSTL.

\textsuperscript{70} Truman, \textit{Years of Trial and Hope}, 131. For a good source on the true significance of the events in Berlin, see: Frank Kofsky, \textit{Harry S. Truman and the War Scare of 1948: A Successful Campaign to Deceive the Nation} (New York: St. Martin’s Press, 1995).
told Truman within the first two days of his presidency of the top-secret project Roosevelt had commissioned to create a massive explosive. Truman, however, was much more concerned with the San Francisco Conference that Roosevelt had slated to take place, and evidence of a 1943 telephone conversation between Truman and Stimson suggested that Truman may have already known some information about the bomb. By the end of April 1945, Stimson had met with Truman to discuss, in detail, the effect that the bomb might have on future foreign relations. Stimson told Truman that the bomb was “certain to have a decisive influence on our relations with other countries.” More specifically, Stimson’s focus was on the United States becoming a superpower and being able to dictate its own terms at the end of World War II.

However, there were those who tried to warn Truman of what could lay in store if the United States left nuclear weapons unregulated. One such report by James O. Franck, a German Nobel laureate and scientist on the Manhattan Project, specifically warned of Soviet mistrust and a possible arms race if the United States did not regulate atomic weapons before using them on Japan. The Franck Report also included valuable options for regulating nuclear weapons and materials, and for using the first atomic bomb that might have mitigated future hostility toward the United States. Likewise, in a report,

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71 Truman, *Year of Decisions*, 10, 11; HST to Stimson, transcript of telephone conversation, June 17, 1943, box 10, file 1; Bomb Coll., HSTL. In this brief conversation, Senator Truman as head of the investigatory Truman Committee contacted Stimson concerning a war plant in Pasco, Washington. Stimson told Truman that “It’s [the plant] part of a very important secret development.” Though Stimson seemed prepared to tell Truman more information, Truman disregarded him and responded, “I herewith see the situation, Mr. Secretary, and you won’t have to say another word to me. Whenever you say that to me, that’s all I want to hear. …You don’t need to tell me anything else.” Truman’s nonchalant demeanor suggests that he had some idea of, if not the significance and extent of, what was going on in Pasco and numerous other war plants around the country.

72 Truman, *Year of Decisions*, 87.

73 Donovan, *Conflict and Crisis*, 69; Committee on Political and Social Problems, Report of the Committee on Political and Social Problems Manhattan Project “Metallurgical Laboratory” University of
“Atomic Bomb and the Postwar Position of the United States in the World,” by Leo Szilard from the spring of 1945, Szilard contended that the “First bomb that is detonated over Japan will be spectacular enough to start a race in atomic armaments between us and other nations.”\textsuperscript{74} According to this report, the concern was not an immediate Soviet threat, but the generalized global threat in response to US dominance. Although the post-war relationship with the Soviet Union eventually illustrated that the US government should have heeded Franck and Szilard’s warning, the Executive Branch largely ignored these reports.\textsuperscript{75}

Even after the United States used the bomb, Truman attempted to cloud its military significance in the language of peace. In his memoirs Truman reflected on his intention to make atomic energy a “weapon for peace.”\textsuperscript{76} Once again, Truman convoluted the language, offering paradoxical images of both war and peace. The concept of using bombs to keep the peace persistently reflected a period of continuous
war and the changing nature of war and peace in general. The popular media reiterated this same idea as well. According to Boyer, the media offered both a surge of war hysteria and peaceful uses of atomic energy, but eventually created a cultural shift that led Americans to accept atomic energy and overlook its militaristic uses. In a political cartoon from The Call, a New York socialist newspaper, a bulky football player denoted “atomic energy,” ran toward the goal of “war profits” and away from the opposing “peace and plenty for all” (see fig. 2.1). This was a particularly interesting depiction because it did not focus on war or peace as the outcome of atomic energy but included both as possibilities. The overall impression the cartoon conveyed was that government had chosen war over peace. In a Washington Post article that discussed things to be reconsidered since the dropping of the bomb, the author noted that the existence of atomic energy should lead to reconversion back to a domestic economy and demobilization immediately because the atomic bomb was the only weapon of war worth using. This author also went on to say that atomic energy would create a global world and possibly lead to more scientific discoveries, such as a cure for cancer. As a result of these competing aspects of atomic energy, both military and civilian use, the author concluded that “military policy in peace as in war will have to be thoroughly revised.” Boyer argued that the media’s pronouncements of the positive uses of atomic energy allowed Americans to “turn from the immediate reality of its military use.” However,

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77 Boyer, By the Bomb’s Early Light, 124.

78 The Call (New York), March 11, 1946, box 45, file 4, Harold L. Ickes Papers, Manuscript Division, LOC, Washington D.C.


80 “Second Thoughts.”
what the *Washington Post* and *The Call* articulated was murkiness between peacetime and wartime uses of atomic energy that Boyer denied.\textsuperscript{81} This murkiness would become official policy during the Eisenhower administration as the “Atoms for Peace Program” shrouded the New Look’s military component. This begged the question of whether a military policy should have been applicable for two distinct phases or if the atomic age dictated that the government adjust its policy for a twilight zone period of continuous warfare.

Truman continued the illusion of peace during this period of non-traditional war by keeping atomic energy, a supposed weapon of peace, under the strict control of the United States only. Truman recalled in his memoirs that he never intended to give Russia the plans to make an atomic bomb. Secretary of War Stimson agreed with Truman at the time, that the United States and England should maintain the secret of how to harness atomic energy.\textsuperscript{82} Attorney General Tom C. Clark told Truman, “Our entire purpose is to preserve world peace. For the present it is my belief that world peace can best be preserved by keeping this scientific information a secret.”\textsuperscript{83} Szilard and Alexander Sachs, two major participants in the Manhattan Project, completely disagreed with those in Truman’s administration. Szilard noted in his 1945 report that if the Soviet Union could not be included in the secret of the atomic bomb, then the US should destroy all its bombs and installations, and make an agreement with England and the Soviets to outlaw the building of such equipment. Inclusion of the Soviet Union was the key to control

\textsuperscript{81} Boyer, *Bomb’s Early Light*, 124, 128.

\textsuperscript{82} Truman, *Year of Decisions*, 525.

\textsuperscript{83} Tom C. Clark to HST, September 25, 1945, box 83, file 2; CLP, HSTL.
over atomic energy in the world. In Szilard’s opinion, inclusion or destruction were the only avenues of maintaining US security for at least the next twenty-five years.\(^8^4\) Sachs argued that the US origination of the 1928 Kellogg-Briand Pact against warfare “places us [the US] in an anomalous position with reference to the possession and use of a weapon that is the archetype of aggression and surprise.”\(^8^5\) If Truman really meant for atomic energy to be a measure of peace, keeping it secret seemed a strange choice. Likewise, while a general threat would exist after the bomb’s use, secrecy could give rise to a definitive threat from the USSR, which could only interpret US secrecy as an act against them. In Congress, the absurdity of this fantasy continued as discussion of the Selective Training and Service Act turned to preparation for war. Representative John Folger (D-NC) read a statement from scientist Harold C. Urey during these congressional debates in 1946. Urey claimed:

> We are all crowded together in a single house. Beneath the floor of our house there is a time bomb ticking away…Those who even think of an atomic arms race, those who boast of battleships and air power, those who speak of using national force to maintain peace, simply do not understand this crowded house of fear.\(^8^6\)

While what Urey claimed was true, that the bomb was a motivation for war, not peace, it was unlikely that Truman did not understand this, but likely that he purposely downplayed atomic weapons to correspond to his own agenda and quell public fear. Truman later recalled that the power of atomic weapons did not “necessarily do away

\(^8^4\) Leo Szilard, “Atomic Bomb;” Bomb Coll., HSTL.

\(^8^5\) Unknown [Alexander Sachs] to Secretary of Commerce Henry Wallace, September 21, 1945; 2; Atomic Bomb File; FDRL. Emphasis added. Though the author of the letter itself is unclear, after contacting the Franklin D. Roosevelt Library archivists they suggested, as it was from the Sachs Papers originally, it was a Sachs letter. Additionally, correspondence between Wallace and Sachs, a noteworthy Wall Street economist and financial adviser, and the Secretary of Commerce, makes the most sense.

\(^8^6\) Cong. Rec., 79\(^{th}\) Cong., 2\(^{d}\) sess., 1946, 92, pt. 3: 3602.
with political-military objectives.”

Politically, Truman was attempting to maintain his power as the executive under the guise of the Commander in Chief Clause in order to build up US defense within the national security state apparatus. Sachs noted in a 1945 letter to Secretary of Commerce Henry Wallace that “the totalitarian character of the new weapon threatens to obliterate the opportunity for the time-borrowing inherent in defense, and by imperiling the democratic institutions, with their delays and deliberations, renders imperative the task of making the weapon safe for us.”

One way of making the weapon safer for the United States was Truman’s personal control of military decisions inherent in his role as Commander in Chief, bypassing time-consuming congressional oversight. Truman understood Urey’s house of fear analogy but sought instead to manipulate decisions in order to build his “house of peace” supported by a firm foundation in continuous warfare and the flexible powers of the Commander in Chief. Militarily, Truman also feared that the Soviets would launch an atomic armament race, destroying the US military advantage if the United States released plans for an atomic weapon.

Essentially, this new type of weapon, combined with America’s growing suspicion of the Soviet Union, further influenced a distinctive change in the nature of warfare. Foremost, the atomic bomb created a global world, ending isolationism forever. This argument played itself out in Congress as the battle between the isolationists and internationalists finally subsided. The bomb’s very existence made it necessary for the United States to prepare itself for war even without an adversary. The US preponderance

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88 Unknown [Alexander Sachs] to Henry Wallace, September 21, 1945; box 2, file 2; Atomic Bomb File; FDRL.

89 Truman, *Years of Trial and Hope*, 11. For more on Truman’s motivations see note 20.
of atomic power instilled fear into nations that stood in opposition to American policies and made those technologically capable (the Soviet Union) rush to complete their own atomic weapons.\textsuperscript{90} Szilard contended in 1945, “The greatest danger arising out of a competition between the United States and Russia, which would lead to a rapid accumulation of vast quantities of atomic bombs in both countries, consists of the possibility of the outbreak of a preventive war.”\textsuperscript{91} In reality, this preventive war remained covert as continuous warfare until, as part of the Cold War, it was temporarily exposed. Use of the first atomic bomb forced the US to develop perpetually more effective nuclear weapons, because despite Truman’s efforts, the US would not maintain the secret forever, at which point the country would become the target of hostilities because of its military stronghold. According to Secretary of War Robert Patterson in a 1945 memorandum to Truman, scientists claimed that waging atomic war might equal an end to civilization.\textsuperscript{92} However, faith was strong within the Truman administration that a US preponderance of atomic weapons would last for many more years to come. Secretary of Agriculture Clinton Anderson told Truman in September of 1945 that he had his doubts regarding Soviet atomic capabilities. Anderson noted:

\textsuperscript{90} “Hiram Johnson,” \textit{Washington Post}, August 7, 1945; Mark Sullivan, “Atomic Energy,” \textit{Washington Post}, August 13, 1945. A Central Intelligence Group paper, “Soviet Foreign and Military Policy,” from July of 1946 noted, “Some reports suggest that the Soviets may already have an atomic bomb of sorts, or at least the capability to produce a large atomic explosion.” An earlier report by Leo Szilard in 1945, suggested that the US might be able to maintain atomic supremacy against the Soviet Union for six more years, which falls closer to the early 1950s marker emphasized by historian Melvin Leffler and others as the presumed end of US atomic dominance. What is evident is that the Soviet Union was entirely capable of creating and exploding an atomic bomb even as early as 1946. “Soviet Foreign and Military Policy,” July 23, 1946; CP, HSTL; Leo Szilard, “Atomic Bomb;” Bomb Coll., HSTL; Leffler, \textit{Preponderance of Power}, 332, 345.

\textsuperscript{91} Leo Szilard, “Atomic Bomb;” Bomb Coll., HSTL.

\textsuperscript{92} Mark Sullivan, “Atomic Energy,” \textit{Washington Post}, August 13, 1945; Robert Patterson to HST, September 9, 1945, WHCF: PSF box 96, file 14; TP, HSTL.
I listened carefully to the testimony that the Russians might be able to make an atomic bomb in five years. I have my doubts about this... We know that in the production of the atomic bomb there was a certain element of American mathematical and mechanical genius which has given us the automotive industry, and countless other inventive processes which are not always developed in every land, and which seem to be peculiarly the result of long years of mechanization of industry within the United States.  

According to Anderson and many others like him in government, the United States was safe for years to come from certain nuclear annihilation, making the concept of continuous warfare both feasible and much more desirable than straightforward, aggressive rearmament.

Furthermore, the US could continue demobilizing from World War II without risking the advantages of being in an emergency state. Since nuclear weapons were now seen as more important, perhaps more useful, than large fighting forces, demobilization could occur to a certain extent in the army, while the air force picked up the slack by preparing itself for an entirely nuclear war. The army itself might be able to become smaller, but would have to become highly skilled technical specialists. According to the congressional record from 1946, Representative Dewey Short (R-MO) maintained that the next war would be scientific. Young people that the military previously desired as draftees should serve in technical schools instead, in Short’s opinion. Along these same lines, a post-war military report published by the House Select Committee on Post-War Military Policy in May 1945 already advocated extending the relationship between science and the military into the post-war environment. According to the committee, this alliance was the key to future national defense. Sachs suggested to Wallace that this spectacle of war-augmented expenditures and war-induced acceleration of scientific

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93 Clinton Anderson to HST, September 25, 1945, WHCF: PSF box 96, file 14; TP, HSTL.
implications was going to create a needed revision to the role of government involvement in long-term national defense. Coincidentally, in Truman’s later initiatives to create the national security state, the National Security Act cited the “advance of science” and “magnitude of modern war” as reasons for altering the military organization. Furthermore, the nation’s intelligence community also became the object of military discussion. In a National Security Act preliminary hearing before the House Committee on Expenditures in the Executive Departments, Rear Admiral Thomas Inglis gave his opinion that the government needed a central intelligence agency due to nuclear weapons. The government could not allow attacks like Pearl Harbor to happen in future wars because of the ramifications of the use of nuclear weapons; therefore, the government needed to organize a central intelligence group in order to warn of these oncoming attacks.\(^ {94} \)

The National Security State

The centralization and reorganization of the national defense and intelligence communities was the final step in the creation of continuous warfare. While the US-Soviet relationship crumbled, creating hostility between the two superpowers, which was then reinforced by the existence and use of the atomic bomb, the national security state apparatus would put the United States in a permanent period of twilight when not engaged in armed conflict. According to a memorandum between Murphy and Truman

on the powers of the president to send troops abroad, “In time of peace the President is just as much Commander-in-Chief as he is in time of war...But in time of peace the exercise of that power is directed not at subduing an enemy, but at broader considerations of national policy in general.” This new national policy was one of broad “defense,” easily created out of the fear of subversion of American democracy and capitalist endeavors, most likely by the communists. Historian Melvyn Leffler argued that the national security state was a reaction to the bureaucracy needed to administer the Marshall Plan as part of the US preponderance of power and that Truman had little interest in national security personally. However, Leffler’s analysis again lacked perspective by ignoring Truman’s background in World War I and his subsequent articulation as a senator of many of the basic principles that would become the national security state. Leffler also made no note of the inclusion of the essential tenets of the National Security Act in several executive orders prior to the bill’s official passage, which suggested it was truly a Truman initiative. By constantly focusing on the nation’s defense, and placing excessive power in the hands of the president at the highest level because he was the Commander in Chief, the national security apparatus created a constant state of emergency that stood in a liminal period between peace and war but could easily morph into actual armed conflict.

The national security state did not develop solely to deal with the growing tension between the United States and Soviet Union but was a concept of the Truman administration that depended upon continuous warfare for viability. Reflecting on his

\[^{95}\] Charles Murphy to HST with attachment on the powers of the President, February 19, 1951, WHCF: PSF box 115, file 8; TP, HSTL.

concept of the national security state, Truman contended that he came into office believing the government had to reorganize the defense system to insure future safety and world peace. As early as 1944, Truman cited the attack on Pearl Harbor as the worst example of what could happen because of disorganization. In an article written by Truman during his days as a senator, he noted that “lack of a single national security setup” was the root of Pearl Harbor. In this same article, Truman called for centralization of this reorganized system under “one command,” presumably that of the president. Once Truman became president, he also set out to reorganize the executive branch to give the president broader and more flexible powers. The War Powers Acts (1941 and 1942) served as Truman’s prototype for executive power during these initial phases, giving the president expanded powers like those utilized during wartime.\textsuperscript{97} In 1942, During Roosevelt’s administration, Director of Public Relations M.E. Gilford sent out a statement, “The Powers of the President in Time of War,” prepared by the Office of the Assistant Solicitor General, to all the heads of the various divisions within the Executive Branch. This statement included information on how Congress could delegate widely discretionary powers to the president in times of war, which were sometimes permanent as part of the national body of law or sometimes temporary. The statement also noted that while some actions taken by the president as part of his duty to protect had been challenged as unconstitutional, “the general approval of the American people…and the frequent recognition and ratification of such acts by Congress have conclusively

\textsuperscript{97} Truman, \textit{Years of Trial and Hope}, 46; Harry Truman, “Our Armed Forces Must Be Unified,” \textit{Colliers} (1944): 16, 63, 64; Truman, \textit{Year of Decisions}, 486.
answered the arguments of those who would make the President powerless in a time of national crisis."  

Through continuous warfare and its partner the national security state, Truman sought to convince the people and Congress that the heightened hostility was akin to war and with it, the president and a sophisticated defense system should have more power. Truman also claimed that the Reorganization Act of 1939 set in place greater leeway for presidential action, but it seemed unlikely that this law put in place nearly as much power as Truman wanted, his own executive power already amplified by World War II when he came into office. In a special message to Congress on May 24, 1945 regarding this executive reorganization, Truman asked Congress to extend some parts of the War Powers Act that would be useful to the president past the six-month post-war expiration date. In a report issued to Truman by Clark in August of 1945, Clark commented that the president was the only one who could decide when to end the war and therefore, determine the timeline for the cessation of presidential powers associated with wartime. Clark noted that such wartime laws were in effect “until such war is terminated by a treaty of peace proclaimed by the president and for six months thereafter.”

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98 M.E. Gilford to Heads of the Various Divisions, October 31, 1942; box 69, file 4; OCP; FDRL.

99 Truman, Year of Decisions, 486. The Reorganization Bill of 1939 did allow for the grouping of executive agencies for efficiency of operation, but the president was severely limited in which organizations he could reorganize and he was not able to eliminate executive agencies. House Select Committee on Government Organization, Reorganization Bill of 1939, 76th Cong., 1st sess., 1939, H. Rep. 120, 3.


101 Report “War Legislation: Manner of Expiration (other than at fixed times),” August 10, 1945, box 83, file 2; CLP, HSTL.
again emphasized the legal understanding that the president was the sole determiner in an end to hostilities. Clark underscored this again in November when there was some question of whether the president had the ability to transfer smaller war plant corporations to the other executive agencies. Although the First War Powers Act of 1941 said that the president’s actions must be in relation to World War II, Clark reiterated that the wartime powers of the president did not cease with fighting.  

Truman and those in his administration came to believe that the president proclaimed an end to warfare and hostilities with few parameters to follow. In a preliminary draft of a letter from the Attorney General to Truman in June of 1946, Clark noted, “The broad basis of governmental powers on which the various emergency and wartime statutes rest cannot…be said to have been terminated by recent developments, including unconditional surrender of our enemies.” Clark emphasized to Truman the flexible and technical nature of war, reiterating that surrender or an end to hostilities was not necessarily the same thing as an end to the war. Additionally, Clark cited the Civil War era Supreme Court case of Stewart v. Kahn. “[The President’s war power]…is not limited to victories in the field and the dispersion of the insurgent forces. It carries with it inherent the power to guard against the immediate renewal of the conflict, and to remedy the evils which have arisen from its rise and progress,” according to Stewart. In Truman’s 1945 Special Message, he continued, “In some instances it will be necessary to

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102 Clark to HST, November 15, 1945, box 83, file 2; CLP, HSTL.

103 Preliminary draft Clark to HST, June 28, 1946, WHCF: Permanent Files box 3, file 2; TP, HSTL.

104 Preliminary draft Clark to HST, June 28, 1946; TP, HSTL. See also Stewart v. Kahn, 78 U.S. 493 (1870).
delay reversion beyond the period now provided by law, or to stay it permanently.\textsuperscript{105}

Truman was literally asking Congress to extend the president’s powers as Commander in Chief into a period of what should have been peace, but Congress did not concede to the president’s desires.\textsuperscript{106} Attorney and Administrative Assistant to the President Richmond B. Keech told Truman in October 1946, “abrupt termination of all emergency authority and activities might well paralyze certain functions of government still essential to the change-over from a state of war to peace.”\textsuperscript{107} Truman took Keech’s warning and relied upon the advice of his Attorney General, seeking to perpetuate a twilight period of continuous warfare where he could reasonably extend his powers as part of the lingering emergency period and use them to build the national security state.

During this same 1944-1945 period, Truman continued to lay out his plans for a national security state,\textit{even before} becoming president. This dedication further illustrated that continuous warfare and the origination of the imperial presidency began with Truman. In a 1944 article, “Our Armed Forces Must be Unified,” Truman noted the consolidation of the army and navy and complete integration of national security along

\textsuperscript{105} Furer, \textit{Harry S Truman}, 52; House Committee, \textit{Legislation to Revise the Government Executive Agencies}, 2.

\textsuperscript{106} Congress found it unprecedented to extend Commander in Chief powers into a period of “peace.” They refused to give Truman these extended powers after World War II ended because they believed that peace was in the works, and the First War Powers Act of 1941 was limited to six months after the cessation of hostilities with no provision for extension. However, the post-war period did not become “peaceful” because of the coalescence of those factors creating continuous warfare; therefore, Truman’s Commander in Chief powers remained without an official extension of the First War Powers Act of 1941, which also detailed reorganization of the executive branch agencies, government corporations, and restrictions on and censorship of the mail. The Act was originally set to expire six months after cessation of hostilities, unless terminated \textit{earlier} by Congress or the president. Justia.com US Laws, U.S. First War Powers Act 1941, Justia.com, accessed December 7, 2009, http://law.justia.com/us/codes/title50a/50a_11_.html.

\textsuperscript{107} Richmond B. Keech to HST, October 31, 1946, Staff Member and Office Files: Clifford, Clark M. box 5, file 1; TP, HSTL.
with a strong centralized commander. Truman claimed that these ideas were not his own, instead taken from American Legion suggestions, but Truman would come to own the concept of the national security state by the end of his service as president. By late 1945, Truman was already attempting to establish a Department of Defense, which was the first step toward unifying the military.\textsuperscript{108} On December 19, 1945, he pleaded with Congress to create the Department of Defense as the most effective organization for “employment of our military resources in time of war and most effective mean of maintaining peace.”\textsuperscript{109} With World War II not yet a distant memory, Truman was already advocating a twilight zone state for the nation where the national security state could serve as both a military and peace apparatus. According to historian Michael J. Hogan in his book \textit{A Cross of Iron: Harry S. Truman and the Origins of the National Security State, 1945-1954}, “it was no longer possible to base the ‘nation’s security establishment…on one organization in peace and another in war.’”\textsuperscript{110} The peculiar nature of a war without armed conflict or without so much as a defined enemy allowed Truman to float the idea of the national security state in government, but it would not come to fruition until 1947. Prior to that time, Truman and Congress explored other options for building a strong defense without giving the appearance of mobilization for war.

Truman risked losing his extended powers as Commander in Chief immediately after the fighting of World War II ended, and demobilization brought other concerns that one could tie into the creation of a period of continuous warfare. In a special message to


\textsuperscript{109} Furer, \textit{Harry S Truman}, 65.

Congress on September 5, 1945, Truman pushed for a continuation of the draft, continuation of his war powers as president, and for Congress not to pass a resolution declaring the war over. Even before Truman made his speech to Congress, the Cabinet discussed concerns over demobilization.\footnote{Haynes, \textit{Awesome Power}, 117; Donovan, \textit{Conflict and Crisis}, 127.} On October 26, 1945, the Cabinet considered demobilization “a threat to the country’s strategic position.”\footnote{Donovan, \textit{Conflict and Crisis}, 127.} With World War II essentially over, it appeared that the only motivation for an extension of the wartime state and avoidance of demobilization was a need to continue the benefits of warfare during a period of peace. Truman agreed with his cabinet, but could not stave off demobilization for long. Families demanded that the military return their soldier and sailor sons to them since the war was over. As a result, public opinion forced Truman to demobilize to some extent, decreasing the size of the military. However, Truman did avoid complete demobilization to the extent of the interwar period between World War I and World War II, which corresponded with the end of US isolationism. Overall, Truman saw demobilization, marked by a decrease in troop numbers, as a complete disintegration of the armed forces by January of 1946. In the Soviet Union, the military had actually increased from one million troops in 1935 to an astonishing four and a half million men after World War II with little likelihood of further reduction.\footnote{Hogan, \textit{Cross of Iron}, 23; Truman, \textit{Year of Decisions}, 509; Top Secret Central Intelligence Group Paper, “Soviet Foreign and Military Policy,” July 23, 1946, box 15, file 5; CP, HSTL.} The Soviet military strength prompted an even stronger administration backlash against demobilization. Truman claimed, “The future of the country was as much at stake as it had been in the
days of the war.” At this point, with the armed conflict over for only a few months, Truman cited his responsibilities as president for keeping the country secure by building a strong military foundation. Once again, the convoluted language of the twilight zone served as a reason for extending the benefits of war under the pretext of peace. There was no other reason for this, other than the expansion of executive power and with it, Truman’s creation of the national security state.

Demobilization was still a topic of concern in 1948, when the world situation began to take a turn toward what historians and the public would recognize as the Cold War. The US Government never fully dismantled the arsenal and military forces after the German and Japanese surrender following World War II. However, 1948 marked a low point in troop numbers with one and a half million soldiers in the US military. In comparison to the twelve million man military fully mobilized in 1945, the statistics in 1948 seemed grim for a country concerned with defense in terms of traditional armed conflict. Realistically, the size of the military in 1948 was still the largest peacetime force in all of US history and stood at nearly four times the size of the 1939, pre-World War II numbers. Truman had effectively demobilized the military from World War II while actually increasing the size of the military overall and adding more non-traditional weaponry that did not rely on troop numbers for effectiveness. This move suggested war intentions in the 1940s but came to define American defense in the future.

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114 Truman, Year of Decisions, 509.


116 In his 2012 run for reelection, President Barack Obama referenced the continually expanding military in one of his campaign speeches. With the wars in Iraq and Afghanistan ending, Obama responded to concerns about a cut in defense funding. “Yes the tide of war is receding. But the question that this strategy answers is what kind of military will we need long after the wars of the last decade are over. …yes, our military will be leaner, but the world must know the United States is going to maintain our military
undelivered speech composed in April 1948, Truman wrote that after World War I “we proceeded to sink our half finished then modern ships and cut our land army to the bone. …Some people would do the same thing today.”¹¹⁷ In this particular portion of the speech, Truman suggested that the United States was not demobilizing, although it was effectively three years since the end of World War II hostilities. Truman commented on the period directly after World War II later in the same speech. Truman claimed, “We had demobilized completely—in fact too completely—but mamma and papa and every Congressman wanted every boy discharged at once after Japan folded up.”¹¹⁸ This statement directly contradicted the earlier one in Truman’s speech, but what this contradiction illustrated was the distinctive difference between demobilization after World War I and what the government considered demobilization after World War II.

The post-World War II era ushered in a new version of demobilization that emphasized a decrease in troops compared to periods of traditional armed conflict but an overall increase in the size and strength of the military compared to former periods of peace.¹¹⁹ A memorandum from John H. Ohly, a special assistant to the Secretary of

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¹¹⁷ Truman draft speech, undelivered, April 1948, Ferrell, ed., *Off the Record*, 131.

¹¹⁸ Truman draft speech, undelivered, April 1948, Ferrell, ed., *Off the Record*, 132.

¹¹⁹ A budgetary discussion from December of 1947 additionally suggests that the Government skewed the true size of military procurements for 1948 and 1949 as the 1949 budget disguised them under manufacturers’ subsidies. Richard E. Neustadt to Elmer B. Staats in the Bureau of the Budget, December 29, 1947, box 1, file 1; Neustadt Papers, HSTL.
Defense, to the military leadership in March 1948 noted that Secretary James Forrestal wanted each of them to reevaluate current demobilization activities and determine which should be “discontinued or slowed down” in light of the world situation.\textsuperscript{120} This memorandum reinforced Truman’s confused version of demobilization, here showing that even without an armed conflict, the United States was planning to end or slow down its demobilization, contributing to continuous warfare. In a speech given in Little Rock, Arkansas on June 11, 1949, Truman argued, “We must maintain an adequate national defence [sic] on land, at sea, and in the air…in order to keep the peace of the world.”\textsuperscript{121} Truman’s words supported the subtle remobilization going on with the military while pairing it with motives of peace instead of war. Additionally, disarmament played a distinct role in this post-World War II period of continuous warfare. Endorsed by people from former Secretary of State Byrnes, former Ambassador Davies, and General Dwight D. Eisenhower to Republican Senator Robert Taft, Professor Urey, and Democratic Representative Jerry Voorhis, disarmament was not the same as demobilization. Many, including the list above, believed strongly that the atomic bomb had served to antiquate regular arms.\textsuperscript{122}

Despite some moves toward demobilization, plans for remobilization began almost immediately with discussion of extending selective service and instituting universal military training. In 1946, bill S. 1907, which aimed to increase the enlisted

\textsuperscript{120} John H. Ohly to the Secretaries of the Army, Navy, Air Force, Chief of Staff of the U.S. Army, Chief of Staff of U.S. Naval Operations, and Chief of Staff of the Air Force, March 23, 1948, box 83, file 6; Ohly Papers, HSTL.

\textsuperscript{121} Truman handwritten speech notes for June 11, 1949 speech in Little Rock, Arkansas, June 7, 1949, box 39, file 9; CP, HSTL.

\textsuperscript{122} President of the National Security Committee Ewing Cockrell to Archibald Thacher, October 14, 1947, box 1, file 2; Records of the National Security Committee, HSTL.
strength of the regular navy and Marine Corps, to enlarge the military overall through
selective service and training, and to authorize permanent military appointments, came
under discussion by the House and Senate. The debate largely focused on the purpose of
this military enlargement. Representative Adolph Sabath (D-IL) attempted to
downplay the concerns over the bill when he stated, “I hope no one will feel this
legislation aims to increase or strengthen our Army because it is going to be needed in the
near future.” However, the very mention of the concern over another war showed that
it was a significant part of the debate concerning the bill. Sabath and Republican
Representative Clare Hoffman (MI) actually escalated this debate by arguing whether or
not Congress should settle the issue during the same session or if representatives should
take the issue back to the constituents first. Representative Andrew May (D-KY)
initially supported Hoffman’s argument for delaying the bill, claiming, “when we were at
war, we yielded…But when the time comes that we are at peace, I think I have the right
to reserve my opinions and not follow blindly.” May clearly recognized that the period
was not one of traditional war; however, he also noted that he was aware of the anxiety
about the world situation and that the US had not signed a peace treaty with anyone yet.
Selective service could serve as a “safeguard” in May’s view, because of the uncertainty
of the times. Representative James Wadsworth (R-NY) agreed with this plan because he
did not want the troops to be short on number come the beginning of 1947 on account of
elements that were unfriendly to the United States. Wadsworth was referencing

communists, specifically the Soviet Union. This debate between Sabath, Hoffman, and May confirmed that there were increasing hostilities toward the Soviet Union and that there was the possibility of a war in some regard. However, the lack of traditional war still caused some degree of hesitance to increase the size of the military.

In actuality, the real question concerning Congress was what this twilight zone period meant for the military. The reluctance to expand the military, especially through selective service, came from a lack of knowledge concerning whether the military should be kept at a wartime or peacetime state. Legislators were unsure if the liminal period the United States was experiencing was a prelude to war or peace, and as such, were hesitant to increase military strength. According to Democratic Representative Overton Brooks (D-LA) in 1946, “we are either sowing seeds of permanent peace or sowing seeds of war.” An increased military apparatus seemed to reflect a period of war, but this idea was largely unpopular amongst the public and Congress so soon after the end of WWII, so the illusion of peace was continued. May continued his argument by quoting President Theodore Roosevelt’s well known mantra, “speak softly and carry a big stick,” claiming that this concept was necessary because of the world situation. Theodore Roosevelt was also a president who loved war and power, so it seemed no small coincidence that May should cite him as a representative of these two concepts in a more modern era. However, others easily saw through the confusion of the twilight zone. As one example, Republican Representative Walter Brehm (OH) stated, “our emphasis should be on peace

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and not on war,” and the US should not practice one thing yet preach another. In Brehm’s view, similar to that of Franklin Roosevelt, universal disarmament seemed a more appropriate route to securing world peace than continuing the draft and expanding the military.

Opponents of this expansion of the military also realized that an increased military might mean increased executive powers as well. Republican Representative Joseph Martin (MA) brought up the reason for expanding the executive’s powers during wartime as a means of having a single leader over all manpower, a true Commander in Chief. However, Martin contended that there was “no just ground for extending those powers to the executive branch and taking them away from Congress in peacetimes.” Truman disagreed with Martin’s contention, and he noted in a 1937 speech during his senatorial days, “In times of great stress such as war or the great depression, it becomes necessary for Congress to delegate some of its power to the executive branch of the government.” Truman made no clear distinction between foreign or domestic issues. Instead, Truman argued that the president deserved greater powers during any stressful time for the nation. However, Martin also believed that by extending the draft into peacetime it gave the president undue power over citizens during peace, creating an imbalance not only between the branches of government, but also between the president and the citizenry. The problem that Martin saw with the president and the troops was that

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133 Speech “The Constitution” by HST in Liberty, MO, October 11, 1937, Papers as US Senator and Vice President box 282, file 34; TP, HSTL.
the president did not have any war making ability but did have the ability to control the armed forces. As a result, Martin realized that an increased military during a period of twilight gave the president more control over bringing about an act of war through troop usage, possibly usurping the war making power of Congress. A 1951 memorandum between Murphy and Truman reinforced Martin’s concern. Murphy contended:

While the Congress has power to declare war, to raise and support armies, to make rules for the government and regulation of the land and naval forces, and other powers important to the conduct of foreign policy and to the defense of the United States…these powers are not to be so construed as to curb or cripple the powers of the President as Commander-in-Chief.

Murphy sent this memorandum during the Korean conflict, when Truman used his powers as Commander in Chief to involve the United States in a war without ever Congress’ approval and declaration of war. In 1946, however, Martin thought it was reasonable to disapprove of selective service but instead advocate universal military training, which would allay the concerns of war and peace advocates alike.

Universal military training, which advanced the theory of preparing a highly-trained military force waiting to be called up from the citizenry during a war, seemed like a better alternative to continuing selective service into a period of peace, but it did not actually address the larger concerns over executive power and continuous warfare expressed by Congress. In his memoirs, Truman claimed that he advocated a universal training program from the point of demobilization, believing that it would allow the

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135 Murphy to HST, February 19, 1951; TP, HSTL.

United States to be strong militarily despite decreased military enlistments. In Truman’s outline of his message on universal military training written in 1945, Truman noted that modern war required highly trained men and complete mobility of industry with no further reliance on geographical barriers to stop an attack. Truman reasoned that universal training would allow the Government to fit men into the overall needs of the nation in relation to aptitude and qualifications without extra training after such an attack.

Truman’s structure for universal training relied upon the stipulations setup in the 1920 National Defense Act. This structure consisted of Army supervision of instruction of all physically able men between the ages of seventeen and twenty over a one-year timeframe. The Army and National Guard remained the first groups for deployment in the case of an attack. Those with previous military training, such as veterans, or those who had completed the preliminary universal military training previously and chose to join the reserves, fell into an organized reserve that was available in the case of an attack. Added under Truman’s plan were all others trained by the Army and Navy through universal training. These trainees would first fall into general reserves.

137 Truman, Years of Trial and Hope, 54; Truman, Year of Decision, 510, 511. The Army Reserve Officers’ Training Corps (ROTC) is the focus of the (virtually nonexistent) scholarship concerning universal military training. Put in place in 1916, the ROTC offers military and leadership training to students so that they may enter the Army, Army Reserves, or National Guard at the officer level. This varies from the universal military training program under discussion in the late 1940s because it is both voluntary and specifically geared toward creating military leaders as opposed to a general fighting force. A brief survey of the Historical Newspapers Database from 1945 through 1954 reveals that there was a great deal of controversy regarding universal military training during the Truman Presidency, much of it concerning the training of troops during a period of “peace.” Army ROTC, “Legacy & Value,” United States Army, accessed December 7, 2009, http://www.goarmy.com/rotc/legacy_and_value.jsp.

138 Handwritten outline of “Message on UMT,” August 1945, box 19, file 7; CP, HSTL.

139 The 1920 National Defense Act is better known as the Kahn Act.
ready for action and expansion of the military in the case of an attack and after six years
downgrade to a secondary general reserve.\footnote{Connelly to Clark, September 4, 1945; CLP, HSTL; “Message on UMT,” August 1945; CP, HSTL; Connelly to Clark, September 4, 1945; CLP, HSTL; Draft speech HST to Congress, June 4, 1947; CP, HSTL; “Report of Advisory Commission on Universal Military Training,” 6306; Truman, \textit{Years of Trial and Hope}, 54.}

Additionally, under Truman’s plan, military service academies would no longer
focus on undergraduate military training, which the Government would sanction, but
instead shift toward becoming officer training schools. These schools would now
guarantee an increased military leadership when an attack came. Universal military
training overall would guarantee the safety of the United States against potential
aggressors without appearing to be a preparation for war. Those in Truman’s
administration touted universal military training as an opportunity to increase the
physical standards of US labor, to lessen illiteracy, to develop character and
understanding of citizenship, to strengthen educational status, for self-improvement, and
to develop skills needed for other occupations.\footnote{Matthew Connelly to Tom C. Clark with attached top secret second draft of memo on UMT, September 4, 1945, box 83, file 2; CLP, HSTL; “Message on UMT,” August 1945; CP, HSTL; Matthew Connelly to Clark, September 4, 1945; CLP, HSTL; Draft speech HST to Congress, June 4, 1947, box 19, file 7; CP, HSTL; “Report of Advisory Commission on Universal Military Training,” 80th Cong., 1\textsuperscript{st} sess., \textit{Congressional Record} 93 (June 4, 1947): 6306; Truman, \textit{Years of Trial and Hope}, 54.}

Truman realized that universal military training fit more succinctly into his own
agenda for the creation of the national security state through an expansion of executive
power while maintaining an exterior of peace, and in November of 1946, he appointed an
Advisory Commission on Universal Military Training to research the option. Six months
later, the Commission reported exactly what Truman had hoped, that by stripping itself of
its troops, the United States would encourage other nations to plan aggressive actions and
that the atomic bomb had made war universal and immediate, necessitating the readiness of trained men for use in the military at a moment’s notice.¹⁴²

In many regards, however, universal military training did not squelch executive power ambitions, but reinforced the availability of a large number of troops when the president needed them and perpetuated the idea that the United States was still involved in a continuous war, despite the end of armed conflict from World War II. On the other hand, private organizations like the National Security Committee attempted to bolster the peaceful aspects of universal military training through their “Peace through Preparedness” program (1947-1948).¹⁴³ In one National Security Committee publication, they claimed that through support of universal military training, “The nation’s leading advocates of preparation for war will be shown as fighting for peace on two fronts, not just one—for armed resistance to aggression and for maintained disarmament that would prevent all aggression.”¹⁴⁴ The Peace through Preparedness program only served to misconstrue further the relationship of peace and war. Due to the threat of executive power and confusion over the status of peace or war, Congress never fully explored the idea of universal military training, though Truman would ask for it again in 1948.

¹⁴² Connelly to Clark, September 4, 1945; CLP, HSTL; “Message on UMT,” August 1945; CP, HSTL; Connelly to Clark, September 4, 1945; CLP, HSTL; Draft speech HST to Congress, June 4, 1947; CP, HSTL.; “Report of Advisory Commission on Universal Military Training,” 6306; Truman, Years of Trial and Hope, 54.

¹⁴³ Connelly to Clark, September 4, 1945; CLP, HSTL; “Message on UMT,” August 1945; CP, HSTL; Connelly to Clark, September 4, 1945; CLP, HSTL; Draft speech HST to Congress, June 4, 1947; CP, HSTL.; “Report of Advisory Commission on Universal Military Training,” 6306; Truman, Years of Trial and Hope, 54; Pamphlet, “Peace through Preparedness,” by the National Security Committee, box 1, file 2; Records of the National Security Committee, HSTL. The National Security Committee was a private organization made up of fifty smaller national organizations and founded in October of 1947 in Washington D.C. The national chairman was retired United States Supreme Court Associate Justice Owen J. Roberts.

¹⁴⁴ Cockrell to Thatcher, October 14, 1947; Records of the National Security Committee, HSTL.
Truman claimed in his memoirs, years later, that the availability of a well-trained pool of men might have prevented Soviet expansion.\footnote{Truman draft speech, undelivered, April 1948, Ferrell, ed., \textit{Off the Record}, 133; Truman, \textit{Year of Decisions}, 512.} While it seemed more likely that a lack of continued selective service or universal military training may have delayed the United States’ inevitable involvement in an armed conflict with the Soviet Union, it did lead to protracted continuous war.

The Mutual Defense Assistance Act of 1949 (M.D.A.A.) also served to fulfill part of the larger obligations set in place through the United Nations’ goal of promoting international peace and security, but it also formed an intricate part of the United States’ own desire for self-protection. The M.D.A.A. furnished military assistance to foreign nations that were under the threat of communism, which provided for the larger defense and welfare of the United States. The US would provide weapons and training to threatened nations, thereby making it more difficult for an aggressor like the Soviet Union to gamble on an attack. During the House Committee on Foreign Affairs hearings on the M.D.A.A., Secretary of State Acheson told the congressmen that the failure of free nations to defend themselves was an invitation for political and military aggression. Secretary of Defense Louis Johnson expressed similar concerns during the hearings, and brought up the war/peace discussion when he noted that peace in the world was only possible with a strong, armed United States.\footnote{House Committee on Foreign Affairs, \textit{Mutual Defense Assistance Act of 1949: Hearings on H.R. 5748 and H.R. 5895, 81\textsuperscript{st} Cong., 1\textsuperscript{st} sess., July 28, 29, August 1, 2, 5, 8, 1949, 1, 16, 14, 63.} Acheson added, “a strategic plan is based upon forces.”\footnote{House Committee, \textit{Mutual Defense Assistance}, 18.} During the M.D.A.A. hearings both the secretaries of state and defense saw a strong military force as a necessary prerequisite to keeping peace, but their
prompting to provide foreign countries with military weapons and training in order to increase their troops seemed more like a preparation for war than peace.

Problems with this muddled concept were first brought up during the discussion of extension of selective service and universal military training, once again made an appearance during the M.D.A.A. hearings. Democratic Representative Helen Douglas (CA) was concerned that the military would have too much power under this plan instead of being a safety valve, mirroring earlier concerns over similar programs.148 Douglas noted, “the armed forces are set up to protect us in case of war and…they must always think in terms of war.” “[W]e must not lose sight of the goal—which is peace,” Douglas also added, making it clear that military strength was a reflection of war, not peace.149 By 1949, the Cold War, as referenced in the M.D.A.A. hearings, was well underway, though still without traditional means of warfare. Without a traditional war that would utilize troops and invoke the Commander in Chief powers under the Constitution, the M.D.A.A. served as an exception, giving the president exclusive powers to control the military apparatus, not for US armed conflict, but under the concept of keeping peace.

Under the framework of the M.D.A.A., the powers of the president were greatly increased. This framework focused on replicating a state of emergency for the United States through the vulnerability of other nations. According to Republican Senator Arthur Vandenberg (MI) as quoted in The Awesome Power, “the bill was too costly and it was ‘almost unbelievable in its grant of unlimited power to the Chief Executive.’”150

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148 House Committee, Mutual Defense Assistance, 52.
149 House Committee, Mutual Defense Assistance, 52.
150 Haynes, Awesome Power, 149.
M.D.A.A. gave the president control, not just over actual troops serving in the capacity of training specialists, but also over military equipment, resources, and the setting of rules and regulations for each country, along with entering into individual contracts. The language of the M.D.A.A. articulated “The President shall” before nearly every stipulation, and in a later report on the M.D.A.A., a diagram of the organizational structure of the program illustrated that all levels of the program’s staff were responsible solely to the president (see fig. 2.2). Due to the M.D.A.A.’s grant of extensive powers to the executive, its placement as a program within the liminal state between war and peace, and its overall militaristic intentions, Congress looked at it with much scrutiny. It was only after the Soviet Union successfully tested a nuclear bomb in 1949 that Congress finally agreed to send it to the president for his signature.151

The creation of the national security state most notably marked the onset of preventive war, which started the United States along the path of continuous warfare. Truman remarked in a 1937 speech, “I believe in an adequate national defense program.”152 Continuing, Truman gave a speech on national defense and its relationship to peace several years before he became president and advocated for the national security state. Quoting President Andrew Jackson, Truman quipped, “‘We shall more certainly preserve peace when it is understood that we are prepared for war.’…I hope we shall never have to fight again, and the best way to keep it is to be adequately prepared for all


152 Speech, National Defense and its Relationship to Peace, by HST, Larchmont, NY, April 20, 1937, Papers as Senator and Vice President box 282, file 30; TP, HSTL.
contingencies.” Truman’s senatorial speech illustrated his support for the concept as well as his early desire to formulate a so-called house of peace built upon defense.

The national security state apparatus that Truman had been advocating since his time as a senator finally came about in 1947. As president, Truman had instructed Secretary of State Byrnes as early as September 20, 1945, to “take the lead in developing a comprehensive and coordinated foreign intelligence program for all Federal agencies... This should be done through the creation of an interdepartmental group, head[ed] up under the State Department, which would formulate plans for my approval.” Byrnes’ initial plan called for a National Intelligence Authority chaired by the Secretary of State, with the Secretaries of War and Navy as members. This group would have the ability to bring in other members on matters of special interest and theoretically coordinate funding covertly through existing agencies, avoiding the necessary separate budget for an independent agency. Byrnes’ plan would circumvent publicity surrounding this National Intelligence Authority as well as reduce competition or duplication between existing departments and agencies. What Truman and Byrnes wanted to create was an early combined version of two main components of the National Security Act of 1947, the National Security Council and the Central Intelligence Agency. For the most part, executive orders put in place most of the parts of what would become the National Security Act of 1947 over the first two years of Truman’s presidency. Executive Order No. 9635 of September 29, 1945, for example, set up much of the

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153 Speech, Larchmont, NY, April 20, 1937; TP, HSTL.

154 James Byrnes to the Secretaries of War and Navy, undated, box 11, file 1; CP, HSTL.
defense organization of the National Security Act. According to Truman’s memoirs, he claimed, “It was my opinion that the Commander in Chief ought to have a co-ordinated and co-operative defense department that would work in peace and war.”

Kennan agreed with Truman’s ideas. He too called for strong unity and decision within the United States brought about by a unified military and a strong executive. In a report to the president, *Peacetime Preparedness for National Emergencies*, from 1946, this combined agency for both peace and war was under discussion, “The defense and security of the United States depend upon adequate and comprehensive preparedness in peacetime for all the foreseeable eventualities of war.” The Report continued, “The truth of this principle, in its relation to the military phases of national defense and security, is recognized by the *continuous operation in peacetime* of an agency such as the War Plans Division of the War Department General Staff.”

The continuous operation of an agency grounded in warfare during peacetime further supported the existence of continuous warfare.

The twilight period at the end of World War II may have allowed the overhaul of the nation’s military apparatus via E.O. 9635 to go largely unnoticed, but as the world discussion turned toward peace, it became more difficult for Truman to go through with his intentions for creating a national security state. According to the *Washington Post*,

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156 Truman, *Years of Trial and Hope*, 47.


“The United States never has had such a system in peacetime. …In the past, even during wartime, the Nation’s intelligence units have been piecemeal.” The National Security Act itself was really an integration of the “Nation’s war potential,” according to the House Committee on Expenditures in the Executive Departments June 1947 report. Foremost in this integration was the permanent expansion of presidential powers by formally creating a permanent state of emergency. As Commander in Chief, the president would serve as the unitary leader during a time of relative peace, just as he would serve in order to win a battle during a time of armed conflict. According to Greenstein, “The power of modern American presidents manifests itself in its purest form in the global arena, where their actions as commander in chief can determine the fate of the human race.” By 1947, peace and war had officially merged into one concept in the language of the government. Peace now became a period free from armed conflict but inundated with hostility, tension, and threat from global enemies. On the other hand, war was no longer exclusively armed conflict but also global hostility and tension, a preventive and continuous war, now called the Cold War.

The president relayed the National Security Act (N.S.A.) in draft form to Congress on February 26, 1947, encompassing ideas of expansion of executive power under a cohesive military and defense program. The focus of the N.S.A. was coordination between military, domestic, and foreign policies so that the United States’ resources and capabilities were known at all times and dispensable at a moment’s notice.

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In addition to traditional control over the military, the N.S.A. also gave the president control over economic and political aspects of policy that the government could couch as security and defense. This was a new expansion of power beyond the simplistic control of the troops that the Constitution granted the president as a war power. Truman did not want to disperse any of the inherent powers he found as Commander in Chief in the new security state either. Leadership of the N.S.A. considered the National Security Resources Board, which had the responsibility of planning coordinated mobilization in peacetime for wartime, to be an advisory board only, with the president retaining the power of decision and action. Similarly, the Secretary of War became the Secretary of Defense due to the complex and expansive presidential tasks in the new state of continuous warfare. However, the Secretary of Defense did not reduce the power of the president but served his needs entirely, again aiding the expansion of executive power instead of detracting from it.\textsuperscript{162} In this regard, it became apparent that the National Security Act was written to allow for the expansion of executive power, not just by giving an emergency pretense that allowed the role of the Commander in Chief to be “activated,” but also by setting up a framework that allowed the president to take on these new expanded powers and be successful at maintaining them. This fit succinctly within Truman’s building of an infrastructure within the executive branch. Traditionally it would have been impossible for one person to control such varied and extensive aspects of the United States war machine at a modern, global level, even with advisors, but the

national security state put in place mechanisms to allow one person to maintain the
control without doing as much legwork.\textsuperscript{163}

The national security state continued to expand over the next two years facing and
solving very real problems of a new government agency. The first problem encountered
by this new apparatus early in 1948 was budgetary. During periods of traditional armed
conflict there was little problem gaining funds for military expenditures, but during a
period of covert continuous warfare, it proved more difficult to conjure these funds while
the government preached peace. In a report to Truman from Secretary of Defense
Forrestal in February of 1948, Forrestal commented:

> In wartime, the only real limitations are the human and material resources of the
country, and it is proper to draw plans for the conduct of war, once started, which
will utilize virtually all these resources. In peacetime, the situation is very
different, and our military planners have an additional problem—to draft, within
probable budgetary limitations, a security plan which will give us, for the money
available, the best possible base from which to begin to conduct a war if one
should occur.\textsuperscript{164}

In this same report, Forrestal complained that the Department of Defense had neither an
idea of what a future war might look like nor any real idea of what type of military
establishment would be required as a guarantor of preparedness against said war.

Confusion over the organization needs of the national security state became a major issue
during the first few years of its operation. Organizational charts from 1947 and 1948

\textsuperscript{163} For more information on the creation of the National Security State see Hogan and Leffler as
Robert P. Watson, et al, 75-94 (Kirksville, MO: Truman State University Press, 2005); Douglas T. Stuart,
\textit{Creating the National Security State: A History of the Law that Transformed America} (Princeton, NJ:
Princeton University Press, 2008); Athan G. Theoharis, \textit{The Truman Presidency: The Origins of the
Imperial Presidency and the National Security State} (Stanfordville, NY: Earl M. Coleman Enterprises, Inc.,
1979); Brian Waddell, \textit{Toward a National Security State: Civil-Military Relations during WWII} (Westport,

\textsuperscript{164} Report to the President from the Secretary of Defense, February 28, 1948, WHCF: Confidential
File box 14, file 6; TP, HSTL.
help to illustrate this problem by first placing the Secretary of State at the top of the organization and then later placing the president at the top. With the president in the uppermost position, the 1948 chart gave him the power to bypass all others. The same was true of the intelligence wing of the national security state, where according to a 1948 organization chart the president could circumvent the National Intelligence Authority and go directly to the Intelligence Board or Central Intelligence Agency. Likewise, by 1948 an additional presidential representative sat on the National Intelligence Authority along with the Secretaries of State and War. In the margins of an early 1948 draft of the “Directive Regarding the Coordination of Intelligence Activities,” where White House Counsel Clark Clifford recommended the addition of this presidential representative, a note stated that an executive order could put this directive in place until Congress could pass legislation. By March of 1949, Truman called for the official establishment of a Secretary of Defense and to make the national military establishment, now known as the Department of Defense, a department within the Executive Branch. In a draft speech to Congress on March 1, 1949, Truman recommended Congress provide this new Secretary of Defense an undersecretary and three assistant secretaries.165 Truman initially claimed in his speech that these recommendations were beneficial to the “President, the Congress, and the American people by providing better means of assuring their defense needs and administering the defense program.”166 Truman then edited his draft, moving “President” to the end of the list. Truman engineered the Department of Defense to serve the

165 James Byrnes to Secretaries of War and Navy, undated; CP, HSTL. For both charts, see appendix; Draft of “Directive Regarding the Coordination of Intelligence Activities,” 1948, box 11, file 1; CP, HSTL; HST, Draft Speech to Congress, “Amending NSA 1947,” March 1, 1949, box 16, file 7; CP, HSTL.

166 HST, “Amending NSA 1947,” March 1, 1949; CP, HSTL.
president and the new American involvement in continuous warfare. On March 2, 1949, Clifford noted changes to Public Law 253, a set of amendments to the National Security Act of 1947, which altered all mention of military elements and changed them to the ubiquitous word “defense.” Two years after its inception, the national security state rapidly increased executive power and solidified continuous warfare under the guise of peace and defense.

Conclusion

By the time that hostilities in Korea peaked, the United States had already been in a state of continuous warfare since the end of World War II. As a result of increasing hostilities with the Soviet Union, the advent of nuclear weapons, and the final creation of the national security state, the government was able to perpetuate warfare and expand the powers of the president as Commander in Chief through a twilight zone of continuous warfare. Though the warfare of the interim period between World War II and Korea had been nontraditional, without armed conflict, it still produced all the potential advantages of war regarding executive power. The elaborate convolution of the terminology regarding war and peace partially created this scenario, and the government debates regarding the extension of selective service, universal military training, and the mutual defense assistance act took place because of this confusion over war and peace that began with Roosevelt’s death. The answer to the question of whether the United States was maintaining peace or preparing for war remained elusive throughout the 1945-1950 period. In Truman’s 1948 State of the Union address, he continued discussing the

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167 HST, “Amending NSA 1947,” March 1, 1949; CP, HSTL; Draft of changes to Public Law 253 (Amendments to NSA 1947), March 2, 1949, box 16, file 8; CP, HSTL. For more on this see discussion in Chapter 3.
conundrum of how the United States could be an effective world peace force only if it were militarily strong. Military strength “leads to peace—not war,” Truman reiterated twice. However, US involvement in Korea seemed to solidify both the necessary expansion of the military and executive power during the twilight zone as well as reinforce the language of defense, security, and war that the government had been preaching for five long years. The maintenance of peace and mobilization for war were synonymous during the twilight zone that marked the beginning of continuous warfare and would allow this continuous war to extend into future periods of armed conflict and periods of relative peace.

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CHAPTER III

INSTALLING THE FLOOR: THE END OF CONGRESSIONAL WAR POWER

Despite presidential aspirations to power and the most sophisticated executive skills, the US Legislature still holds the constitutional power to check the Executive Branch. This legislative ability was not only possible but also entirely necessary when it came to the proposition of war. According to the United States Constitution, Congress has the power to “lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence [sic] and general Welfare of the United States…To declare War…To raise and support Armies…[and] To provide and maintain a Navy.” This section of Article I made it clear that Congress had both the “power of the purse,” or the ability to control the budget for both foreign and domestic affairs, and the power to declare war. Both of these abilities served to check the executive’s role as “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.”¹ Foremost, Congress controlled the appropriations necessary to run an actual war, but Congress also, theoretically, controlled the ability formally to declare war.

Marked by ambiguity but revered as the most powerful document in the country and the supreme law of the land, the Constitution of the United States of America has long stood as a challenge to historians, politicians, and legal scholars alike. The very conception of the American Constitution led to an ongoing debate over executive power. The Framers carefully debated the division of power between the three branches of

¹ U.S. Constitution, art. 2, sec. 2, cl. 1. For the purposes of this dissertation, “Congress” refers to both houses of the legislature. Likewise “legislators” will refer to both congressmen and senators.
government, taking into consideration an elaborate system of checks and balances. Lee of monarchical tyranny, the Framers understood the necessity to word carefully the two clauses dealing with the war power. While Congress’ overall powers were much more decisive and detailed than the Commander-in-Chief Clause, they still caused a great deal of debate. The exact meaning of “declare,” versus other options like “make” or “conduct,” has caused scholars to attempt to deconstruct the two war powers clauses in an effort to determine which branch has the power to go to war, through either declaration or the actual sending of U.S. forces into a warzone. According to the records of the Constitutional Convention of 1787, delegates James Madison and Elbridge Gerry moved to change “make” war to “declare” war after the explanation that the president should be able to repel sudden attacks but not commence a full-scale war. Likewise, Oliver Ellsworth argued that it should be easier to get out of war than into it, and George Mason agreed that war should be “clogged” rather than “facilitated.” Although delegates discussed giving the power to make war to the president alone, they all agreed that 

avoidance of war was the ultimate goal.² The delegates split the powers between the president and Congress in order to complicate purposely the ability to go to and stay at war. Constitutional scholar Akhil Reed Amar argued, “By balancing military power between two levels of government, the American people would in theory retain greater control over both.”³ The delegates’ intentions and Amar’s analysis only stand true when


Congress executes its constitutional responsibility, however—a responsibility easily neglected or given up in the face of other potential benefits and political maneuverability.

After World War II, the United States ceased to utilize the congressional declaration of war. The president’s constitutional ability to lead the country into war in the modern era of imperfect (or undeclared) war became questionable along with concerns over the president’s growing war powers in a country perpetually at war.\(^4\) In a period of increased tension without actual violence, the line between war and peace was blurry. In an era of possible atomic attack, people were willing to deal with a strong government.\(^5\) Neustadt agreed in his “Politicians and Bureaucrats,” claiming, “the most critical of government decisions, the war-or-peace decisions, have been snatched away from Congress by technology, despite the plain words of the Constitution.”\(^6\) Congress should hold the ability to control the executive’s powers under the Commander in Chief Clause, because in the absence of congressional interest, there was almost no way to check executive power.\(^7\) This violation of the separation of war powers could have

\(^4\) “Imperfect war” is an eighteenth and nineteenth century term for the more modern “undeclared war.” The two terms mean substantially the same thing, warfare without a formal declaration by the U.S. Congress.

According to legal scholar William Michael Treanor, pro-Congress scholars rely on the executive’s inability to veto a congressional declaration of war as evidence of Congress’s sole duty to initiate a war. However, it is noteworthy that Congress has never sought to take the United States into war without the executive’s support. Founders’ intentions aside, this would suggest that in the realm of foreign affairs, including warfare, the president is supreme. Treanor, “Fame, The Founding, and the Power to Declare War,” 698.

\(^5\) Clinton Rossiter, The Supreme Court and the Commander in Chief (New York: Da Capo Press, 1951), 1.


\(^7\) Rossiter acknowledges the Supreme Court’s ability to check the executive, but contends that in absence of congressional authority, the court’s only ability to deal with war powers is through personal and property rights issues that might result from abuse of power. Rossiter, The Supreme Court and the Commander in Chief, 1.
untold negative effects on American warfare. Government must maintain a proper separation of powers, including war powers, for efficiency and protection of the people. A separation of power was anathema to authoritarian regimes, such as the USSR. The Cold War threatened a “permanent state of emergency,” which impinged on liberty. By creating a permanent scenario that only the national level could handle, the executive gained power by default, because he was the only one equipped to lead the country.8 While the legislature subsequently lost constitutional power, its members gained greater political maneuverability in exchange. The necessity of a strong executive in imperiled times was a common thread in later Cold War scholarship, which often ignored Congress’ role.

Prior to the world wars, Congress largely operated under the pretext of non-intervention abroad. Cold War scholarship often downplayed or ignored the relationship between the executive and Congress as a result, which developed from this early isolationist stance toward a significant shift during continuous warfare. According to political scientist Jerrold Schneider, “No question is more central to understanding Congress and the presidency, than the question of the structure of power within Congress.”9 The structure within Congress was vastly different prior to WWII. Before World War I, the accepted stance of most legislators was a position of US isolation from the rest of the world, from which they viewed warfare as a limited conflict between few countries. This isolationism did not call for complete retreat of the US from world affairs.

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but instead offered the concepts of “non-entanglement” and “Americanism” as key components.\textsuperscript{10} Isolationists in Congress argued for non-entanglement as a foundational principle of American society. In a speech delivered by Ohio Senator Atlee Pomerene (D) in 1917, he conjured the memory of George Washington. “Much has recently been said about the dangers of militarism and the necessity of avoiding entangling alliances with foreign countries. What was said by Washington on these subjects is as true to-day [sic] as it was during his lifetime,” Pomerene contended.\textsuperscript{11} Quoting Washington’s Farewell Address, Pomerene noted, “Our detached situation invites and enables us to pursue a different course [from being entangled in other countries’ affairs].”\textsuperscript{12} What Pomerene said later in his speech was that Washington was under no grand illusions about the United States completely avoiding war through the practice of isolationism.

In reality, isolationist tendencies often wavered when warfare was a possibility, quickly overshadowed by wartime patriotism.\textsuperscript{13} In the case of World War I, isolationist tradition, and familial and financial connections to Europe tore Americans apart.

According to testimony by German-American publisher Horace L. Brand before the Senate Committee on Foreign Relations:


\textsuperscript{11} \textit{America’s Position in Two World Wars}, 64\textsuperscript{th} Cong., 2d sess., 1917, S. Doc. 725, 3.

\textsuperscript{12} \textit{America’s Position}, 4.

\textsuperscript{13} Guinsburg, \textit{Pursuit of Isolationism}, 21.
It is a mistaken impression that the movement, now Nationwide, in favor of prohibiting the exportation of weapons, ammunition, and munitions of war from this country, is one with the sole object in view of helping one of the belligerent sides, or of injuring some other belligerent.\textsuperscript{14}

Brand went on, “As will be proven by me, this is an American movement, based upon American principles and championed by Americans everywhere.”\textsuperscript{15} A letter to the editor published in the \textit{Detroit Free Press} in 1917 pointed to more nefarious objectives by the American immigrant population. The author claimed, “The sum that has been deposited by our immigrants for transmission [to Central Europe] is enormous. …Has some of this money been used for the fomentation of the Mexican and Cuban revolts? Are the moneys of our immigrants being used to create trouble for the United States—the adopted country?”\textsuperscript{16} Americans of recent immigration vehemently defended their “American-ness” or worried about their family back home in Europe, which increased suspicion of these peoples. These two sides made isolationism a difficult stance to take as the United States moved closer and closer to involvement in the First World War.

Likewise, lingering memories of the valor of the Civil War and rapid conduct of the Spanish-American War led many to desire warfare for seemingly nationalistic or imperial reasons. Emotional reasons often related economic, political, and strategic justifications for war to each other. At the beginning of the twentieth century, this emotional connection revolved around a nationalistic mindset that the United States was uniquely set apart from other nations in the world. However, during World War I, many

\textsuperscript{14} Senate Committee on Foreign Relations, \textit{Prohibition of Exportation of Munitions of War: Hearings on S. 6688 and S. 6862}, 63\textsuperscript{rd} Cong., 3d sess., 1915, 3.

\textsuperscript{15} Senate Committee on Foreign Relations, \textit{Prohibition of Exportation of Munitions of War: Hearings on S. 6688 and S. 6862}, 63\textsuperscript{rd} Cong., 3d sess., 1915, 3.

senators thought internationally and continued so during the 1920s. According to historian Thomas N. Guinsburg, isolationists continued to fight against this shift, however, claiming that US strength came from its independence and that standing as an example to others and avoiding direct involvement furthered American aspirations. Guinsburg implied in his book *The Pursuit of Isolationism in the United States Senate from Versailles to Pearl Harbor* that isolationism remained the US policy standard during the interwar period after World War I due to the vehemence of the isolationists in the Senate. Guinsburg argued in favor of the flexible nature of interwar isolationism, but contended that isolationism remained a solid position for some in Congress until the US entrance into World War II.\(^{17}\) What Guinsburg failed to include in his analysis was the movement away from isolationism that began to form during this early period.

In the post-Progressive era United States when the government sought a more active role in the lives of its constituents, members of Congress began to take interest in potential political benefits. These benefits included such things as greater political bargaining ability, greater chance for reelection, federal money and job creation for home districts and states. Congressional politicians effectively gave up their power to declare war during the “twilight zone” period because of the changing nature of war and its insecurity regarding new methods of war (related to the shift from isolationism to intervention), but also due to a set of political benefits that occurred through the deliberately lax use of congressional power. This congressional curiosity yielded power to the executive, stabilizing the structure of the imperial presidency.

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Isolationists and Interventionists

During the interwar period, leaders in the US Congress argued incessantly over lingering issues from World War I that continued to split the internationalists from the isolationists, specifically the irreconcilables in Congress. However, to say that the isolationist stance was the majority position of Congress during this period is misleading. After the rejection of the Treaty of Versailles until mid-1924, the United States entered into forty-five international treaties, conventions, and agreements, to which the Senate consented.18 This international involvement would suggest that isolationism was moot, but heavily publicized battles over the League of Nations, the Four Powers Treaty, the Kellogg-Briand Pact, and the findings of the Nye Committee suggested that isolationism still played a strong role in the US Legislature.

The battle over US membership in the League of Nations illustrated the strong isolationist influence still present in the Legislature in 1919. Isolationists in this period were largely xenophobic, often racist, and generally anti-Catholic.19 According to Guinsburg, “Evidences of parochialism in the campaign against the League seem to dovetail neatly with a ‘Middle Western’ interpretation of isolationism.”20 Arguments over the League initially coalesced along partisan lines, placing the Republicans squarely against the League. According to Republicans, membership in the League might only serve to bolster the Democrats in the 1920 elections who had already claimed the political

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19 Guinsburg, *Pursuit of Isolationism*, 30-31. There were many Catholic countries in the League, such as Spain, and this served as one reason for the US to decline membership.

boost of winning World War I. However, the League was not a purely partisan issue. In a debate over the League, Senator James Reed (D) of Missouri proclaimed, “I protest...it is not only our high duty to keep free from European quarrels in the future, but it is our duty just as soon as this war can be honorably ended to call back to this country as fast as ships will bring them the last one of our American soldiers.” Reed continued, “It is our duty to give notice now and here that the Republic will continue to adhere to her ancient policy of isolation and of independence.” According to Guinsburg and demonstrated by Reed’s comments, the confrontation of Reed with Henry Cabot Lodge over the League of Nations demonstrated “that the senatorial isolationists, whose motives were not primarily partisan, capitalized upon political circumstances to buttress their strength.” Senator Frank Kellogg (R) of Minnesota likewise drew on political circumstances in support of the League. Kellogg argued:

[T]he establishment of a league of nations is, I believe, now foremost in the minds of statesmen as well as in the minds of the people of the civilized world. It is being discussed by publicists and journalists the world over. The impelling causes which at this time bring this ancient and honorable subject before the public are too fresh in our minds to need extended discussion.

The struggle also illustrated that not all isolationists were total isolationists. Washington Senator Miles Poindexter, a Republican, suggested an informal entente among wartime allies. Poindexter was concerned about the formality of the League of Nations

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infringing upon the US tariff system in particular. “If Great Britain could secure as a consideration for going into this league of nations the power of such a league to regulate the United States tariffs she would be a great gainer by it,” Poindexter remarked.26 Republican Senator from Nebraska George Norris liked the idea of a League that would end arms races and secret diplomacy and offered up the concept of judicial arbitration, not force, as the alternative.27 These complexities foreshadowed the future convolution of congressional debates during continuous warfare.

The strong desire for world peace, accompanied by disarmament, during the interwar period also sparked debate over the Four Power Treaty of 1921. The agreement, eventually signed by the United States, Great Britain, France, and Japan, created a loose connection between the four countries involved as far as Pacific interests were concerned. By signing the treaty, each nation pledged to meet and discuss options in the event of a disagreement between the signatories or an aggressive action against any one of the signatories by another nation.28 Article II caused the biggest uproar in the legislature amongst the isolationists. The article stated:

If the said rights are threatened by the aggressive action of any other Power, the High Contracting Parties shall communicate with one another fully and frankly in order to arrive at an understanding as to the most efficient measures to be taken, jointly or separately, to meet the exigencies of the particular situation.29


29 FRUS 1922, 35.
Lodge argued, “There is no provision for the use of force to carry out any of the terms of the agreement, and no military or naval sanction lurks anywhere in the background or under cover of these plain and direct clauses.”

Republican Senator Robert M. La Follette of Wisconsin called the treaty “dangerous,” and he noted that it “had all of the iniquities of the League of Nations with none of the virtues claimed for that document.”

In an official statement released to the press, La Follette claimed:

Under the cloak of a conference, made possible by a world-wide sentiment for disarmament, the diplomats, representing [sic] reactionary sentiment in Great Britain, France, Japan and the United States have hatched in secret a treaty of alliance which morally binds this country to go to war.

Unfortunately for the isolationist faction, public enthusiasm for peace via disarmament expressed through the support of the Washington Naval Conference in 1921 and 1922 meant that the isolationists would ultimately fail to block the Four Power Treaty. On March 27, 1922, a Senate vote of seventy-three to zero with five abstentions ratified the Four Power Treaty as amended. Senator La Follette and other Republican isolationists, finding minimal support, voted for ratification, illustrating the flexible and political nature of isolationism. Isolationist Democratic Missouri Senator James Reed and Idaho

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Republican William Borah abstained from voting in lieu of a solid majority against the treaty.\textsuperscript{34}

In the late 1920s, the proposed Kellogg-Briand Pact outlawing warfare appeared as the definitive isolationist agreement. The pact sought to “condemn recourse to war for the solution of international controversies, and renounce it, as an instrument of national policy,” and ordained, “the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be…shall never be sought except by pacific means.”\textsuperscript{35} Hailed as a major milestone in world peace negotiations, the pact was an isolationist document because in its final version it required no US involvement in any controversy and did not limit any previous policies, such as the Monroe Doctrine. In addition, the Senate ratified the pact only after affixing a diplomatic reservation that allowed for warfare in the case of self-defense. Senators James Reed (D-MO) and George Moses (R-NH) voiced several reservations to the original pact that sounded these traditional isolationist ideas. The Moses-Reed Reservations included a special amendment that would exclude the Monroe Doctrine from any alteration by the pact and a non-coercion clause that kept the United States from \textit{having} to enforce the pact. This paradox brings into question the benefits Reed and Moses might have sought by opposing Kellogg-Briand initially. In the end, it was too difficult for anyone, isolationists included, to argue against peace, and the Kellogg-Briand Pact passed with only one dissenter.\textsuperscript{36}


\textsuperscript{35} Kellogg-Briand Pact, \textit{United States Statutes at Large} 46 (1929): 2343.

The argument between the isolationist and interventionist factions gradually gave way to a more deceptive picture of American warfare that Congress would carry with it into World War II. During the mid-1930s, historical revisionists flooded the market with literature aimed at highlighting World War I as a dramatic blunder instead of the US government’s alleged patriotic fight for American democracy. Historian Warren I. Cohen detailed these interpretations in *The American Revisionists*, citing in particular journalist Walter Millis. In Millis’ book *Road to War* (1935) he argued, “[t]he United States had fought without reason and had drifted into [WWI] as a result of a national psychological binge rather than as a result of deliberate national policy.” In conjunction, the Senate created a Special Committee on Investigation of the Munitions Industry, known as the “Nye Committee,” in 1934. Led by the enthusiastic young Republican Gerald P. Nye of North Dakota, the Nye Committee set out to prove that US munitions manufacturers aimed to disturb the peace and prolong war for their benefit.

According to the Nye Committee’s 1936 Report:

> The Committee finds…that almost without exception, the American munitions companies investigated have at times resorted to such unusual approaches, questionable favors and commissions, and methods of "doing the needful" as to constitute, in effect, a form of bribery of foreign governmental officials or of their close friends in order to secure business…[N]ot only are such transactions highly

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unethical, but...they carry within themselves the seeds of disturbance to the peace and stability of those nations in which they take place.\textsuperscript{40}

What Nye and his co-committee members found was that the nature of munitions marketing helped incite violence and warfare around the world. In the end, the Nye Committee concluded, “the constant availability of munitions companies with competitive bribes ready in outstretched hands does not create a situation where the officials involved can... be as much interested in peace and measures to secure peace as they are in increased armaments.”\textsuperscript{41} The findings of the Nye Committee propped up the isolationist stance by illustrating the correlation between global involvement and warfare. The Nye Committee findings would also foreshadow the ultimate end for isolationists as it became apparent that US companies specializing in the materials of war were already globally involved and that these companies could offer incentives to legislators to promote company interests. A figure marked “International Relations in War Materials or Processes” from the Nye Report illustrated this deep involvement of the US munitions industry with Western Europe by 1936 (see fig. 3.2).\textsuperscript{42} The lines on the figure connecting the United States to Europe created a near cyclical relationship in the interchange of war goods, and with this relationship, the ability for actual war.

As illustrated by the interwar period, Congress played a decisive, though discombobulated, role in creating American foreign policy, including its stance on warfare. The 1930s ushered in a new era for isolationists, however. Vehement in their stance against warfare, the isolationists found their efforts bolstered by the Great


\textsuperscript{41} Senate Committee, \textit{Munitions Industry}, 4.

\textsuperscript{42} Senate Committee, \textit{Munitions Industry}, 289.
Depression. The Depression acted as an element of proof in the ongoing debate over the validity of the Great War that warfare was unnecessary and only led to problems.\(^4^3\) Noted historian Charles A. Beard claimed, “Violence and tyranny cannot create a spinning machine or operate one after it is built.”\(^4^4\) Beard suggested in his “‘Five Year Plan’ for America” that a well-planned economy would prevent the United States from being involved in international trade or relations with foreign countries, thus avoiding the violence and repercussion associated with war, such as depression. Even Roosevelt, a steadfast interventionist, gave some concessions to isolationists during his election, and avoided pressing the issue of adding a discretionary embargo to the Kellogg-Briand Pact. What isolationists and Roosevelt came to find, however, was that the Depression ultimately served to draw attention away from foreign affairs toward domestic policy. After the great foreign policy debates of the 1920s, congressional leadership, especially in the House, transformed from commanders to “bargainers and brokers.”\(^4^5\) Political scientists Joseph Cooper and David Brady argued, “From the late 1930s on, the leadership was forced to place even more reliance on brokerage and bargaining than had been necessary in the early 1930s or 1920s.”\(^4^6\) Bargaining also meant a greater reliance on benefits outside the walls of Congress. What Cooper and Brady did not discuss was the enhanced power this lack of leadership gave to the president. Roosevelt found it much easier to control Congress when he was able to be the sole leader. By giving up on

\(^4^3\) Guinsburg, *Pursuit of Isolationism*, 133.


\(^4^6\) Cooper and Brady, “Institutional Context,” 418.
early foreign policy notions, Roosevelt extended his honeymoon period for domestic policy and forged his New Deal and all the power included with it.  

Congress and World War II

As previously discussed, Roosevelt held a great deal of power over Congress due to his personal skills as chief executive. Even after the court-packing debacle of 1937 and the failed purge of 1938, Roosevelt enjoyed a relatively harmonious relationship with Congress. After considerable losses for New Deal Democrats in 1938 and 1942, southern conservative Democrats and Republicans in both the House and Senate gained a large enough majority to block effectively New Deal legislation. This “conservative coalition” appeared to emerge between 1937 and 1939 and operated informally, sometimes banding together against liberal legislation. A separate shift within conservatism itself during this period, from a phase of “obstructionist” conservatism based on isolationism and small government, to “resurgent” conservatism that focused on the needs of twentieth-century global society where conservative fiscal policies and trade took precedence, made it difficult to track the conservative coalition’s actual power. A study conducted by political scientist Mack C. Shelley likewise suggested that the conservative coalition was irregular at best during the 1930s. However, just as the Great Depression ushered in a period of domestic focus and moved Congress away from the isolationist versus

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47 Guinsburg, Pursuit of Isolationism, 143, 149. Roosevelt also benefitted from a Democratic majority in both houses, making it easier for him to prevail in New Deal policy. Legal scholar Robert I. Roots argued that Roosevelt manipulated his powers as Commander in Chief by declaring the Great Depression an emergency and formulating New Deal programs, laws, and administrations under his emergency powers as CINC, illustrating how the New Deal may have been more intricately linked to foreign policy prerogatives than many realized. Roger I. Roots, “Government by Permanent Emergency: The Forgotten History of the New Deal Constitution,” Suffolk University Law Review 33, no. 259 (2000): 259-260.
interventionist battle, December 1941 propelled a renewed interest in foreign policy. Political scientists Jerrold Schneider noted that one has to *assume* there was a broad underlying ideological coalition in Congress even when legislators occasionally appeared to switch sides on certain issues. Yet party unity was traditionally higher when the party was in the majority and had the presidency, all of which were the case in 1941. As Roosevelt’s perceived power over the Congress began to wane, he regained control through his role as Commander in Chief during World War II. After a carefully laid campaign of manipulative language and government propaganda, the people and their representatives in Washington were prepared to back President Roosevelt’s war aim. Additionally, since 1933 all legislative initiatives and most of the actual content had come from the executive, not Congress, illustrating Roosevelt’s executive usurpation of congressional power during this period.\(^4^8\)

Under the guise of neutrality, Congress backed the Cash and Carry policy in early November 1939, clearly going against old isolationist standards of noninvolvement. In a message to Congress on January 4, 1939, Roosevelt contended, “[w]e have learned that when we deliberately try to legislate neutrality, our neutrality laws may operate unevenly and unfairly.”\(^4^9\) Roosevelt’s argument for doing away with neutrality legislation was that it unfairly punished those countries drawn into war through personal defense and

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subsequently punished the United States economically because of its creation of trade
restrictions. Senator Henrik Shipstead (F-L) of Minnesota empathized with Roosevelt’s
latter argument. Shipstead, a member of the Farmer-Labor party, argued:

In my opinion, we stand at the parting of the ways as we did in 1917. One course
leads to active participation in Asiatic and European wars. …There is another
road open to us—our traditional policy. …We should make ourselves strong
economically, strong to defend our country. Then when the war menace of Asia
and Europe subsides, as it must, we will stand as the world’s chief hope for
freedom and justice.50

Shipstead’s traditional, and functionally isolationist, values were becoming intermingled
with a shifting understanding of warfare. Whereas Shipstead’s statement implied the
negativity of war and the clear benefit to remaining isolated as an example to the rest of
the world, he also combined the idea of a strong US economy with a strong defense, a
common theme in later Cold War analyses.

During the beginning phases of US involvement in World War II, the obvious
economic benefits to involvement in war versus the negative implications of overt
entrance into warfare tore the Legislature apart. During the beginning of 1939,
Representatives Melvin Maas (R-MN) and Louis Ludlow (D-IN) both introduced bills in
the House “to keep America out of war” and “establish the neutrality of the United
States” respectively. Maas proposed a repeal of the 1937 Neutrality Act while Ludlow
advocated the creation of an entirely new bill. Representative Charles Faddis (D-PA) and
Senator William King (D-UT) both pushed to repeal the Neutrality Act of 1937 as well.51

Despite Roosevelt’s earlier radical Quarantine Speech in the fall of 1935, in 1939 he

50 Cong. Rec., 77th Cong., 1st sess., 1941, 87: 150. For more on the Farmer-Labor party, their
roots, and connection to Republican ideology, see John A. Byczynski, “Claiming the Mines: Power and

51 Cong. Rec., 76th Cong., 1st sess., 1939, 84: 24-25, 27; Cong. Rec., 77th Cong., 1st sess., 1939, 84:
68.
groomed the public to adjust to the idea of war while continuing to pledge neutrality. In his only fireside chat of 1939, Roosevelt espoused, “When peace has been broken anywhere, the peace of all countries everywhere is in danger.” In that same speech, Roosevelt contended, “At this moment there is being prepared a proclamation of American neutrality. …And I trust that in the days to come our neutrality can be made a true neutrality.”

Roosevelt easily manipulated both sides of the neutrality argument and continued to do so until the US entrance into World War II, helping to persuade congressional isolationists as well as the public that US entrance into the war was necessary.

In the months leading up the passage of the Neutrality Act of 1939, including the Cash and Carry policy, the Legislature continued to waffle over the neutrality issue, however. Senators Arthur Vandenberg (R-MI), Millard Tydings (D-MD), Robert Taft (R-OH), Hattie Caraway (D-AR), and Representatives Joshua Johns (R-WI), John Houston (D-KS), and Andrew Schiffler (R-WV) all brought citizen petitions favoring neutrality with them to Congress, and noted the public desire for the US to remain nonaligned. While legislators had seen a clear distinction between the concepts of peace and war in 1939, they were confused over the somewhat paradoxical notion of neutrality, which had meant peace during the interwar period, but now meant involvement in the war, even if through financial means only. In order to address this dilemma, groups such as the Committee for Concerted Peace Efforts suggested altering the language of the Neutrality Act to eliminate the word “war,” instead opting for “hostilities.” Senator Elbert Thomas (D-UT) proposed the Committee’s idea as Joint Resolution 67 in February 1939.

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1939. The Legislature never voted on Thomas’ resolution, and the confusion over the committal aspect of the Neutrality Act of 1939 filtered into a largely partisan vote (see table 3.1). Formerly staunch isolationist Senators Taft and Norris voted in favor of the so-called Neutrality Act, marking an end to isolationist control over the Senate, as they were the strongest holdouts.\(^{53}\)

By the time Congress had decided upon the Lend-Lease legislation in early 1941, which in many ways ended any doubt over the US position in the war, the debate over the war began to lessen in fervor. Nearly as many Republicans in the Senate voted for H.R. 1776, the Lend-Lease Act, as voted against it. The subsequent attack on Pearl Harbor in December 1941 served to unite the country and encouraged Congressmen to work together toward the war effort.\(^{54}\) According to Representative Hamilton Fish (R-NY), a self-defined pre-war “noninterventionist,” “the Republican National Committee considers that such pre-war controversies as nonintervention versus intervention to be dead issues, and that any attempt to revive them…promotes disunity and impairs our all-out war effort.”\(^{55}\) Likewise, Senator C. Wayland Brooks (R-IL) proclaimed, “The issue


\(^{55}\) *Cong. Rec.*, 77\(^{th}\) Cong., 2d sess., 1942, 88: A1465.
of isolationism is dead—it was sunk at Pearl Harbor.” Arguments between isolationists and interventionists still arose during WWII, but they surrounded policy debates and were generally reflective of a more significant partisan split. Foremost, the two parties in Congress thoroughly agreed that the United States had to win the war, but they tended to disagree on which policies the United States should follow in order to win. A series of telegrams between Edward J. Flynn and Joseph W. Martin, Jr., chairmen of the Democratic and Republican National Committees respectively, illustrated the partisan agreement on winning the war, known as “America’s armistice on politics.” According to an article from the Washington Post:

‘There is no suggestion that the rival organizations either disband or merge,’ the Democratic committee announcement said. ‘They will preserve their identities and, presumably, will function as usual in the Congressional campaign next year. But they will be agencies for the national defense, working cooperatively for the most part, at least, in the field of civilian defense.’

This partisan agreement to work together served a number of purposes. Foremost, it allowed both parties to claim any victories in the war effort and it signaled the end for the isolationists. Isolationism would truly be dead once the United States claimed victory and a global position, backed by nuclear weapons. As a result, isolationism would soon be completely gone from Congress once the US position solidified as global in nature after the use of the atomic bomb.

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59 Young, Congressional Politics, 8.
Delegating Power to the Executive

While the political armistice initially earned Congress a windfall of public support, its position of respect with the public quickly declined. The “pensions-for-Congressmen plan,” which reached its final stages early in 1942, was an amendment to the Civil Service Retirement Act of 1930 that aimed to extend retirement benefits to members of Congress.\footnote{\textit{An Act to amend further the Civil Service Retirement Act, approved May 29, 1930, as amended, Public Law 411, 77\textsuperscript{th} Cong., 2d sess. (January 24, 1942), 13-14.}} Though it had been in the works for a number of months, the timing of the passage of the bill, just over a month after the US declaration of war, wreaked havoc on public opinion about Congress. Although Senator James Mead (D) of New York claimed, “I do not believe that the American people want to penalize those who are bearing such a heavy share of the duties and responsibilities of these stirring, yet infinitely trying times,” the plan met with criticism.\footnote{\textit{Cong. Rec., 77\textsuperscript{th} Cong., 2d sess., 1942, 88: A256.}} The LaFayette, Georgia \textit{Messenger} harped, “our congressmen and senators in Washington thought they had better feather their nests while the going was good, when they voted themselves pensions for life.”\footnote{“Press Comment In Georgia On Pensions Given: Congressional Move Called ‘Raid on Treasury,’ ‘Culpable Act,’” \textit{The Atlanta Constitution}, February 8, 1942.} Likewise, the \textit{Augusta Chronicle} claimed there was a “snowball of wrath” forming in the country. According to the \textit{Chronicle},

This snowball represents the growing indignation of a wrathful people—the rank and file of the American people who, asked to make unprecedented sacrifices, to save and be thrifty, are perfectly astonished at the spectacle of their $10,000-year congressmen voting themselves a life pension under what they slyly call a ‘retirement plan.’\footnote{“Press Comment In Georgia On Pensions Given: Congressional Move Called ‘Raid on Treasury,’ ‘Culpable Act,’’ \textit{The Atlanta Constitution}, February 8, 1942.}
The fiscally concerned *Wall Street Journal* preached the idea that “If we would consent to pay our legislators more, we would get better legislators.” The *Wall Street Journal*, in support of the pension bill, also asked, “If we are not willing to do that [pay legislators more], why should we not lift from the men from whom we expect independent action, the specter of poverty for themselves and their families?” The public was not, however, willing to pay for what they perceived as a backdoor wage increase for Congress, when the Government intended to ask them to restrict their lives for the duration of the war. On February 24, 1942, ninety percent of the House voted to repeal the amendment to the Civil-Service Retirement Act benefiting legislators.

Though quickly doing away with the retirement fiasco, Congress made another mistake by taking full advantage of the ‘X’ cards issued as part of the fuel-rationing program. X cards entitled holders to unlimited gasoline and were reserved for only those vehicle owners who used their cars substantially for official business. Controversy sparked in the summer of 1942 when the public discovered that forty-seven senators and 219 representatives held X cards and the whole of Congress was offered X cards freely. The *New York Times* noted that according to Leon Henderson, administrator of the Office of Price Administration in charge of fuel rations, “the use of a private car by a member of Congress…in order to transact business with a government agency is official

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The Washington Post noted that there was a “furor created by the issuance of X cards to some members of Congress.” In one letter to the editor of the Washington Post, the writer, “A’ Card Holder,” angrily wrote:

[H]olders of A gasoline allotment cards are not comforted by the fact that Price Administrator Henderson seems to think that gas rationing was a great success and that apparently he intends to do nothing very much about the thousands of cheats and chislers [sic] (and who doesn’t know at least a dozen) who obtained high allotment cards to which they were not in the least entitled.

This public disdain against the perceived abuse of congressional advantage sparked a number of legislators to return their X cards for B cards. Additionally, Senator Sheridan Downey (D) of California proposed a resolution that would have eliminated special privileges for Congress in regard to gasoline rationing. However, the “Downey Resolution” failed miserably with a vote of two against sixty-six on May 15, 1942.

What Congress gleaned from the pensions-for-congressmen and X card controversies was that positive public opinion was necessary in order to achieve desired policy, and that they did not gain the same leniency in wartime as the Commander in Chief. In addition, congressmen required the frequent votes of their constituents in order to have any chance at creating policies, unlike a sitting president, who only dealt with election issues every four years. During World War II, neither party could take credit for wartime victories or production achievements because the support of both parties was required to get things done; additionally, Roosevelt as Commander in Chief was a

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formidable part of foreign policy considerations. Congress kept the partisan bickering to a minimum due to the war effort and due to the lack of desire for either party to make commitments that might harm them publicly. With extremely high public support, Roosevelt only served as competition to Congress regarding foreign policy, causing Congress to move away from these types of policy prerogatives. Political scientist Donald R. Matthews added that most Americans had little faith in legislators during the post-WWII period anyway because the public believed politicians to be crooked and unethical. Instead, Congress delegated a majority of their tasks to the president. President Roosevelt then served as the uniting force among Congress.\(^71\)

Roosevelt, with his great propensity for power, did not refuse the allocation of power by Congress and made himself indispensable in the realm of foreign affairs through his use of competitive adhocracy and personal penchant for acting as his own Cabinet. As previously discussed, the president gained increased power as the Commander in Chief during times of war in the arena of foreign affairs; however, Congress’s agenda crystalized through the delegation of domestic power to Roosevelt during World War II as well. According to political scientist Roland Young, “During the war, there was an inclination to delegate power to the President in somewhat sweeping terms so that, whatever else might happen, the government would have a plentitude of legal authority for carrying on the war.”\(^72\) Senator Joseph O’Mahoney’s (D-WY) statement in the *Congressional Record* that “war is an executive function; it is not a

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\(^72\) Young, *Congressional Politics*, 219.
legislative function” supported Young’s opinion.73 O’Mahoney’s desire to delegate congressional power to the president also illustrated the United States’ increasingly significant position in world affairs, which constitutionally fell under the purview of the executive.74

As a result, Congress left many of its regular duties to the executive during World War II. For example, Roosevelt himself created several agencies through executive orders during the war. Traditionally, Congress usually acted to create agencies, though executive in function, through legislation. During the war, however, Roosevelt created the National War Labor Board, the War Production Board, the War Relocation Authority, and countless other agencies under the purview of the First War Powers Act of 1941 and his role as Commander in Chief.75 A broad base of executive power, the First War Powers Act, allowed Roosevelt to reorganize the duties and functions of executive agencies within the government, but did not specifically allow for the creation of new agencies. According to the Act:

That for the national security and defense, for the successful prosecution of the war, for the support and maintenance of the Army and Navy, for the better utilization of resources and industries, and for the more effective exercise and more efficient administration by the President of his powers as Commander in


74 Young, Congressional Politics, 234; U.S. Constitution., art 2, sec. 2, cl. 2.

Chief of the Army and Navy, the President is hereby authorized to make such redistribution of functions among executive agencies as he may deem necessary.\textsuperscript{76}

Young argued that the war powers acts of 1941 and 1942 both allowed the president to administer the war while Congress focused only on specific agencies. However, the First War Powers Act was not unique. It largely reiterated the tenets of the Departmental Reorganization Act of 1918, which gave identical power to President Woodrow Wilson during World War I. What Young ignored in his argument was the significance of the rapidity with which the president received such extended executive power. Roosevelt may have received the same powers as Wilson, but he received them less than two weeks after the attack at Pearl Harbor. Wilson, on the other hand, received his powers more than a year after the US declaration of war and only six months before the end of the war.\textsuperscript{77} Roosevelt was given, and took, full advantage of his increased powers almost immediately after the beginning of World War II. The rapidity of modern war, including the abrupt and unforeseen attack on Pearl Harbor, altered the way Congress perceived wartime administration. The slow legislative process quickly gave way to executive control, which the specter of modern atomic warfare would later solidify.

After giving up much of its legislative power, Congress also declined any involvement in military or military-political conferences, which reinforced executive wartime control. Unlike earlier congressional involvement in the Washington Naval Conference, Congress fully gave the power during World War II to Roosevelt. Although

\textsuperscript{76}First War Powers Act, 1941, Public Law 354, U.S. Statutes at Large 55 (1941), 838.

Congress occasionally received reports about the goings on of conferences such as Yalta, they received little else. Congressional interest in military information was restricted in order to halt any partisan debates that might occur as a result and to maintain the secrecy of the information. 78 “The failure to inform Congress of major decisions and significant developments in the military-political sphere of action may lead to an erosion of confidence between the President and Congress,” noted Young. 79 While Congress seemed confident in allowing Roosevelt to wield the power during World War II, Young’s insight would prove true during the post-World War II period of continuous warfare as Congress wrestled with Truman’s decisions and its depreciated congressional power. 80

Though Congress seemed to acquiesce completely to Roosevelt, only to have its power further eroded during the Truman administration, the World War II period was, in reality, a period of transition for Congress. Congress gradually changed from having a firm though divided grasp of international affairs in the 1920s to a powerless wartime body during World War II, only to have its war-making power taken from it during the 1950s. After the 1942 elections, Congress experienced some flux as Democrats faced decreased majorities (see table 3.2). Largely what this meant was that Democrats would have to rely on some Republicans to achieve desired legislative goals. 81 According to political scientist Jerrold Schneider, the first law of politics was the law of anticipated response. Just as presidents tried to maximize their success, so did legislators.

78 Young, Congressional Politics, 146-147, 232.
79 Young, Congressional Politics, 232.
80 Young, Congressional Politics, 147.
81 Young, Congressional Politics, 22-23.
“[H]owsoever much a senator or a congressman might be disposed to act in one way, he will act in quite another should the configuration of political forces confronting his contemplated actions make failure probable,” argued Schneider. Although this shift in Congress might have, in respect to vote counts, signaled public concern over Roosevelt’s policies, a 1943 study done by Drs. Hadley Cantril and John Harding of the Princeton Public Opinion Research Office concluded that the real explanation was that voters voted along party lines and more Republicans than Democrats came out to vote in 1944. Those who would typically vote Democrat were serving as soldiers overseas, or working long hours in factories and were unable to take an interest in the midterm elections. The failure of the Third War Powers Act in December of 1942 illustrated the sudden friction between Democrats and Republicans. The act, which concentrated on removing all barriers at the president’s whim to the movement of people, goods, and information, would have superseded regulations and procedures already in place through the Federal Bureau of Investigation, Customs Service, and military. Representative Roy O. Woodruff (R) of Michigan remarked in Congress, “There is no question but that the new Congress will give the executive departments and the military authorities all the power and all the money actually necessary to the efficient prosecution of the war.” Woodruff added:

There is no doubt that we are approaching the end of the era in which laws have been tossed aside and broad grants of power have been made merely because somebody persuaded the President to demand that these powers be granted. … The

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82 Schneider, Ideological Coalitions, 8.


unanimous decision of the House Ways and Means Committee to postpone action on the President’s demand for power to waive immigration and tariff laws and restrictions on the free movement of persons and information in and out of the country, will go down in history as the first great step in the restoration of action by constitutional methods and procedure.\textsuperscript{85}

Unfortunately for Woodruff and his Republican associates, their elevated power in Congress would be short lived. In the elections of 1944, the Democrats would regain some of their lost numbers due in large part to the predicted victory and postwar peace planning (see table 3.2).\textsuperscript{86}

However, perhaps the greatest congressional assent to the president’s control came with the top secret funding for the Manhattan Project. The budgetary system throughout the thirties, forties, and fifties had a great deficiency in that it was difficult, if not impossible, to trace exactly how departments spent allocated appropriations. As a result, modern-day methods of distributive politics analysis are unsuitable due to the lack of oversight on congressional appropriations. Congress usually allocated funds in lump sums toward specific types of projects or departments but left it entirely up to the individual department or agencies for spending. Additionally, legislators offered reciprocity to one another through such activities as “vote trading” or building up “vote credit” for future bargaining on a bill that was more important to their individual policy interests. These activities were too extensive and informal to track. During World War II, Congress frequently passed military appropriations with little public debate, suggesting that agreements were made behind closed doors. In this respect, members of Congress maintained their support of the war effort without argument. The Manhattan

\textsuperscript{85} Cong. Rec., 77\textsuperscript{th} Cong., 2d sess., 1942, 88: A4272.

\textsuperscript{86} Young, \textit{Congressional Politics}, 26.
Project to build the first atomic bomb was no exception to these other military appropriations and Congress funded it through regular congressional legislation. Senator Styles Bridges (R) of New Hampshire recalled that only five senators knew the details of the bomb project. Secretary Stimson told these senators in 1942, shortly after Roosevelt established the Manhattan Project, that the project would need vast amounts of funding in order to be successful. Bridges claimed Stimson informed these senators in order to manipulate the appropriations allocated toward military projects and vouch for the increased funding without revealing the true nature of the project.\(^{87}\)

The few informed legislators secretly hid the Manhattan Project’s final cost, around two billion dollars, within the more than 300 billion dollar military expenditures over the duration of the war.\(^{88}\) The project, considered at the time to be a vital necessity to winning the war, came to several standstills along the way, but congressional understanding of both the rapid nature of modern war and subservience to executive protocol assured its success. According to the Atomic Energy Council’s controller in 1949, “The weapon—not the expense—was properly the primary consideration during the war.”\(^{89}\) After Congress allocated the first two million dollars in small amounts under subsections such as “engineering” in the appropriations bills, the representatives and senators involved in the financial wing of the project worried that the military was

\(^{87}\) Matthews, *US Senators*, 100-101; Schneider, *Ideological Coalitions*, 95; Young, *Congressional Politics*, 235, 46


wasting the money. Convinced by Stimson to visit the Oak Ridge bomb facility in Tennessee, the legislators agreed, though they held reservations, to allocate more funds toward the project. When Congress discovered a discrepancy between the military funds allocated and the amount spent on traditional military projects, they contacted General George Marshall for answers. Marshall, well aware that the missing funds went toward the Manhattan Project, maintained the project’s secrecy. When faced by members of Congress, Marshall noted that the funds were going toward a “war-winning project” that the US needed to complete before Germany. Congressional leaders never questioned the discrepancy again for the duration of the war, leaving control to the executive.\textsuperscript{90} After the switch between Roosevelt and Truman, Congress would retain the same courtesy for the remainder of the war, yielding control to Truman.

Truman and the Congress

Partially due to his collegial aptitude and his knowledge of the inner workings of Congress and partially due to his loyalty to the Senate, Truman had a relatively smooth transition from vice president to president as far as Congress was concerned. With post-war peace plans already in the works, Truman continued to follow through with Roosevelt’s foreign policies until the end of 1945. As a result, Congress was supportive of the required international commitments, such as joining the United Nations, for which Roosevelt had already primed them.\textsuperscript{91} However, the dwindling Democratic-majority

\textsuperscript{90}Congress was also unaware of the amount of money spent toward Project Silverplate, in which the Army Air Force acquired and modified B-29 Superfortress bombers to carry the first atomic bombs at a total cost of seventy-six million dollars between September 1943 and September 1945. Blair, \textit{Atomic Audit}, 112-113; Young, \textit{Congressional Politics}, 45, 44, 44-45.

\textsuperscript{91}Young, \textit{Congressional Politics}, 28.
Congress was continuing on a downward spiral and Truman’s administration began to predict a Republican majority in the near future (see table 3.3). In a December 1946 memorandum from James H. Rowe, Jr. to Clark Clifford, Rowe outlined the potential problems that the Truman administration would run into with the incoming Republican Congress in 1947. “The realpolitik of the situation requires that there be some gestures toward cooperation and, where it is workable, active and intelligent cooperation,” noted Rowe.\footnote{James H. Rowe, Jr. to Clark Clifford, December 1946, box 3, file 5; CP, HSTL.} Truman, with his self-assured connection to Congress, especially to the Senate, was not concerned about a battle between the two branches. In the House, Truman’s close friend Sam Rayburn served as speaker, and offered a type of personalized leadership that meshed well with Truman’s own collegial style. Rayburn formed personal relationships with other congressmen and offered favors, both political and personal, to members of both parties as political bargaining chips.\footnote{Cooper and Brady, “Institutional Context,” 421, 420.} Rowe warned Clifford, however, that Congress still held the power of the purse and could reject the president’s legislative recommendations. “The probability of conflict, not cooperation, is the political reality with which the President must work for the next 2 years,” Rowe concluded.\footnote{Rowe. to Clifford, December 1946, box 3, file 5; CP, HSTL.} In his memorandum, Rowe emphasized that the president’s only powers when dealing with an opposition Congress were the veto power, rarely overridden even in a majority Congress, or utilizing the power of public opinion.\footnote{Rowe. to Clifford, December 1946, box 3, file 5; CP, HSTL.} “Unlike majority Presidents who are able to ‘do business’ with their own party through judicious use of patronage, the minority Presidents are forced to fall back to their chief weapon—the
marshaling of public opinion—which they do through the veto message and the press conference,” noted Rowe.  

From 1947-1949, Truman focused on his creation of the national security state and needed congressional support to back his goals.

On February 26, 1947, Truman transmitted a copy of his proposed bill for military unification entitled “National Security Act of 1947” to the newly Republican Congress. Unification of the armed services had been under consideration since the last year of the war, when the Joint Chiefs of Staff recommended a study to determine “[w]hat is the organization which will provide the most effective employment of our military resources in time of war and their most effective preparation for war, in time of peace?” Though the proposal aimed at postwar peace plans, the objective emphasized a more rigorous and unified military establishment whose utility was war. The proposed plans for unification never solidified under the Roosevelt administration but continued to flourish under the Truman administration. The Eberstadt Report, issued in the fall of 1945, opposed a single Cabinet-level secretary, which unified the military branches, instead vying for three separate Cabinet-level positions for the Army, Navy, and Air Force. Policy advisor Ferdinand Eberstadt was the first to see this need for an organizational structure that would work in the ambiguous world of continuous warfare.

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96 Rowe. to Clifford, December 1946, box 3, file 5; CP, HSTL.


After some debate and disagreement in Congress over the details of the Eberstadt Report, Truman issued a message on unification in December of 1945, in which the convoluted language of the twilight zone again surfaced.\textsuperscript{99} Truman noted:

\begin{quote}
[A]ll nations…know that desire for peace is futile unless there is also enough strength ready and willing to \textit{enforce} that desire in any emergency. Among the things that have encouraged aggression and the spread of war in the past have been the unwillingness of the United States realistically to face this fact, and her refusal to \textit{fortify her aims of peace} before the forces of aggression could gather in strength.\textsuperscript{100}
\end{quote}

Truman argued in his message for a single Department of National Defense headed by a cabinet secretary who would oversee the three coordinate branches of the military (see fig. 3.3). Further blurring the nature of this unification project, Truman couched his argument in a discussion of both war and peace. “I am certain that when the task is accomplished,” Truman contended, “we shall have a \textit{military establishment} far better adapted to carrying out its share of our national program for achieving peace and security.”\textsuperscript{101} Again, the nature of postwar peace became synonymous with an ongoing preparation for continuous warfare. Michael J. Hogan claims in \textit{A Cross of Iron} that it was this move toward a national security establishment that dissolved the “usual distinction between war and peace in the minds of American policy makers.”\textsuperscript{102}

However, the fuzzy language blurring war and peace had been occurring for years under the Truman administration and Congress. By the time of Truman’s officially proposed

\begin{itemize}
\item \textsuperscript{101} HST, “Special Message.” Emphasis added.
\item \textsuperscript{102} Hogan, \textit{Cross of Iron}, 26.
\end{itemize}
bill in 1947, the position of Congress on this proposed national war machine was still in question.

In the Senate hearings on Truman’s proposed bill, it became evident that the senators looked upon the National Security Act favorably. The Armed Services Committee Chairman, Senator John Chandler Gurney (R) of South Dakota, cited that, “we have, as the No. 1 objective, to have the armed forces as effective as possible. We are looking for effectiveness in time of need, and efficiency to show the world even in time of peace.” Gurney’s comment suggested that Congress was fully aware of the military necessity of unification, despite the clouded nature of the discussion of peace that permeated the National Security Act’s foundations. Secretary of the Navy Forrestal, under question by the Senate Committee, admitted that unification was economic in nature as well as part of a plan to administer effectively military appropriations. “[W]hatever contributes to our being able to retain all of those elements [economic, industrial, fiscal], including our financial strength, keeps us fit and competent to wage war,” Forrestal contended, again revealing the inherently warlike nature of unification. Senator Bridges (R-NH) showed concern over the nature of the proposed Secretary of National Defense position (a “super de luxe Secretary”) in place of three separate military secretaries. Bridges asked Forrestal, “are you not by this bill merely preparing a path, or making a bed of roses for such a man [a demagogic president], or perhaps preparing the ground in which such a man can flourish?” Bridges worried that a single secretary

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would be unable to stop a powerful or “superambitious” president, whereas three might be more effective.¹⁰⁶ Later on during the questioning of Secretary of War Robert Patterson, Bridges worried that this super-Secretary might also be able to control the budget for the three branches of the military so much so that he could effectively eliminate one.¹⁰⁷ Though Patterson assured Bridges that Congress had the final say on appropriations and could make sure this did not happen, Bridges remained concerned. “[I]f you come in here with a recommendation which if the Congress modified immediately the hue and cry goes up that we are interfering with the defense program of the country, the security of the country…Congress certainly would be starting under a handicap, would it not?” Bridges claimed.¹⁰⁸ The tendency for Congress to be alleviated of its appropriations power would be especially heightened during times of emergency or war, Bridges noted. When Congress would have to traverse the outcry over a non-specialized Congress versus a devoted secretary of defense, Congress would ultimately lose. Despite these concerns, the Senate Committee on Armed Services approved the bill as amended unanimously and reported it to the Senate on June 4, 1947.¹⁰⁹

The final bill, though quite similar to the original, did go through some notable changes that illustrated the confusion over peace versus war in this period of continuous

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¹⁰⁷ The concern among military leaders was not that a branch of the military would disappear altogether due to budgetary cuts, but that the Secretary of Defense would combine two branches together, losing perceived prestige and honor for the “eliminated” branch.


¹⁰⁹ Senate Committee, *National Defense Establishment*, 66; Senate Committee on Armed Services, *National Security Act of 1947*, 80th Cong., 1st sess., 1947, S. Rep. 239, 1. Mid-summer is one of the most conducive times to have a bill passed by the Senate, as noted by Donald R. Matthews. Since the Senate is in a hurry to leave Washington on either vacation or to campaign for the fall, bill passage often expedited. Matthews, 258.
warfare. Foremost, the Senate Committee decided in executive session to retitle the Secretary of National Defense the Secretary of National Security. Security is defined as being free from danger or threat and is synonymous with peace while defense is defending from or resisting attack (war). Though not mentioned in the recorded documents, the subtle language change evidenced the Senate’s attempt to change Truman’s intentions behind closed doors by moving the target of the National Security Act away from war preparation to peace maintenance. After the Senate approved this amended bill, the House investigated it further. In the House Report on the National Security Act, they integrated the original house bill, HR 2319 and the Senate’s proposed amended S. 758, coming up with HR 4214. This bill changed the term “security” back to “defense” and better clarified the military aspect of the bill. “The Term National Military Establishment is considered a more accurate title than National Security Establishment as used in S. 758,” the House Report noted.

Subsequently, the Senate’s proposed Secretary of National Security returned to being the Secretary of Defense with little explanation other than the necessity of accuracy, though evidence suggests a greater meaning to the change. In formerly classified House executive session minutes discussing the role of the Central Intelligence Agency (CIA) in the National Security Act, Admiral Thomas B. Inglis, director of naval intelligence, under oath, noted that foreign intelligence alone defined the parameters of

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110 Senate Committee, National Security Act of 1947, 8.

the CIA, while the Federal Bureau of Investigation retained the domestic front.

Combined with the idea of defense versus security, the CIA’s place in the national security apparatus illustrated that the Government did not formulate the act and the national military establishment for national security, but as agencies for war and foreign intervention.\textsuperscript{112} A Report on the System Currently Employed in the Collection, Evaluation, and Dissemination of Intelligence Affecting the War Potential of the United States stated:

\textit{Time of peace} is emphasized because it is in time of peace that nations prepare for war; it is in time of peace that true information concerning the resources, plans, activities, the political and military movements of potential enemies, is—in these modern days—most difficult to obtain and to comprehend.\textsuperscript{113}

This report emphasized the utility of a formalized CIA to help prepare for war despite the supposed period of peace the United States was then experiencing.

In 1949, the national military establishment formally became unified under the Department of Defense, further cloaking the intentions of the original National Security Act. A review of congressional committee hearings to amend the National Security Act in 1949 revealed that the Government downplayed the significance of the name change.\textsuperscript{114} Wilfred McNeil, a witness at the hearings and special assistant to the secretary of defense, asked a clarifying question on the bill at hand. “This [H.R. 5632] applies to the National Military Establishment and Senate 1843 applies to the Department of

\textsuperscript{112} House Committee on Expenditures in the Executive Departments, Executive Session, \textit{National Security Act of 1947, 80th Cong., 1st sess., 1947}, (Washington DC: U.S. Government Printing Office, 1982), 62. This was formerly classified for reasons of national security with the only known copy held by the Central Intelligence Agency.


Defense [?]” asked McNeil. Representative Dewey Short (R-MO), who had proposed the bill, responded, “Yes, which is a big difference.” However, later during the same House hearings, Short mentioned that the only difference between the House and Senate bills was the language change from the “National Military Establishment” to the “Department of Defense.” In the House committee hearings on S. 1843, Johnson outlined the reason for the change more clearly. By moving the national military establishment into the realm of an executive department, the secretary of defense would gain more power over the individual military branches, giving the president ultimate authority over the secretary at a moment’s notice. Johnson, questioned by the House Armed Services Committee, argued for organizational and efficiency benefits with the change. Skeptical, Representative Carl Vinson (D-GA), responded:

Now, Mr. Secretary, I try to be practical. I know that whether this bill is passed or not, with the Department Secretaries in full accord with your concept of unification, and with the President behind you in the event of disagreement, you are going to run the Department. …the whole subject is now largely academic.

Vinson essentially admitted that the congressional decisions on the National Security Act of 1949 were moot—with the support of the president, the executive departments would do as they pleased. Hogan argued that Truman’s power diminished during the creation of the national security state because the Army and Navy forced him to beg for their support, but a Washington Post article from February of 1947 revealed that Truman

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115 House Committee on Armed Services, Full Committee Hearings on H.R. 5632, To Reorganize Fiscal Management in the National Military Establishment, To Promote Economy and Efficiency, and For Other Purposes, 81st Cong., 1st sess., 1949, 2675.

116 House Committee, Hearings on H.R. 5332, 2675; House Committee on Armed Services, Full Committee Hearings on S. 1843, To Convert the National Military Establishment into an Executive Department of the Government, to Be Known as the Department of Defense, to Provide the Secretary of Defense with Appropriate Responsibility and Authority, and with Civilian and Military Assistants Adequate to Fulfill his Enlarged Responsibility, 81st Cong., 1st sess., 1949, 2683-2684.

117 House Committee, Hearings on S. 1843, 2685.
actually used his power as Commander in Chief to command the military to follow suit when it came to national security. 118 The 1949 comment by Vinson during the hearings on amendments to the National Security Act reaffirmed Truman’s ultimate power concerning national security and over the military. Though Congress eventually approved the National Security Act for the president’s signature, the shifting language and resort to military commands illustrated the fuzzy nature of continuous warfare and congressional willingness to accede to the president’s interests.

The Benefits of Undeclared War

Once the national security state was entrenched in American government, Congress had almost totally complied with the president’s ultimate control over all things related to the preparation and maintenance of war. However, the one constitutional power that Congress still laid claim to was the traditional right to “declare war.” Congress had always declared war—traditional extended armed conflict, including World War II—after a request from the president. Due to the elaborate interplay of politics and public sentiment, President Roosevelt understood that the United States had to become involved in World War II, but he also understood that presidential entrance into a war without properly preparing the country could be a significant public relations problem. With this in mind, Roosevelt opted to manipulate the public mindset about war through

118 Hogan, Cross of Iron, 47; John G. Norris, “Army, Navy Issued Order to Back Bill,” Washington Post, February 27, 1947. Hogan’s main source in this section was the diary of James Forrestal, then Secretary of the Navy. According to Forrestal’s entry for May 13, 1946, which Hogan references, Truman met with the various military leaders and asked “the Army and Navy to get together to identify their points of agreement and disagreement with regard to legislation looking to coordination of the two Departments.” Despite Hogan’s argument that Truman had to beg for support, Forrestal’s actual account reveals no such premise. James Forrestal, The Forrestal Diaries, ed. Walter Millis (New York: The Viking Press, 1951), 160-162.
his fireside chats while gradually involving the US more and more with the Allied Forces. The attack at Pearl Harbor then provided a theoretical “back door” to the war, which Roosevelt opted to take advantage of, and Congress followed suit. Congress voted almost unanimously, with the exception of pacifist Representative Jeannette Rankin (R-MT), to declare war.119 The American people likewise followed Roosevelt into war bolstered by his educational fireside chats and enraged by the Japanese attack. The formal US entrance into World War II was the most common American method for joining a traditional extended armed conflict.

Truman did not choose this traditional method when he decided to engage US troops in the conflict in Korea, however. Instead, Truman opted for “imperfect” or undeclared war. In January of 1950, just six months before Truman would send US troops to Korea, Congress weighed the necessity of defending the Far East from communist aggression. Although mainland China had become a communist country in 1949, leaving Taiwan or Formosa behind as a republic, members of Congress felt disinclined to take action in this region of the world. Overall, since 1933 national defense and foreign policy had shown the largest decline in congressional interest.120 Senator Bourke Hickenlooper (R-IA) noted, “I believe the Formosan people and the Chinese can take care of their own affairs without the necessity of our sending armed

119 “House Vote #77 (December 8, 1941,) GovTrack.us, accessed November 17, 2011, http://www.govtrack.us/congress/vote.xpd?vote=h1941-77. Revisionist historians turned to a “back door theory” when it came to World War II, noting that FDR manipulated events in the Pacific to allow an attack to occur, giving him an open route to commit the US to the war. This theory contradicted earlier traditional concepts of an American defensive fight. For more on Pearl Harbor as a back door to World War II, see Charles Callan Tansill, Back Door to War: The Roosevelt Foreign Policy, 1933-1941 (Chicago: H. Regnery Co., 1952). See also “Chapter One,” note 114.

forces there to work out their problems for them.” Likewise, Korea was going through a similar internal struggle against communism, but direct action seemed inappropriate. In *The Origins of the Korean War: The Roaring of the Cataract 1947-1950*, historian Bruce Cummings argued that at its heart, the Korean conflict was primarily a civil war, not an international conflict. During an executive session of the Senate Committee on Foreign Relations, Ambassador at Large Philip C. Jessup, who had just returned from a trip to the Far East, reinforced Cummings’ analysis. Jessup stated, “On the question of local Communist strength…In Korea they [the South Koreans], I think, are making good progress in handling the Communists.” Jessup emphasized, “Our military advisory group thinks that the Korean Army in the South has made excellent progress and is doing a very good job against the Communists.”

Nonetheless, slated appropriations for Korea were increased after 1949, rising from six million dollars in actual aid in 1949 to an estimated 111 million dollars in 1951, suggesting greater US involvement. Truman noted that the 1949 amount only provided enough money for relief programs whereas he sought a full recovery program for Korea. What Truman received, however, was an invitation for war when communist North Korea, with Chinese aid and Soviet equipment, openly attacked South Korea on

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June 25, 1950. In the *Washington Star*, reporter David Lawrence suggested that the eruption of war in Korea should have been no surprise to the leaders of the American government who wrote off the significance of the region. “The whole world acts surprised—as if the doom of Korea wasn’t foreseen for a long time as a part of the Washington administration’s policy of concentrating on the cold war in Europe,” Lawrence remarked.\(^\text{126}\) Chairman of the Senate Foreign Relations Committee, Senator Tom Connally (D-TX), was also quoted in Lawrence’s article. According to Connally, Korea was simply not an essential area in the US defense strategy.\(^\text{127}\)

The Korean War created a unique situation for both the president and Congress. The president as Commander in Chief could thoroughly commit US troops to a proxy war through the new United Nations organization, which circumvented the need for a congressional declaration of war. Meanwhile, Congress’s war power was quickly antiquated due to the usefulness of the UN in this area, further reducing congressional power in favor of the executive. According to the Charter of the United Nations:

> All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces…necessary for the purpose of maintaining international peace and security. …

> [This agreement] shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states *in accordance with their respective constitutional processes*.\(^\text{128}\)

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\(^{127}\) Lawrence, “Universal Surprise.”

As an organization created under the pretense of eliminating war, the UN only required troop committal from its members in the event of a problem. Despite the Charter’s deference to individual member nations’ constitutional procedures, the failure to mention formal warfare couched UN actions in a familiar US constitutional juxtaposition. While Congress may have controlled the power to declare war, the president controlled the troops. As a result, under UN sanctioned actions, the president no longer needed any compliance by Congress. Subsequently, on July 7, 1950, the United Nations Security Council passed Resolution No. 84, which designated all member nation forces in Korea to fall under a unified command led by the United States. Although fifteen other UN member nations provided almost 40,000 troops for the Korean War, the United States and South Korea provided the bulk of fighting forces, nearly 900,000 soldiers. As illustrated by troop numbers, a Korean civil war and an American war against the communists united in the Korean conflict.\textsuperscript{129} No matter the eventuality of the Korean War, Truman chose to involve the United Nations, giving credence to the young organization, while also disguising an American war and bypassing congressional involvement.

Although Congress initially believed it held the right to declare war in Korea, legislators hesitated due to questions over the necessity of US involvement in Korea and due to a lack of presidential directive. Shortly after the North Korean invasion of South

Korea, Senator George Malone (R-NV) commented, “I certainly object to backing up the United Nations without determining whether or not our ultimate safety is involved since only about half the area of the world is interested in keeping the peace.” Malone also noted that it was Congress’s responsibility to declare war, but that the president was making inroads on that task. Malone remarked:

Congress cannot determine policy, Congress can only debate the foreign policy determined by the executive department. …the Congress can declare war or can refuse to declare war. Of course it may be, as was true in the last two wars, that very little will be left to be done toward declaring war by the Congress when the matter is finally submitted to Congress. The Executive may have moved so far ahead that the question of actually declaring war becomes academic because we would actually be in war when the issue reaches the Senate floor.

Senator Robert Taft (R-OH) agreed with Malone and noted that Truman “has brought about a de facto war with the Government of northern Korea.” In addition, Taft wanted the Senate to debate the United Nations action in Korea and the parameters of US troop involvement too, so as not to completely disregard congressional power. “If the incident is permitted to go by without protest, at least from this body,” Taft argued, “we would have finally terminated for all time the right of Congress to declare war.”

Senator Hubert Humphrey (D-MN) argued that Taft and many other senators, as well as newspapers, had derided Truman for acting illegally: “To condemn the President’s actions is to play into the hands of the enemy and to lend credence to the enemies’ false charges.” Likewise, Senator Paul Douglas (D) of Illinois thought the speed of the

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Korean attack necessitated a quick presidential response to circumvent the potentially slow congressional process and noted several times in the past when presidential directives controlled armed forces. In this first war since the use of atomic bombs, there was also a fear of nuclear annihilation that depended upon quick executive action for deterrence.\textsuperscript{135}

The process of committing US troops under the UN Charter caused much confusion over the right to declare war in Congress and the press. An article in the \textit{Christian Science Monitor} illustrated the issue. “If the President’s action was not a declaration of war—something only Congress can make—it was not illegal under the Constitution,” the article noted.\textsuperscript{136} However, the real concern was why Truman would openly go against protocol and how the Congress would react toward the war in Korea. The \textit{Chicago Daily Tribune} suggested that Truman had ulterior political motives for taking action in Korea in the way he did. According to the \textit{Tribune}:

Mr. Truman’s political fortunes are in a bad way. He can use a war, just as his predecessor needed one in the midst of the Roosevelt depression of the late ‘30s. Mr. Roosevelt...finally had to squeeze the Japanese into their attack on Pearl Harbor. Mr. Truman’s problem is simpler. He can expect American airmen to be lost over Korea and he can count upon American indignation to do the rest.\textsuperscript{137}

Truman’s job approval rating had been steadily plummeting since 1949, but the war in Korea would do nothing to help Truman’s political fortunes. Instead, Truman’s approval plunged even lower throughout the Korean War until it bottomed out in February 1952 at just twenty-two percent, still the lowest ever recorded of any American president. The


president takes a risk whenever he asks Congress for approval of something. While congressional approval could mean the backing of the whole country increasing the president’s political power, congressional disapproval suggested a weak president. With already low approval ratings, Truman may have circumvented Congress strategically to avoid further loss of power. In his memoirs while discussing the Korean War, Truman noted, “[t]he official position of the United States…is defined by decisions and declarations of the President. There can be only one voice in stating the position of this country in the field of foreign relations.” Members of Congress had given up interest in foreign policy due to the rapid and global nature of modern war and easy delegation of power to the executive during WWII. By acting alone on Korea, Truman reiterated the position of a singular power, the president, in foreign relations. By quickly giving up the declaration fight and opting to focus on other benefits, Congress reinforced the president’s power for the rest of the twentieth century and the foreseeable future.

Votes and Appropriations for the Korean War

It was evident from the reaction to the undeclared war in Korea that Truman did not seek to gain political glory, but instead solidify the United Nations and expand the power of the American presidency through a blatant disregard for the congressional war.

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139 Truman, Years of Trial and Hope, 355. Emphasis added.
power. A later discussion over appropriations for the Department of Defense reaffirmed the fact that Korea or the Far East in general was not a major concern for the United States militarily. In remarks later confirmed by Secretary of Defense Louis Johnson, Representative Robert Sikes (D-FL) noted, “We were not committed to a policy of meeting aggression by force in the Far East and were not prepared to do so. As a matter of fact, the administration policy was directly the opposite.” Republicans in Congress, bolstered by McCarthyism, complained that the Truman administration was weak on communism and that the Far East should have been a major area of concern, prior to the outbreak of hostilities in Korea. As early as June 26, 1950, Representative Arthur Miller (R-NE) claimed, “As we look over events of what has happened in Korea, we can only come to one conclusion. It has been the policy of the State Department through Mssrs. Acheson, Hiss, Latimer, Jessup, Service, and others, that has caused the softness toward communism in the Far East.” When the Truman administration took action in Korea, it both confirmed these earlier Republican complaints but also left Republicans with no room to criticize the executive as Truman was now doing exactly what they had wanted.

However, Congress, even without its war powers, still had a valuable check on the executive’s actions, the power to control appropriations. Since the congressional reaction to the Korean War was initially negative, it made sense that Congress would rein in the president through stunted or nonexistent appropriations toward the war, but the circumstances of the Korean War put the Republican party, especially, in an odd position. Republicans could no longer complain about the administration’s lack of action in the Far


East and instead had to support the war.\textsuperscript{142} Although Republicans would eventually see a political benefit to backing the war effort, it appeared that Congress fully acquiesced to the president’s requests, further decimating any congressional power over foreign affairs.

Beginning on July 25, 1950, the House Subcommittee on Department of Defense Appropriations began hearings on additional funding primarily for the execution of the Korean War. The Department of Defense initially sought approximately ten and a half billion dollars in supplemental appropriations for fiscal year 1951.\textsuperscript{143} According to Johnson, in his statement to the subcommittee, “I want to emphasize that this is not a call for full mobilization. It is a call to increase our strength in being, in order to enable us to support the United Nations’ action in Korea and to build up our strength elsewhere to meet the threat to world peace.”\textsuperscript{144} Despite Johnson’s downplay of the significance of the level of action in Korea, Representative George Mahon (D-TX) initially illustrated some concern over both the funding and significance of the Korean War. Mahon questioned Johnson, “[I]s this enough money to meet the emergency which faces our Nation; and, second, is this the beginning of world war III?”\textsuperscript{145} Johnson’s response regarding the amount of funding reiterated the fiscal responsibility of the Department of Defense and that the request came directly from President Truman under advice from the Joint Chiefs

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\footnote{142}{Jack Steele, “Korea Dims 2 Political Issues,” \textit{The Washington Post}, July 2, 1950; Casey, \textit{Selling the Korean War}, 10.}
\footnote{143}{House Subcommittee, \textit{Supplemental Appropriation}, 1.}
\footnote{144}{House Subcommittee, \textit{Supplemental Appropriation}, 7.}
\footnote{145}{House Subcommittee, \textit{Supplemental Appropriation}, 9.}
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of Staff. The subcommittee discussed, off the record, the possibility of the Korean War becoming a part of a Third World War.\textsuperscript{146}

Truman himself contended that the US was not at war. In a June 29, 1950 press conference, Truman, prompted by a reporter to respond to the question of “are we or are we not at war?” responded, “We are not at war.” Truman later described the circumstances in Korea as a “police action” under the UN.\textsuperscript{147} Nationalist Republicans like Taft initially blamed Truman for “inviting” the communist attack in Korea due the lax US Far East policy, but because of the purposely ambiguous nature of the Korean conflict at its outbreak, most did not want to openly go against the president with no clear idea of what might develop in Korea.\textsuperscript{148} The \textit{Congressional Record} showed a continuing concern over US participation in the Korean War. On July 27, 1950, Representative Robert Rich (R-PA) asked, “Why sacrifice American men to save the world—and do it alone? Why should we let the President or the State Department commit us to sacrifices unlimited[?]”\textsuperscript{149} In Rich’s comments, he blamed Truman for getting the US involved in a war without the say of their representatives. Again, negativity toward the US action in Korea and hostility over the usurpation of congressional war power suggested a need for an empowered Congress to utilize its appropriations powers against Truman’s prerogatives, but the fuzzy nature of the Korean War halted any action by Congress in this regard.

\textsuperscript{146} House Subcommittee, \textit{Supplemental Appropriation}, 9-10.

\textsuperscript{147} Truman, “The President’s News Conference,” June 29, 1950, APP.

\textsuperscript{148} Casey, \textit{Selling the Korean War}, 35-39.

\textsuperscript{149} \textit{Cong. Rec.}, 81\textsuperscript{st} Cong., 2d sess., 1950, 96: 11222
Congress did not opt to restrict the president though they had the ability to do so; instead they acquiesced to his funding requests, further supporting a strong presidency and weakening legislature. Congress passed the first supplemental appropriations bill in September of 1950, allocating some 11.7 billion dollars toward the Department of Defense and a specific four billion dollars toward military assistance in Korea. By the end of fiscal year 1951, Congress appropriated 32.8 billion dollars in supplemental appropriations to the Department of Defense concerning the Korean War. In 1952 and 1953, Congress combined appropriations for the Korean War into regular Department of Defense appropriations allocations. In 1952, the Department of Defense received 56.2 billion dollars in congressional appropriations, followed by 43.3 billion dollars in 1953. Cummings contended that the Truman administration purposely participated in the Korean War in order to increase military spending to the levels called for in the National Security Council’s (NSC) memorandum 68. NSC 68 put forward a plan for a protracted Cold War of gradual coercion that pitted slave (communist) against free (democrat) and requested a severe increase in peacetime defense spending. Cummings’ analysis is unlikely, however, when one considers the ordinarily fiscally responsible Truman. Instead, Truman sought to oversee a limited war under the parameters of the UN, solidifying its international reputation while subsequently gaining executive benefits at home. The steadily increasing military appropriation bills also included ongoing support by the Republican members of Congress.\textsuperscript{150} For an unpopular war that had little

congressional or public support, the congressional appropriations toward it suggested some other benefit for legislators to financially supporting the war as well.

**Wartime Industry and Congressional Districts**

The benefits legislators received in return for their acquiescence regarding the Korean War most likely dealt with manipulation and deal making in an effort to reach their personal and policy goals outside the then defunct congressional debate surrounding foreign affairs. Political theorists such as David Mayhew have argued that legislators have a single significant goal, reelection.  

Mayhew claimed, “[reelection] has to be the proximate goal of everyone, the goal that must be achieved over and over if other ends are to be entertained.” Due to the inherently changing nature of the US legislature, legislators must be focused on this reelection goal constantly and devote resources to advertising, credit claiming, and position taking, which would best ensure reelection. Political scientist Richard Fenno added to Mayhew’s theory by elaborating on the goal-directed theory of Congress. Fenno noted that legislators have multiple goals, including reelection, but also power and the creation of good public policy.  

Multiple goals often conflict in the real life application of legislative action, so legislators manipulate their positions and goals to achieve the best possible outcome individually.

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152 Mayhew, *Congress*, 16.

Legislators achieve their desired ends most notably through distributive policy. Distributive policy or politics allowed benefits for specific populations such as congressional districts or states while spreading the cost of such benefits across the general population through taxation. These benefits could be bargained for by individual legislators, and their addition to or removal from a particular bill in no way impacted the overall effect of the bill or the outcome for other individuals. The popular media referred to the manipulation of these benefits as “pork barrel politics.” By filtering various projects to their home districts and states, legislators often ensured their reelection while gaining some leeway to do as they wished on more salient issues within Congress, which might help them achieve other goals, such as power.\textsuperscript{154} The doling out and distribution of “pork” likewise allowed other legislators to achieve their potential “good policy” goals by creating coalitions within Congress. According to political scientist Diana Evans in *Greasing the Wheels: Using Pork Barrel Projects to Build Majority Coalitions in Congress*, “large national policy edifices are constructed, in part, with bricks of pork.”\textsuperscript{155}

Although the relationship between Congress and the president often obscured congressional policies, especially concerning foreign policy, the distribution of these benefits explained the willingness of Congress to do away with certain ingrained congressional obligations, such as declaring war. Regarding these benefits, Schneider contended:

> Contextually rich and intensive analyses of particular events, including case studies of battles over particular policies, leadership fights, and analyses of


\textsuperscript{155} Evans, *Greasing the Wheels*, 243.
changes in congressional structures and processes, often reveal far more about operative intentions and behavior of Members.\textsuperscript{156}

However, finding actual “pork” or distributive benefits during the 1930s-1950s is nearly impossible due to the vagaries of appropriations distribution during this period.\textsuperscript{157}

Despite this roadblock, through careful analysis of events, there are still some suggestions of congressional benefits available in the historical record.

An undeclared war, such as the Korean War, gave a unique bargaining position to members of Congress. Whereas traditional declarations of war yielded support to the president fully, often generating criticism of those legislators who spoke out against the government’s actions later, undeclared war gave legislators more flexibility and provided a fuzzy area in which they could maneuver politically. Political scientist Ronald J. Caridi emphasized a clear shift in support from the Republican side of Congress around August of 1950. Caridi claimed, “The [Republican] [P]arty’s Senate representation did not praise Truman nearly as often as it had in the first days of the war, and more importantly, some members began to express doubts about the meaning of intervention for America.”\textsuperscript{158}

Caridi argued in \textit{The Korean War and American Politics} that, prior to the Korean War, two factions polarized the Republican party in Congress and the party leadership sought to use the frustrations during the war to bolster Republican politics.\textsuperscript{159} However, Caridi focused on the obvious verbal shift from support to nonsupport of the war instead of concentrating on the underlying benefits these legislators received. Caridi’s analysis

\textsuperscript{156} Schneider, \textit{Ideological Coalitions}, 92.


\textsuperscript{158} Caridi, \textit{Korean War}, 53.

\textsuperscript{159} Caridi, \textit{Korean War}, 15.
illustrated that by only lending de facto support to the Korean War through appropriations, legislators could gain benefits for their states and districts while still maintaining an anti-war stance if politically popular at election time.

The Korean War immediately created defects in the traditional system of wartime mobilization because it altered the standards for peacetime while not fully mobilizing the country as would a traditional war. The Korean War, though it included traditional fighting, was another example of the politically malleable liminal zone between traditional peace and traditional war. The House Subcommittee on Military Public Works illuminated this paradox in 1952 in what it referenced as the “peculiar needs of the Korean crisis.” The subcommittee concluded that military construction had run into economic problems because these construction projects had initially sought to maintain the permanent peacetime needs of the military establishment and prepare for the temporary needs of full military mobilization for war.160 “The requirements of the Korean crisis fit neither slot. This emergency was not followed by a total mobilization but did demand a great and immediate increase in standing forces,” noted the subcommittee.161 Furthermore, under the limitless parameters of the communist threat, there was no limited timeframe for which to plan. As a result, the Air Force scrapped projects like new fuel storage tanks at the Tinker Air Force Base in Oklahoma after half-finishing them. The military awarded contracts for construction of warehouses and storage buildings at the Benicia Arsenal in California to negotiated bid contractors instead of competitive bidders, restricting the contractors involved and hobbling the


necessary time needed to figure proper proposals. Congressmen such as Leroy Johnson (R-CA), a member of the House Armed Services Committee from the district housing the Benicia Arsenal, benefited from this haphazard building by being able to emphasize the employment of some 6,700 civilian workers during the Korean War, more than at any previous time at the arsenal.162 Johnson also drew attention to the Democrats in regard to war-related problems. The overall mobilization issue was one target of Johnson’s claims. “I do think that the ineptness in our statesmanship and diplomacy should be called to the attention of the American voters at the appropriate time, when I hope they will take steps to make a change,” Johnson argued in 1951.163 Just as Johnson both took advantage of the war situation and criticized it, most Republicans saw Truman’s ambiguous limited war as a political advantage, spinning events for their own use. Historian Steven Casey argued, “the president’s decision to adopt a low-key public posture had created problems. As well as encouraging journalists to speculate, it had given Republicans the opportunity to put their own spin on why America was suddenly at war.”164

In accordance with the war contracts in Johnson’s district, the government allocated the majority of defense contracts to large companies, which could directly influence congressional elections and employ large numbers of people within individual legislative districts and states. According to Marquis Childs of the Washington Post,


164 Casey, Selling the Korean War, 25, 40.
legislators took full advantage of the upswing in government funding toward defense. “[S]eldom has there been such jostling, such pulling and hauling, among the big boys seeking privileged access to the billions of dollars being spent by Government,” Childs wrote.  

Overall, defense contracts meant more jobs and profits, both positive political elements for elected legislators. During the first year of the Korean War, the top fifty defense contract companies included General Motors Corporation, Ford Motor Company, and Chrysler Corporation, of Michigan. Henry Ford II, president of Ford Motor Company, remarked on one individual Ford contract to manufacture jet engines, “When full production is reached approximately 5,000 workers will be needed to manufacture parts and assemble the J-40.” Though Michigan unemployment was high at the start of the Korean War, as domestic post-war manufacturing slowed, wartime manufacturing should have created a boom in Michigan’s economy as more workers moved to the state and as more people became employed by wartime plants, such as Ford’s J-40 production facilities. However, the partial mobilization inherent in the Korean crisis and continuous warfare overall, served only to bog down domestic manufacturing while not allowing wartime manufacturing to flourish either. “Michigan is one of the few states…whose unemployment is severe at this time due to conversion to partial defense,” noted Max M. Horton, assistant executive director, Michigan Employment Security

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Likewise, Detroit Mayor Albert E. Cobo warned Truman that unemployment would continue to worsen without more civilian production. However, Michigan manufacturers received around five billion dollars in defense contracts, the result of lobbying by Michigan agencies. At the same time, Representative Thomas J. Lane (D) of Massachusetts lambasted the Defense Department for giving contracts to foreign companies. According to the Washington Post Lane claimed, “[T]he Defense Department is planning to give war contracts to foreign countries while some American workers are unemployed.” While it appeared that defense contracts meant continued unemployment in Michigan while offering potential employment opportunities in other places, like Massachusetts, what the conflict illustrated was the ability of legislators to benefit multifold from the war in Korea without endorsing the war itself. Overall, defense contracts meant jobs for people and profits for companies, both themes that legislators could spin positively while seeking reelection.

In Ohio’s 1950 Senate race, the outspoken Robert Taft (R) campaigned for reelection against Joseph T. Ferguson (D), illustrating how either side could spin economic benefits and the war in Korea to their advantage. Taft’s campaign focused heavily on anti-communist propaganda and pegged Democrats as soft on communism, manipulating the Korean crisis to appear as an affirmation of Republican ideology. According to the New York Times, Taft charged, “confusion in the Truman

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168 House Committee on Education and Labor, Unemployment in Michigan, 3.


administration, to the very extent that Russia was virtually invited into Korea, brought on
needless hostilities in which American lives are being sacrificed.” Taft paired his
rhetoric with a flyer, “The Veteran and the Welfare State,” that emphasized the
diplomatic blunders of the Democrats and illustrated lingering questions regarding the
Cold War and the possibility of World War III (see fig. 3.4). In an effort to combat
Taft’s arguments, Ferguson turned to more hard and fast economic issues. In one
cartoon, the Ferguson campaign illustrated the backwardness of Republican support for a
Democrat-initiated war, exposing the underlying benefits for senators like Taft (see fig.
3.5). The cartoon clearly showed a businessman making hefty profits off the production
of war materials with Taft clinging to the profits. Aptly captioned, “Doughboys!” the
cartoon pegged war profiteering to military supply companies in an attempt to expose
Republican manipulation of the fuzziness surrounding Korea. Although Taft retained
his Senate seat in 1950, the campaign against Ferguson illustrated the malleability of the
Korean crisis.

Michigan’s senatorial race in 1954 between incumbent Homer Ferguson (R) and
Patrick V. McNamara (D) revealed similar examples of how benefits might work.
Ferguson claimed in the Holland, Michigan Evening Sentinel that the Republicans in
Congress “gave our people peace, prosperity without war, and great hope for the

171 Walter W. Ruch, “Taft Tries Out in Ohio the G.O.P. Line on Korea,” New York Times,
September 3, 1950.

172 Flyer issued by Robert Taft in 1950, box 1, file 57, Robert Taft Papers, US-95-05, Archives
and Rare Books Library, University of Cincinnati, Cincinnati, Ohio; Pro-Joseph Ferguson cartoon, box 1,
file 22, Robert Taft Papers, US-95-05, Archives and Rare Books Library, University of Cincinnati,
Cincinnati, Ohio.
future.” Ferguson’s campaign focused on support from the large industrial companies such as Ford, General Motors, and Chrysler, that had received government contracts during the Korean War, while McNamara’s campaign relied simply upon the sway of the liberal-labor coalition in Michigan. Ferguson gained the backing of the Michigan Federation of Teamsters with the help of Jimmy Hoffa, but Walter Reuther, president of the United Automobile Workers (UAW), referred to Ferguson as an “extremely reactionary spokesman for big business and the auto industry.” The UAW placed their loyalty with McNamara, though with a decided lack of enthusiasm. The fluctuations in Michigan’s economy during the Korean War crisis between war contracts and civil goods employment ultimately resulted in a Democratic-run state government and a McNamara win on its coattails with a voter difference of less than 40,000. Although Ferguson’s campaign was unsuccessful, he pushed the Republican noninvolvement in the Korean War while gaining war contracts for Michigan and campaign contributions from the companies like the Big Three automotive giants. President Dwight D. Eisenhower benefited from Ferguson’s motives most as he won the state of Michigan in 1952.

Overall, Republican legislators profited the most from the lack of a formal declaration of war. Whereas they could still gain benefits for their districts and states through appropriations and defense contracts, they also avoided responsibility for any

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war-related problems. Unlike World War II, where the two parties both agreed to support the war, and were therefore both responsible at some level for the problems associated with the war, the Korean War eliminated this responsibility, especially for the Republicans. Democrats, though they could claim nonsupport for the war as well, were inherently connected through their party affiliation. As a result, Republicans could play up war-related problems while reaping the economic and financial rewards. Truman himself complained that the Republicans were just “seeking headlines.” By mid-September 1950, Republicans were still willing to support important bills regarding the war inside the walls of Congress.\textsuperscript{176} However, the Korean War quickly became the topic of debate in the 1950 midterm elections. Casey noted that after July 1950, when Truman shifted away from his more frugal economic policies to increased defense spending, Republicans saw an opportunity to spin the Korean War to their advantage, despite their inherent support of the action overall. Republicans took the stance that Truman’s efforts in Korea were a direct reversal of American foreign policy, putting Democrats on the defensive, and that Democrats were finally ending their appeasement of communism.\textsuperscript{177} Republican National Committee Chairman Guy Gabrielson noted just before the election, “The people appear determined to register their protest against the politics of appeasement toward Communists in Asia and the domestic program leading toward socialism.”\textsuperscript{178} According to historian Paul G. Pierpaoli, Jr., Republicans wanted to “have

\textsuperscript{176} Casey, \textit{Selling the Korean War}, 77; Caridi, \textit{Korean War}, 65.

\textsuperscript{177} Casey, \textit{Selling the Korean War}, 69, 38-39.

their cake and eat it too” by opposing price controls and tax increases while approving defense expenditures that often benefited their home territory.\textsuperscript{179}

Furthermore, members of Congress exhibited caution when dealing with foreign policy or military business for several reasons, which allowed them to avoid responsibility. Foremost among these reasons was the special role of the president as the sole leader of foreign relations, which relegated Congress to take a passive role in foreign policy in general. Politicians in Congress simply did not possess enough military intelligence to analyze what was happening in Korea. Republicans specifically avoided sitting on key congressional committees because by their absence they could feign lack of consultation and maintain their criticism of the administration policies in general. Additionally, the necessary secrecy and complicated technology involved in warfare, such as the atomic bomb, made foreign policy difficult for Congressmen to comprehend fully. Finally, the national appeal of foreign policy issues went beyond the mainly local or partisan interests of legislators.\textsuperscript{180}

Conclusion

By the 1950s, Congress barely held on to the power to declare war. As the US government would note in its brief for the \textit{Youngstown} steel seizure case (that illustrated the Supreme Court’s equal unwillingness to go against the commander in chief in 1952), there was an historical precedent for presidential control of war. Presidents going back as far as John Adams and Thomas Jefferson had ordered the military into combat without

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\textsuperscript{179} Paul G. Pierpaoli, Jr., \textit{Truman and Korea: The Political Culture of the Early Cold War} (Columbia: University of Missouri Press, 1999), 134-135.
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\textsuperscript{180} See \textit{United States v. Curtiss-Wright Export Corp.}, 299 U.S. 304 (1936); Carroll, “Congress and National Security,” 154; Casey, \textit{Selling the Korean War}, 193, 75.
\end{flushright}
congressional approval, but Truman was the first to involve the American military in a full-scale war without a formal declaration of war from Congress. 181 Though Congress had constitutional grounds upon which to abbreviate Truman’s war in Korea, including the power of the purse or through impeachment proceedings, the legislators acquiesced to the president. In the beginning phase of continuous warfare, this submission set a dangerous precedent and served to weaken permanently the congressional right to declare war while simultaneously increasing executive power. Due to congressional insecurity with new methods of war, such as the secretive and complex atomic bomb with its potential for rapid annihilation, and the overall change in the nature of warfare from the cautious isolationism of the First World War to the global post-WWII era, members of Congress were willing to give up this somewhat antiquated and formal right to declare war in favor of more political maneuverability. Likewise, future presidents were unwilling to ask for congressional permission. The benefits that Congress received from undeclared war in the form of war contracts, campaign contributions, votes, and plausible deniability, served to seal this precedent and permanently removed a politically charged topic from future congressional discussion. In an era in which warfare became permanent, embedded into the national security structure, and run by the president, the congressional right to declare war and subsequently restrict warfare served as the only reasonable check on executive power, outside of legal action. Truman’s lack of a clear definition regarding the actions in Korea, another lesson in the ambiguous nature of continuous warfare, compelled Republicans to manipulate the circumstances for their own benefit, either directly through economic benefits to their home regions, or indirectly

through political grandstanding, giving political credence to the fuzzy nature of continuous warfare from the perspective of legislators. Pierpaoli argued, “[The United States] blurred the distinction between war and peace and oftentimes used war, sometimes hot and sometimes cold, as a way to preserve peace.” When Congress dissolved their right to declare war by acquiescing to the president, they stabilized the structure of the imperial presidency and served as the floor on which Truman built the walls of his house of peace.

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CHAPTER IV

FRAMING THE WALLS: WAR AND JUSTICE ON THE SUPREME COURT

With congressional power against the executive vacillating during continuous warfare, only the third branch remained able to restrict wartime usurpation of power by the president. The Framers intended the Supreme Court to serve as an independent and non-partisan check on both executive authority and the constitutionality of statutory law. According to constitutional scholar Akhil Reed Amar, “Laws would first be enacted by the legislature and then implemented by the executive. Only at that point might the judiciary appear.”

Alexander Hamilton noted that the judiciary was the weakest branch of federal government, with no real authority to back up its decisions. However, as the president and Congress began to battle for power during the nineteenth and twentieth centuries, the court gleaned more power and respect as a final arbiter. The addition of discretionary jurisdiction for the court in the early twentieth century likewise yielded more power to the court as it hand-selected its cases and molded its own agenda. As a result, the court gradually came to depend upon its own institutional legitimacy for its power and gained immense respect from the public over time.

Despite the court’s designated role as a purely legal institution devoid of politics, political scientists have revealed a more complex socio-political nature to the modern

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2 Federalist No. 78. Hamilton claimed, “the judiciary is beyond comparison the weakest of the three departments of power; that it can never attack with success either of the other two; and that all possible care is requisite to enable it to defend itself against their attacks.”

3 Amar, America’s Constitution, 217.
court. Though grounding its decisions in law, usually, the court sometimes based its judgments upon outside political connections or interests, internal collegiality, and societal positions. Beginning with C. Herman Pritchett in *The Roosevelt Court* in 1948, political scientists noted that the law was not the sole basis for the Supreme Court’s behavior. This observation fell in line with the objectives of the early twentieth century legal realism movement. Pritchett was the first to notice a fissure among the Roosevelt Court, named so due to its largely Roosevelt-appointed bench, which suggested a more nuanced gradation of ideological standpoints, later touted by Glendon Schubert and attitudinalists Jeffrey Segal and Harold Spaeth.⁴ From here, political scientists theorized that a number of characteristics such as collegiality, strategy, or outside elements also affected Supreme Court decision-making. Overall, political scientists revealed a more complicated court and the necessity to analyze opinions for more complex answers to legal questions, yet their methods and models often did not go far enough when analyzing specific cases and the circumstances surrounding them. Only a combination of both political and historical analysis could remedy this gap in understanding, yielding a complete picture of how the court operates as a socio-political entity.

Additionally, the other governmental branches’ near inability to check the court resulted in increased judicial branch power as the court took on a larger role in American government. Although the Constitution allowed for the impeachment and removal of justices from the high court, Congress only attempted this procedure once in 1805 with

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the impeachment of Justice Samuel Chase. Congress acquitted Chase and he continued to serve on the bench until his death. The legislature could also attempt a “soft-check” on judicial decisions by passing a constitutional amendment abrogating a court decision, though this has occurred only a few times in the nation’s past. In response, the court sometimes retreated from controversial questions of law, but this was generally temporary and did not apply to constitutional questions, revealing the court’s role as a political adversary to Congress and not a willing follower.\(^5\) Roosevelt’s own perceived failed attempt at controlling the court during his Court-Packing Plan illustrated the near impenetrable position of the court by the twentieth century.

With almost full discretionary jurisdiction, the modern court held the final check on both legislative and executive power. Historically, the court’s justices have fallen under the purview of biographers, and the history of the court as an institution has fallen into various intellectual movements like the law and economics movement, the critical legal studies movement, and various offshoots thereof such as critical race theory. While each of these analyses has offered a deeper and more complex look at the law through various perspectives, they lacked a close look at justices’ actions as individuals, leading to a skewed picture of the court. The problem with these legal theories, much like

political science models, was that while useful for analyses, they downplayed each actor’s individual role in lieu of a larger structure or outcome.6

As a result, this study pairs detailed historical analyses of people, events, and cases alongside these theories and models. Since the court has traditionally been the least public institution and most mysterious in its operation beyond the courtroom itself, an interdisciplinary approach will allow for a more detailed analysis of how the court functioned in specific cases, under certain circumstances. Political models and legal theories provide a structure for interpreting how the court functions and makes decisions. Historical context expands on this framework to create a solid picture of what happened within limited and specific circumstances. While this specificity might not provide an easily repeated model or overarching theory for other court analyses, it does explain the historical placement of the court in regard to executive power during continuous warfare.

On the topic of warfare, the court has sided with the executive repeatedly, giving up its decision-making power, much like Congress, to the president. Law professor Mark E. Brandon contended that the most common attitude of the court on this issue of how

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6 Beginning in the 1960s, the school of law and economics, with its somewhat cold focus on economic theories as applied to the law and legal decisions, came to the fore with legal scholars such as Guido Calabresi. Criticisms soon surfaced over the decided lack of a human element and move away from legal realism in this school, however, leading toward the critical legal studies (CLS) movement. CLS sought to complicate legal outcomes by interjecting political, social, and moral frameworks in their analyses. This led to specific schools of thought such as critical race theory and feminist theory that sought to expose and examine the intersection between law and these societal structures. For more on legal studies movements, see: Mark Kelman, A Guide to Critical Legal Studies (Cambridge: Harvard University Press, 1987); Guido Calabresi, “Some Thoughts on Risk Distribution and the Law of Torts,” Yale Law Journal 70, no. 4 (1961): 499-553; Duncan Kennedy, Legal Education and the Reproduction of Hierarchy: A Polemic Against the System (New York: New York University Press, 2004); Cheryl Harris, “Critical Race Studies: An Introduction,” UCLA Law Review 49, no. 5 (2002): 1215-1240. For general Supreme Court histories, see: Herman Belz, Winfred Harbison, and Alfred H. Kelly, The American Constitution: Its Origins and Development, (New York: W. W. Norton and Co., 1991); Peter H. Irons, A People's History of the Supreme Court (New York: Viking, 1999); Robert G. McCloskey and Sanford Levinson, The American Supreme Court, 5th ed. (Chicago: The University of Chicago Press, 2010); Bernard Schwartz, A History of the Supreme Court (New York: Oxford University Press, 1993).
warfare and constitutionalism could fit together was to invoke the historic “Inter arma silent leges (in time of war the laws are silent).” Brandon asserted that historically, the court understood that the government might unofficially suspend written law during times of war, such as in the example of the Civil War Prize Cases, but this argument seemed simplistic for a country frequently at war. Instead, Brandon claimed that the court weighed the importance of the war among the other branches of government when judging whether the government could infringe upon citizens’ rights. However, Brandon did not take into account the specific behavior of members of the court concerning its own prerogatives, instead acknowledging its position as the weakest branch, which the other branches easily manipulated. Political scientist Amanda DiPaolo agreed with Brandon’s analysis that the court tended to defer to other leadership when the president and Congress agreed upon an action during wartime, though she noted that the court did not defer to the other branches when they were in disagreement.

While both Brandon and DiPaolo offered important analyses of court actions, they discounted the significant difference between traditional armed conflict and modern continuous warfare in their analyses. This significant gap in scholarship illustrated the deceptive capability of continuous warfare and presidential power under its purview.

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7 See Prize Cases, 67 U.S. 635 (1862). In this case during the Lincoln administration, the Supreme Court supported the seizure of ships and goods under the purview of “war” despite the nonexistence of an actual formal war, which was later reinforced by legislation. Lincoln also suspended the writ of habeas corpus, which disallowed unlawful imprisonment, on his own, then with the formal support of congressional legislation during the American Civil War. See also: Ex Parte Milligan, 71 U.S. 2 (1866).

During the beginning phases of continuous warfare, the court’s decisions in the Japanese internment cases, specifically *Toyosaburo Korematsu v. United States* (1944), and the steel seizure case, *Youngstown Sheet & Tube Co. et. al. v. Charles Sawyer* (1952), recognized the shift from the traditional powers of the Commander in Chief to the expanded powers of the executive. Political and legal analysis of these two cases from an historical perspective, both dealing with executive power issues, revealed the court’s own traditional deference to the president while also showing confusion over new methods of warfare as well. Utilization of the concepts behind political models helps to give deeper insights into how and why the court may have acted while lending a richer analysis to the court’s decisions beyond just the written record. Likewise, historical analysis contextualizes the significance behind these actions and how the court’s choices correlated to the more predominant twilight phase during the late forties and 1950s. With this in mind, analysis will show that the Supreme Court’s decisions in cases dealing with issues of executive power, such as *Korematsu* and *Youngstown*, throughout the forties and early fifties served to extend executive power under the parameters of warfare, lending strength to the imperial presidency.

**The Judicial-Executive Relationship**

*Historical Precedent and the Two Presidencies*

In order to understand fully how these interdisciplinary ideas come together in the liminal zone between traditional peace and traditional war one must first examine relevant political models as they apply to judicial behavior leading up to continuous warfare. Foremost, the president’s powers as Commander in Chief only fully come to
fruition during a period of war, though they exist at all times. This dynamic created a dualistic presidency that varied in power according to peace or war. Political scientist Aaron Wildavsky posed this theory of “two presidencies” in 1966, when he claimed there was “a powerful foreign and military affairs leader who receives extensive deference from other politicians, and a less potent domestic leader who must persuade others to support his policy preferences.” The first part of Wildavsky’s theory clearly placed the president in his role as Commander in Chief with expanded powers due to war. Showing itself as a political institution not simply there to uphold the law, the Supreme Court then deferred in its decisions toward the executive during warfare, as would any other politician.

One of the most salient historical illustrations of the court’s wartime deference to the president, lending weight to Wildavsky’s theory, was the Civil War era Prize Cases. The Civil War offered its own unique complexities to the question of the meaning of warfare. President Abraham Lincoln sought to deny the Confederate States of America the benefits of consideration as a belligerent nation under the traditional terms of war; therefore, Lincoln denied recognition of the Confederacy and never sought a formal declaration of war from Congress, instead proclaiming the “war” a “domestic insurrection” instead.10

Lincoln’s method of handling the American Civil War became a problem in early 1861, however, when he proclaimed a naval blockade of southern ports. On April 19,


1861, Lincoln proclaimed a blockade against all ports from South Carolina to Texas. Lincoln extended his blockade less than two weeks later to include ports from Virginia to North Carolina as well. The Union blocked ships carrying contraband goods such as arms and ammunition from coming into port, while the Union also blocked ships seeking to export confederate cotton, the main economic sustenance of the confederacy, from leaving as well. Union warships immediately seized vessels under this pretext, as a prize of war, and sent the ships through federal district courts setup as prize courts. The legal confusion came with these court proceedings, where seized parties argued that the blockade, as an act of war between two nations, was illegal as no declaration of war existed. However, the blockade served to notify foreign nations that war was, indeed, in progress.\(^{11}\) Lincoln’s war powers as Commander in Chief came under question in a set of these seizure cases that came before the Supreme Court in 1863, known collectively as the *Prize Cases*.

The *Prize Cases* illustrated both the political nature of the court and its tendency to side with the executive during a state of war. Union ships seized four vessels, the *Amy Warwick*, the *Hiawatha*, the *Crenshaw*, and the *Brilliante*, as part of Lincoln’s blockade in 1861. Lower courts upheld all seizures, and the prize courts maintained that a “legal war” existed despite the lack of declaration. Congress strengthened the validity of the blockade in August 1861, when they passed the first Confiscation Act, retroactively endorsing all of Lincoln’s acts, proclamations, and orders after March 4, 1861, including the blockade. However, the owners of the seized property argued that a war did not exist.

in March 1861 and that the blockade was an unconstitutional act of the president. The owners then appealed their cases to the Supreme Court of the United States.\textsuperscript{12}

The political nature of the court immediately came into play for the Lincoln Administration. Attorney General Edward Bates wanted the court to move quickly on these cases as many similar cases waited for decisions at lower court levels and relied upon the high court’s opinion. However, Bates also knew that the court’s stance was politically risky in 1861, and sought to delay the proceedings until Lincoln had a chance to appoint more like-minded, politically reliable justices. By 1863, Lincoln had replaced three of the court’s justices and the \textit{Prize Cases} came up for hearing.\textsuperscript{13} One of the attorneys arguing for the government, Richard Dana Jr., persuasively claimed war was “a state of things, and not an act of legislative will.”\textsuperscript{14} Dana’s argument set in place the concept of war without declaration and solidified the executive power to control this “state of war” without congressional consent.


\textsuperscript{14} Amestoy, “Supreme Court Argument,” 21, 16; Bernath, \textit{Squall}, 28.
The court handed down a five to four decision in favor of the Union government and with this decision, solidified Lincoln’s control. Associate Justice Robert Grier opined in the majority opinion of the court:

The right of prize and capture has its origin in the "jus belli," [law of war] and is governed and adjudged under the law of nations. To legitimate the capture of a neutral vessel or property on the high seas, a war must exist de facto…As a civil war is never publicly proclaimed, *eo nomine*, against insurgents, its actual existence is a fact in our domestic history which the Court is bound to notice and to know.\(^\text{15}\)

Grier and those joining in his opinion rearticulated Dana’s argument that war could exist without a formal declaration based on the actions surrounding the situation. On the powers of the president as Commander in Chief, Grier noted:

If a war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority. …Whether the President, in fulfilling his duties as Commander-in-chief in suppressing an insurrection, has met with such armed hostile resistance and a civil war of such alarming proportions as will compel him to accord to them the character of belligerents is a question to be decided by him, and this Court must be governed by the decisions and acts of the political department of the Government to which this power was entrusted.\(^\text{16}\)

The court had effectively proclaimed that the president himself was the one to decide when a war was a “war” and what actions to take as a result. Grier claimed, "He [the president] must determine what degree of force the crisis demands."\(^\text{17}\) The *Prize Cases* decision did not, however, remove congressional war powers. Grier and the majority fully believed and stated in their opinion that Congress held the only *constitutional power* to go to war, but a civil war created a unique circumstance.

\(^{15}\) *Prize Cases*, 67 U.S. 635 (1862), 667.

\(^{16}\) *Prize Cases*, 668.

\(^{17}\) *Prize Cases*, 670.
The dissenting minority likewise focused their reasoning against the validity of the seizure on the lack of war due to the constitutional necessity of a declaration before an act of war, such as a blockade, could commence. According to minority author Justice Samuel Nelson:

[B]efore this insurrection against the established Government can be dealt with on the footing of a civil war, within the meaning of the law of nations and the Constitution of the United States, and which will draw after it belligerent rights, it must be recognized or declared by the war-making power of the Government. No power short of this can change the legal status of the Government or the relations of its citizens from that of peace to a state of war.\(^{18}\)

Nelson argued that while the Civil War was a public or material war, it was not a legal war with all the elements governed by the law of nations. The Prize Cases resulted in more power going to the executive during a state of war, whether legally the altercation was a formally declared war or not. This precept would come into play again in the steel seizure crisis during the Korean War of the early 1950s. The Grier opinion stated that, “The proclamation of blockade is itself official and conclusive evidence to the Court that a state of war existed which demanded and authorized a recourse to such a measure under the circumstances peculiar to the case.”\(^{19}\) The court left the conflict between the president and Congress’ war powers as a political question outside their jurisdiction.\(^{20}\)

This legal conclusion implied that a state of war was not reliant upon an actual threat or formal declaration but at the sole prerogative of the president as Commander in Chief.

\(^{18}\) Prize Cases, 688-689.

\(^{19}\) Prize Cases, 670. Emphasis added. In the 19\(^{th}\) century war existed by two definitions—a popular or material meaning (large-scale conflict) and a legal meaning (akin to the law of nations). The situation with the Prize Cases was that a popular war was accepted, but legally speaking war did not exist. Johnson, “Abraham Lincoln,” 209.

Whether Congress declared war or not, war could exist and the only person authorized to make decisions regarding actions during war was the president.

The *Prize Cases* suggested a difference in presidential power during warfare akin to the two presidencies theory, which the Roosevelt administration thoroughly utilized during World War II in successfully arguing such issues as Japanese internment in front of the modern court. The Truman administration would likewise fall back on this historical precedent when it took up its right to seize the steel mills in the 1952 *Youngstown* case. While the Roosevelt administration clearly enjoyed the same latitude of action as Lincoln, tied to traditional armed conflict directly involving the United States, Truman’s steel seizure fit into the fuzzy abyss of continuous warfare centered on the administration’s ill-defined conflict in Korea fought by UN forces. Unlike Grier’s unblemished Civil War Era concept of war, the Vinson Court in 1952 was confused over the meaning of war and yielded several equally disjointed opinions on Truman’s actions within modern war.

*Presidential Appointment and the Attitudinal Model*

Beyond the *Prize Cases* decision, the circumstances surrounding the ruling also suggested an important element in how the court decided a case—not solely based on law, but on personal and political ideological attitudes of the justices as well. In looking at court ideology alone, some political science scholars have argued that the best measure of determining where a justice stood on the political spectrum was a combination of presidential appointments and justice “ideal points” or the preferred policy positions of the justices. Attitudinalists like Jefferey Segal and Harold Spaeth claimed that the
Supreme Court justices relied on attitudes, or personal preferences, alone when determining their votes. According to Segal and Spaeth:

Although the justices conventionally claim for public consumption that they do not make public policy, that they merely interpret the law, the truth conforms to Chief Justice (then Governor) Charles Evans Hughes’s declaration, ‘We are under a Constitution, but the Constitution is what the judges say it is.’

Foundationally, jurists’ attitudes reflected their political ideology. Critical legal theorists agreed with attitudinal theory that law was political. Subsequently, presidents were most likely to appoint justices who they believed shared their own ideological beliefs, just as Lincoln hoped to sway the court in his favor before the *Prize Cases* decision. A personal letter between Justice Louis Brandeis and his son-in-law Jack Gilbert in 1939 supported this concept on the modern court as well. Brandeis wrote, “Justice [Pierce] Butler’s death will present a difficult problem for the president. A westerner, who is a Catholic and a New Dealer will naturally be his desire. Do you know any such?”

Brandeis understood the political significance of the president’s appointment power, something that Roosevelt had used and sought to expand during his court-packing scheme in 1937. Just as Brandeis predicted, in 1939 Roosevelt appointed the devout Catholic from Michigan, Frank Murphy, to the bench. Previously serving as Governor

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21 Segal and Spaeth, *Supreme Court Attitudinal Model*, 2-3.


24 Louis D. Brandeis to Jack Gilbert, November 16, 1939, Series IX 18-7 Letters 1938-1941, Louis Dembitz Brandeis papers, Special Collections, University of Louisville, Louis D. Brandeis School of Law.
General then High Commissioner of the Philippines under Roosevelt and also Attorney General, Murphy was a dedicated New Dealer as well.\textsuperscript{25}

The significance of presidential appointment would certainly come into play during the Roosevelt and Truman administrations. After Roosevelt’s Court-Packing Plan failed, he finally managed to appoint several justices to the court. With the court weighted in Roosevelt’s favor, eventually comprised of all Roosevelt appointees, Roosevelt passed controversial wartime policies with little dispute from the court. While the Roosevelt Court may have disagreed on other issues, Roosevelt’s main concern was the economy, which included both his New Deal and US involvement in WWII, to which his court appointees lent their support.\textsuperscript{26} Sharing much of Roosevelt’s political ideology, Truman should have had similar success with the Vinson Court, led by Chief Justice Fred M. Vinson, in the early 1950s, still heavily occupied with Roosevelt appointees along with Truman’s appointments. However, what Truman experienced diverged from attitudinal theory in that these theoretically like-minded justices did not always align with Truman’s policy prerogatives, again illustrating the need to include an historical examination of events in addition to political models. Partially due to the repercussions of the post-Roosevelt fissure of the Roosevelt Court emphasized by political scientist C. Herman Pritchett, and partially due to the concern over the fuzzy meaning of war that played a predominant part in the \textit{Youngstown} case, Truman did not win over the entire


court. Historians, legal scholars, and political scientists often view *Youngstown* as quashing executive power because the wholly Roosevelt/Truman-appointed court did not side with the president, as attitudinal models would predict. However, the fluid definition of warfare in general tore the court apart fundamentally, leading to a disjointed decision. When viewed within the parameters of continuous warfare, the *Youngstown* decision not only makes sense but also shows a more nuanced court *supportive* of wartime executive power.

*Packing the Court and Presidential Prestige*

Presidential prestige was another variable that played into the success of the president before the court.\(^{27}\) Political scholarship suggested that public approval, or prestige, “reflects the country’s broader opinions on politics, policy, and good governance.”\(^{28}\) As a result, political actors depended on public approval to maintain their legitimacy (and in some cases, their position). According to political scientist Richard Neustadt, there were both direct and indirect forms of public support. The president and Congress largely depended upon the direct form of support, voting. However, the Supreme Court depended on a more indirect method, maintaining public confidence and authority—legitimacy. The court needed this legitimacy so that the other branches of government enforced its decisions.\(^{29}\)

In addition, some scholars have argued that maintenance of this legitimacy caused the modern court to act strategically. Political scientists William Mishler and Reginald

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Sheehan claimed, “the legitimacy of the Court and its moral force may be jeopardized by a pattern of decisions that contradict deeply held and abiding public beliefs or concerns.” 30 In the case of the Supreme Court, while the court did give the impression of a majoritarian institution, there also appeared to be a slight lag between public beliefs and the actions of the court due to gradual changes in the attitudes of the justices. Mischler and Sheehan placed this lag at around five years. 31 Historically, this theory was important because it allowed the court to operate on a separate timeline from other political players, which might affect scholars’ overall understanding of court actions as strategy or ideologically based.

In one well-known example, when Roosevelt came into office in 1933 and began his Hundred Days of New Deal legislation, he expected the court to follow suit because of his popularity and because of the public opinion in favor of relief and reform programs. Roosevelt did not take into account a possible lag between public beliefs and the stance of the court, however, and sought instead to force a change in the court’s opinions. Roosevelt cloaked his political objectives in rhetoric that preached workload efficiency in the courts, hoping to gain support for his ill-fated scheme to shift the ideological majority of the court. However, by 1937, the court may have already been moving toward greater support of New Deal initiatives in line with public sentiment stretching back to 1933. Though the result appeared to be the court’s strategic shift in


line with self-preservation, it may have been a more gradual ideological change correlating to earlier public sentiments.\textsuperscript{32}

Within Roosevelt’s administration, most stood behind the president’s New Deal objectives and considered the court a roadblock to those goals. In a 1936 document titled “Before the Court Bill (From Beginning of October 1935 Term to Introduction of Court Bill)” from Roosevelt’s files, the author noted:

\begin{quote}
The President has attained the most difficulty [sic] of his objectives, i.e., the liberalization of the interpretation of the Constitution. …He has yet to obtain: (a) insurance of the continuity of that liberalism and (b) a more perfect judicial mechanism for giving a maximum of justice in a minimum of time.\textsuperscript{33}
\end{quote}

This document suggested that Roosevelt’s administration considered the court both slow to hear cases and make decisions, and a perpetrator of outcomes not beneficial to Roosevelt’s larger liberal plan for the United States. A memorandum that came into Roosevelt’s hands through his wife Eleanor likewise alluded to the controversial support available for a plan to alter the Supreme Court. The memo, originally between an anonymous writer and Sidney Hillman, a labor leader, was noted to be “strictly confidential” by Eleanor Roosevelt. The author, most likely George Spiro, was a founder of the Leninist League, a notorious communist group.\textsuperscript{34} Spiro remarked, “Whether we


\textsuperscript{33} “Before the Court Bill (From Beginning of October 1935 Term to Introduction of Court Bill),” 1936; box 165, file 7; President’s Secretary’s Files; Papers as President, RP, FDRL.

\textsuperscript{34} Anonymous (G. Marlen a.k.a. George Spiro) to Sidney Hillman, undated; box 165, file 8; President’s Secretary’s Files; Papers as President, RP, FDRL. The name on the memorandum was scratched out, but still somewhat visible as “G. Marlen.” Further research suggested this was an alias for George Spiro. “Appendix B. Pseudonyms that May Appear in the Max Shachtman Papers,” Tamiment Library and Robert F. Wagner Labor Archives, accessed January 16, 2013, http://www.nyu.edu/library/bobst/research/tam/shachtman_appb.html.
take up legislation on labor, commerce or other social and economic subjects, the hostile attitude of the Court remains to be met.”

Spiro’s letter further suggested to Roosevelt that he might manipulate the court’s jurisdiction to his favor through the Democrat-controlled Congress without having to pack the court. Spiro contended:

The Constitution makes the Congress supreme, and not the Court, as to what appellate jurisdiction the Court may have to try and decide cases. Congress may give or it may take away jurisdiction to pass upon an Act of Congress, or to try any other kind of case on appeal.

Following Spiro’s suggestion, Roosevelt inquired to Attorney General Homer Cummings in January of 1936 for an explanation of the *McCordle* case of 1869. In *Ex Parte McCordle*, Congress effectively withdrew a proposed amendment to the Judicial Act of 1789 that allowed the Supreme Court to serve as an appellate court in cases of *habeas corpus* (unlawful imprisonment), such as that of William McCordle, who authorities arrested in Mississippi for violating the Reconstruction Acts. McCordle argued that the acts were unconstitutional and sought a writ of habeas corpus. By withdrawing the Judicial Act amendment after arguments in the *McCordle* case but before the court could issue an opinion, Congress managed to alter the jurisdiction of the Supreme Court in order to uphold the constitutionality of the Reconstruction Acts. The court dismissed the case for want of jurisdiction. The timing of this memorandum suggested that Roosevelt planned some form of control over the court already by early 1936, but knew that open manipulation of the institution itself was a political risk. The response from the Justice

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35 Anonymous (G. Marlen a.k.a. George Spiro) to Sidney Hillman, undated; RP, FDRL.

36 Anonymous (G. Marlen a.k.a. George Spiro) to Sidney Hillman, undated; RP, FDRL.

Department hinted that this plan might be too detrimental to the court’s overall role, noting that Congress might take away the “power to review certain classes of cases” only. However, Cummings’ response to Roosevelt illustrated his willingness to help the president do something to better control the court.38 “This whole matter has been the subject of considerable study in the [Justice] Department, and, in view of recent developments, is apt to be increasingly important,” Cummings wrote.39 By December 1936, Cummings wrote to Roosevelt, “Dear Mr. President: I am ‘bursting’ with ideas about our constitutional problems; and have a plan… I would like to talk over with you when you have the time.”40 This correspondence illustrated Roosevelt’s willingness to openly manipulate the court as he did other parts of the government as well.

Although Roosevelt and Cummings were already plotting what would become the Judicial Reform Bill of 1937 or Court-Packing Plan, Roosevelt continued to maintain an outward appearance of trying to help the court. In a post-court-packing personal letter to Judge J. Warren Davis of the Third Circuit, Roosevelt contended that the objective of his Judicial Reform Bill was “restoring the courts and the Bar to a closer and more friendly

38 FDR to Homer Cummings, January 14, 1936; box 165, file 7; President’s Secretary’s Files; Papers as President, RP, FDRL; Alexander Holtzoff to Homer Cummings, January 16, 1936; box 165, file 7; President’s Secretary’s Files; Papers as President, RP, FDRL; Homer Cummings to FDR, January 16, 1936; RP, FDRL. See also: James MacGregor Burns, “FDR’s Boldest Gamble,” Experience 20, no. 1 (Winter 2010): 8-19.

39 Homer Cummings to FDR, January 16, 1936; box 165, file 7; President’s Secretary’s Files; Papers as President, RP, FDRL.

40 Homer Cummings to FDR, December 22, 1936; box 165, file 7; President’s Secretary’s Files; Papers as President, RP, FDRL.
Roosevelt added that he firmly believed in an “independent judiciary.”

What the court-packing debacle illustrated was, while the court’s members did not always march in step with public opinion, the justices understood that their own power relied upon the court’s legitimacy as an institution, which only public support could promulgate. Roosevelt’s court plan split his party’s strongest supporters and had public opinion turned against him. Faced with a close split in Congress over the Reform Bill, the court appeared to act strategically, defending itself by shifting its decisions in favor of New Deal legislation and retaining public support for itself. In a letter from then Harvard Law professor and future Supreme Court Justice Felix Frankfurter to Justice Harlan Stone in March 1937, Frankfurter commented on the court’s switch:

Finally, there is [Justice Owen] Roberts’ somersault incapable of being attributed to a single factor relevant to the professed judicial process. …What kind of respect for the institution can be aroused in informed and able young minds when they come to consider in detail…the intellectual process which underlies this minimum wage litigation?

Stone responded to Frankfurter, noting:

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41 FDR to Judge J. Warren Davis, August 11, 1937; box 165, file 8; President’s Secretary’s Files; Papers as President, RP, FDRL.

42 FDR to Davis, August 11, 1937; RP, FDRL.

43 Underhill, FDR and Harry, 101; A confidential list from June 17, 1937, showed that Senators were split closely regarding the Judicial Reform Bill. Forty-five senators, including Harry Truman, stood in favor of the Bill, while 39 were openly against it. Twelve were still undecided. Confidential List, June 17, 1937; box 165, file 7; President’s Secretary’s Files; Papers as President, RP, FDRL. In actuality, the court had begun a more gradual shift as early as 1934 with Nebbia v. New York. This represented an internal change in the court that most overlooked amidst the political hostility of 1937. Cushman, Rethinking, 7; Barry Cushman, “Rethinking the New Deal Court,” Virginia Law Review 80, no. 4 (February 1994): 206.

I think the Minimum Wage cases are a sad chapter in our judicial history. I might have written a few words which would have thrown more light on the subject, but all in all it seemed wise to let it lie in such obscurity as results from explanations which do not explain.\textsuperscript{45}

Although Frankfurter and Stone’s correspondence suggested a less than legal reason for the court’s sudden change in ideology, the details of the switch remained obscure. Legal historian Barry Cushman contended the shift was much more gradual, beginning as early as 1934, when the court broke down the distinction between public and private enterprise in \textit{Nebbia v. New York}. What was clear was that the Court-Packing Plan reinforced political theories on strategy and presidential prestige, adding a potential layer of complexity to any historic decisions and giving the justices agency to maneuver as political actors without legal restrictions. Whether the court had finally caught up with public opinion by 1937 or whether the court made a strategic decision to retain its legitimacy by supporting a popular president’s prerogatives that were equally popular with the public remained largely undocumented.\textsuperscript{46} During continuous warfare, Truman would test the court’s power in the politically malleable zone between traditional peace and traditional war, yielding unique legal decisions that strategically sought to both expand and restrict executive power based on a changing concept of war.

\textsuperscript{45} Stone to Frankfurter, April 2, 1937, box 13, file 12, Harlan Fiske Stone Papers, Manuscript Division, Library of Congress, Washington, D.C.

\textsuperscript{46} Owen Roberts was the Supreme Court justice most often associated with the “switch” toward New Deal policy. Roberts, a conservative, appeared to switch sides suddenly in the decision on \textit{West Coast Hotel Co. v. Parrish} (1937) upholding the constitutionality of minimum wage legislation. Unfortunately, his papers are missing or nonexistent, so his motives remain a mystery to scholars. See \textit{West Coast Hotel Co. v. Parrish}, 300 U.S. 379 (1937); Cushman, \textit{Rethinking}, 7; \textit{Nebbia v. New York}, 291 US 502 (1934), 533-534, 539; Michael Comiskey, “Can a President Pack—or Draft—The Supreme Court? FDR and the Court in the Great Depression and World War II,” \textit{Albany Law Review} 57, no. 4 (1994): 1043-1059.
In addition to outside forces like presidential prestige and public opinion swaying the justices, the court, as a political body with its own agency, also gives cues as to where it might stand on certain issues. In 1963, political scientist Joseph Tanenhaus and his co-writers developed “cue theory,” which stated that such things as conflict in lower courts and amicus briefs served as cues to the Supreme Court that a case was particularly significant for policymaking. Along the same lines, some political scientists argued that the Supreme Court also offered its own cues to lower courts and attorneys on what types of cases they were willing to hear and what type of decisions they would make. According to political scientist Vanessa Baird, “A justice might indicate a preference or priority change with a majority opinion, or even perhaps a concurring or dissenting opinion.” As a result, the justices’ opinions and dissents gave a suggestion as to where the court’s policy preferences laid, though certiorari votes were the primary concern of cue theory in general. Yates extended this concept to the executive, adding that the president gives cues to the other members of the government regarding his true policy preferences through his State of the Union addresses. Following these ideas, the

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48 Baird, *Answering the Call*, 44.
Supreme Court might cloak its true policy preferences or acceptability in more overarching opinions that might require deeper textual analysis to understand fully.\textsuperscript{49}

The 1936 case of the \textit{United States v. Curtiss-Wright Export Corp.} set up a major cue to all subsequent cases regarding executive power in foreign affairs. \textit{Curtiss-Wright} centered around a congressional joint resolution of May 28, 1934 that banned weapons sales to countries involved in armed conflict in the Chaco region of South America and the subsequent presidential proclamations that put this resolution into operation and then revoked it. The Justice Department indicted the Curtiss-Wright Export Corporation in January 1936 on charges that it conspired to sell machine guns to Bolivia, one of the countries involved in the war in the Chaco, in violation of the Joint Resolution. The corporation appealed to the Supreme Court arguing, amongst other things, that the Joint Resolution unfairly delegated power to the executive.\textsuperscript{50}

In Justice George Sutherland’s majority opinion, there were a number of cues that suggested that justices might distinguish between domestic and foreign affairs when it came to presidential power. The nature of the \textit{Curtiss-Wright} case also suggested that the president’s powers in foreign affairs did not apply only during a war in which the United States was directly involved. Sutherland noted, “the federal government can exercise no powers except those specifically enumerated in the Constitution, and such implied powers as are necessary and proper to carry into effect the enumerated powers, is


\textsuperscript{50} \textit{United States v. Curtiss-Wright Export Corp.}, 299 U.S. 304 (1936), 311.
categorically true only in respect of our internal affairs.”51 Sutherland went on to contend:

In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates. 52

What Sutherland’s opinion suggested was that the president had unequivocal power in regard to foreign affairs, a power that superseded Congress’s. Sutherland’s almost blatant opinion denoted that the president was the only one who could really know the conditions in other countries, especially during war.

Sutherland’s cues put in place an unwritten constitutional allowance for the president to be the final arbiter in all situations regarding foreign affairs, and served as an undergirding factor in decisions in both Korematsu and Youngstown during a preeminent shift in the nature of war. In Curtiss-Wright Sutherland proclaimed:

[W]e are here dealing not alone with an authority vested in the President by an exertion of legislative power, but with such an authority plus the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations—a power which does not require as a basis for its exercise an act of Congress but which, of course, like every other governmental power, must be exercised in subordination to the applicable provisions of the Constitution.53

The concept of the president as the sole organ in foreign affairs served to give the modern presidency increased leniency in this realm, especially during wartime.


52 United States v. Curtiss-Wright Export Corp., 319. Emphasis added. Justice Sutherland was one of the justices that stood as a bulwark against FDR’s New Deal, yet in Curtiss-Wright, he wholly supported FDR’s presidential power concerning foreign affairs. This stance further supported the idea that the president’s true power relied upon foreign affairs and war, which could open a gateway to the imperial presidency. William G. Ross, “The Hughes Court 1930-1941: Evolution and Revolution,” in The United States Supreme Court: The Pursuit of Justice, ed. Christopher L. Tomlins (New York: Houghton Mifflin Company, 2005), 246.

The creation of the “sole organ doctrine” stood out as a cue from the court due to their misinterpretation of the original source of the concept, John Marshall’s congressional speech from 1800. While political science suggested these cues exist, only an historical understanding of events reveals their importance. Marshall had originally contended that the president was the sole organ in implementing a treaty, not in foreign policy overall. Statements from Alexander Hamilton and John Jay in The Federalist Papers supported this more specific concept of presidential power in foreign affairs as well. Therefore, the sole organ cue from the Hughes Court in 1936 served as an important suggestion to Roosevelt and to Congress that the court would do little to deter presidential activities in foreign affairs. Writing to Roosevelt about the Curtiss-Wright decision, Attorney General Stanley Reed noted, “Mr. Justice Sutherland recognizes that even though not expressly conferred by the Constitution, there nevertheless exists in the Executive a power to make international agreements which do not constitute treaties in the constitutional sense.” Reed’s comments showed that the Executive Department took the cue from the court.

54 Louis Fisher, “No. 1: The ‘Sole Organ’ Doctrine,” A Series of Studies on Presidential Power in Foreign Relations (Washington, D.C.: The Law Library of Congress, 2006): 7. The court cited Marshall’s 1800 speech in which he stated that the president was “the sole organ of the nation in its external relations, and its sole representative with foreign nations.” However, taken in context, Fisher argued that this phrase was relevant only to the president’s faithful execution of the laws, in this instance John Adams’ right to carry out an extradition treaty. See also, Federalist No. 75 and 26. Hamilton noted, “The history of human conduct does not warrant that exulted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a ind as those which concern its intercourse with the rest of the world to the sole disposal of a magistrate, created and circumstanced, as would be a president of the United States.” Likewise, Jay argued, “nations in general will make war whenever they have a prospect of getting any thing by it…These [benefits] and a variety of motives, which affect only the mind of the Sovereign, often lead him [the president] to engage in wars not sanctified by justice, or the voice and interests of his people.” Federalist No. 75 and 26.

55 Stanley Reed to FDR, December 21, 1936, Box 19, Fldr 1, Stanley Forman Reed papers, 1926-1977, 1M81M3, Special Collections, University of Kentucky. Hereafter cited as “Reed Papers.”
In the cases of *Korematsu* and *Youngstown*, both dealing with a domestic situation during a time of war, Japanese-American internment on the West Coast during WWII and government seizure of American steel mills during the Korean War respectively, the court turned back to this sole organ designation. What the court sought to determine was if the situation was truly a part of war and therefore foreign affairs, or a domestic squall. Both situations occurred on the home front, but under the purview of an US-involved war abroad, and both held ties (imprisonment of a potential enemy and a continuance of war goods production) to the larger armed conflict at hand. Cues offered in the *Korematsu* and *Youngstown* opinions illustrated the modern complexity of continuous warfare versus traditional armed conflict when it came to presidential power.

*The WWII Rally Effect*

The liminal zone between traditional peace and traditional war following World War II further emphasized a shift in how the court rallied around the president during traditional war. Political scientists have hypothesized that there was a “rally effect” when an international situation occurred, giving the president greater support.\(^5\) This support appeared not only through a boost in presidential approval ratings from the public, but also in the interaction between the branches of federal government, including the president and the Supreme Court.

The court recognized the ultimate extension of the president’s Commander in Chief powers in the 1942 case *Ex Parte Quirin*. In this case, eight German soldier-saboteurs landed on American shores near Long Island, New York and Ponte Vedra

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Beach, Florida, in order to commit acts of sabotage against the United States as part of Operation Pastorius during World War II. Federal authorities quickly captured the Germans, two of whom were naturalized citizens of the United States. President Roosevelt ordered a military commission to try the Germans, who had arrived via submarine, wearing German military uniforms, and carrying explosives. Roosevelt’s actions denied the Germans a regular jury trial, and under the military commission, the military officers found the Germans guilty and sentenced them to death.57

After the Germans exhausted their lower court appeals based on a writ of *habeas corpus*, the court rallied around the president for the *Quirin* case, calling a special session to make a decision on the case and ultimately side with Roosevelt. In order to show its support for Roosevelt and by connection the war effort, the court called a *special* summer session on July 29, 1942. This corresponded with Roosevelt’s presidential approval rating, which fluctuated from an impressive eighty-four to seventy-nine percent from January through July of 1942, denoting strong public support. Additionally, following the *Quirin* hearing, the court as a whole issued its ruling (*per curium*) as opposed to a traditional single-authored opinion, to dispose of the case. The court concluded that because the Germans had arrived as spies and removed their uniforms to commit sabotage, they had violated the law of war and should be categorized as unlawful enemy

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combatants. Since Congress had authorized trial by military commission for unlawful enemy combatants, the president was not beyond his power in ordering the same for the saboteurs. In the end, six of the Germans were executed, while the other two served prison sentences. As illustrated, the court thoroughly rallied around Roosevelt during this wartime case.\footnote{Schwartz, 249; “Job Performance Ratings for President Roosevelt,” Roper Center for Public Opinion Research, accessed March 19, 2012, \url{http://webapps.ropercenter.uconn.edu/CFIDE/roper/presidential/webroot/presidential_rating_detail.cfm?allRate=True&presidentName=Roosevelt#T2eBq9U6So}; \textit{Ex Parte Quirin}, 317 U.S. 1 (1942), 18-48; \textit{Black’s Law Dictionary}, 7th ed., s.v. “per curiam”; “Nazi Saboteurs Trial,” \textit{Military Legal Resources}, LOC, accessed January 17, 2013, \url{http://www.loc.gov/rr/Military_Law/nazi-saboteurs-trial.html}.

Justice Felix Frankfurter’s words posed evidence of this rally effect most succinctly. Frankfurter expressed his opinion over the full decision the court would release that autumn in a memorandum sent to the rest of the justices. Faced with arguments over language in the opinion, Frankfurter proclaimed, “‘Just relax and don’t be too engrossed in your own interest in verbalistic conflicts because the inroads on energy and national unity that such conflict inevitably produce, is a pastime we had better postpone until peacetime.’”\footnote{“F. F.’s Soliloquy,” box 77, file 26, William O. Douglas Papers, Manuscript Division, Library of Congress, Washington, D.C.} Frankfurter’s argument thoroughly supported the rally effect of the court over the \textit{Quirin} case.

During the \textit{Korematsu} and \textit{Youngstown} cases, the resulting individual rally effect and subsequent lack thereof illustrated the court’s changing concept of war. Just as in \textit{Quirin}, the WWII-era court rallied around Roosevelt’s Japanese internment policy, despite reservations, in the case of \textit{Korematsu} because of the traditional nature of the war. In \textit{Youngstown}, the decided lack of traditional war and court confusion over the yet...
undefined state of continuous warfare led to an absence of the rally effect. However, the court’s complicated decision in *Youngstown* still reinforced wartime executive power.

*Personal Relationships and the Problem of Judicial Papers*

On top of political and strategic interests, the court, as a collegial body, exhibited a strong influence over politics through personal relationships both inside and beyond the court. An examination of the papers of the jurists yields the best look at personal political connections. However, the use of judicial papers also includes several unique problems. According to political scientist S. Sidney Ulmer, “Political scientists and others have frequently suggested that the great basis of Supreme Court power is the judicial myth of legal certainty, the impartial and nondiscretionary application of correct legal maxims.” Ulmer believed that in order to maintain this myth, many justices altered their personal court papers to convolute the inner-workings of the court or their personal reputations. Ulmer noted that justices might purposely tilt their papers with an “eye to history,” destroy or edit papers to project a certain image, or require stringent permissions to access papers, so as to restrict usage by researchers. “If the Court is to be successful as a political actor, it must have public acceptance. Thus…the Court should certainly not disavow publicly the myth upon which its power rests,” argued Ulmer. By editing or destroying papers that allude to some extra-legal discussion within the court, the myth of constitutionality and legal precedence remain.

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A closer look at justices’ papers revealed an awareness of exactly what Ulmer preached. In one 1937 letter from Frankfurter to Stone, Frankfurter wrote, “I wonder how long such confidence—and upon it the future of the institution [the court] ultimately rests—can survive observation of the doings and contrivings [sic], particularly of the Chief, during the last few years.” Here, Frankfurter was referencing the court’s switch after Roosevelt’s Court-Packing Plan. Referring to the court as “spiritual vestal virgins of our political scheme,” Frankfurter believed the court should remain an independent legal institution only. Though some political scientists believe the personal papers of the justices are too problematic to use, historians cannot ignore these documents, and when used carefully in conjunction with public sentiments, political and legal theory, these papers can reveal valuable insights into personal political relationships, often ignored or taken too skeptically by political models.

The most significant of personal political relationships was the relationship between the president and the individual members of the court, which held both political salience and the possibility for undue influence over court decisions. “On close examination, the whole notion of a judiciary totally secluded from politics appears to be more myth than history,” noted political scientist Bruce Allen Murphy. Legal realism has focused on the intertwined nature of the law and politics since the early twentieth century, yet the Supreme Court has continually sought to maintain a certain public aura.

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63 Frankfurter to Stone, June 2, 1937, box 13, file 13, Harlan Fiske Stone Papers, Manuscript Division, LOC (Stone Papers hereafter cited as SP).

64 Frankfurter to Stone, June 2, 1937, SP, LOC.

of impenetrability from politics. During the early Roosevelt administration, Justice Hugo Black considered this judicial-political relationship when he needed to call on Roosevelt personally. Black, concerned that his future opinion might appear to reflect Roosevelt’s influence, sought a back channel of communication with the president. Clifton Durr, Black’s brother-in-law, passed along a message from Black to Thomas G. Corcoran of the Reconstruction Finance Committee, who would pass it on to Roosevelt. According to Durr, Black “has been hesitating about doing so [meeting with Roosevelt] because of publicity but thinks the storm has quieted sufficiently for it to be o.k.” Additionally, Black “wants the President to know, however, that he is now writing an opinion which the press may charge was influenced by the President if he calls before the opinion is delivered,” noted Durr. In this situation, Black was cognizant that his personal relationship with Roosevelt might alter the appearance of a truly independent judiciary and sought methods to avoid this problem. Likewise, Benjamin Cardozo wrote to Roosevelt in January 1938 and noted, “During the ‘amenities’ of 1937, I thought perhaps that it was best not to ask you to come and have tea or dinner with me—because, as you know, the White House is a glass house—and the American press is not accurate on all occasions!” Cardozo’s letter illustrated the significance of these personal


67 Clifton Durr to Thomas G. Corcoran, undated; box 165, file 8; President’s Secretary’s Files; Papers as President, RP, FDRL.


relationships because he discussed wanting to see Roosevelt even during the raging battle over the Court-Packing Plan. What was apparent in both of these instances, however, was the awareness of appearance and the maintenance of the idea of an independent judiciary.

Not all justices maintained close relationships through distance, however. Correspondence between Justice William O. Douglas and Roosevelt during 1940 concerned planning a salmon fishing derby, which would include the justices on the court and the men in Roosevelt’s Cabinet. Roosevelt countered Douglas’ fishing plans with a proposal for a “poker derby” instead. The convivial Roosevelt even exchanged sentiments on the “ball game” that was the Court-Packing Plan with Douglas in 1939, utilizing several baseball analogies. The same closeness was also apparent during the Truman Administration. Chief Justice Fred M. Vinson received several books as Christmas gifts from Truman, such as Mr. President. In an exchange in 1950, Vinson even referred to Truman’s daughter Margaret as his “‘foster’ daughter,” illustrating the close bond between the two. When writing to the president, Justice Harold Burton began with “Dear Harry” as opposed to the more usual “Mr. President.”

factor in decision-making, these justices’ personal relationships with the president may have caused them to side more easily in favor of executive power during cases such as *Youngstown*, where the overall opinion of the court was fissured.

Beyond the president, the court also cultivated relationships with legislators that may have helped to sway or define their opinions on cases. In a letter to his daughter Susan in November 1934, Justice Louis Brandeis noted that he dined and “talked campaign” with Senator Burton Wheeler and his wife and Senator Edward Costigan. This letter illustrated the political mindedness of the justices and helped to modify the traditional historical concept of an independent judiciary further emphasizing a modern political court with political objectives. In a letter to his son-in-law Jack Gilbert in 1939, Brandeis also noted that he read the *Congressional Record* from time to time. However, Brandeis denied having read it recently or with the amount of frequency that an “admirer” purported to his son-in-law.\(^71\) Brandeis’ qualification of his act suggested that while there was a stigma about judicial knowledge of or involvement in politics, judges often partook in an active search for political information and activities.

Just as Justice Clark was long-time friends with President Truman, he was also an associate of Representative Sam Rayburn, another acquaintance of Truman’s. In a letter written by Rayburn to Clark, he referred to Clark as an “old friend” throughout the

correspondence, suggesting a long relationship. A letter to Truman after the end of his
presidency in 1953 by Vinson, mentioned that Vinson, his wife, and Rayburn had all
gone together to see Truman off on the train, signifying they were all friends. 72 This
interconnectedness between the individual justices, the president, and legislators
illustrated the complex nature of judicial politics and legal opinions. While the
persuasive nature of these relationships on the justices’ opinions was not clear, it was
evident that political relationships outside of the court might have come into the jurists’
thought process, lending credibility to the concept of the court as a political body and a
part of traditional politicking.

Finally, friendly relationships between the justices on the court suggested that the
court was a collegial body instead of nine independent justices. The justices’ ability to
work together suggested that their opinions were malleable and not solely based in law or
societal structures, just as critical legal studies theorists asserted. In the case of the
Vinson Court, which would oversee the decision in Youngstown in 1952, the jurists were
extremely friendly with one another. Associate Justice Harold K. Burton loved to travel
and frequently sent Chief Justice Vinson postcards from his trips that noted he should
pass along his greetings to the rest of the brethren on the court. Likewise, Justice Black
held a “steak party” at his home and invited the entire court and their spouses. Justice
Clark frequently sent gifts to other members of the court as well, such as sherry for
Black, Kentucky bourbon for Stanley Reed, and honey for John M. Harlan. When Harlan
was in the hospital, Clark thought to send him a book, Vigilante Justice, as a gift too.
Vinson’s grandchildren, who frequently received letters from members of the court, knew

72 Sam Rayburn to Tom C. Clark, 1961, box 99, file 5, Clark Papers; Vinson to HST, January 23,
1953, box 353, file 10, Vinson Papers.
Clark as “Uncle Justice.”

Concerning court duty, Vinson sent a memo to all the justices noting that certain cases would also be included in the conference discussion simply because some justices wanted to discuss them. No discussion would be necessary if the justices decided cases independently on facts of law. The collegiality of the court and the speculative personal relationships justices held with other politicians may have further complicated later decisions such as those held in *Korematsu* and *Youngstown*, illustrating the court’s own agency and showing that judicial decisions were composed of complex legal, political, and historical circumstances that go beyond traditional studies of the Supreme Court. While difficult to prove, friendship may hold some significance in how an individual decides a case; therefore, historians must not completely disqualify this element.

These political science concepts are important because they add another layer toward understanding the Supreme Court as a complex institution. While originally formulated in order to figure out how the court, largely a mystery, worked and better understand future decisions and jurists’ choices, these ideas are equally as important when looking at historical circumstances surrounding the court. While historical investigation allows one to analyze the individual justices and legal scrutiny the individual case outcomes and future implications of decisions, political science allows a

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73 Hugo Black to Vinson, June 4, 1952, box 215, file 2, 4, Vinson Papers; Black to Clark, undated, box B18, file 4, Clark Papers; Clark to Reed, undated, box 100, file 5, Clark Papers; Clark to John M. Harlan II, undated, box B54, file 3, Clark Papers; Clark to Fred M. Vinson III, undated, box 121, file 8, Clark Papers

74 Vinson to Clark, undated, box A18, file 2, Clark Papers. The topics under discussion were most likely the Alger Hiss and Julius and Ethel Rosenberg cases.

75 The true extent of these judicial-political relationships are difficult to document as many justices burned or otherwise destroyed papers that may have revealed such relationships before their deaths. See S. Sidney Ulmer, “Brickolage,” 296.
more complete picture of the court as an institution consisting of individuals making important decisions. Together, history, law, and theories based on these political models reveal a complexity to the court and its past decisions that individual research methods do not allow on their own. In the case of *Youngstown*, historical examination of these hypotheses shows that the case was not a blow to executive power, as widely believed, but a reaffirmation of the inherent powers of the president as Commander in Chief during times of war.

Executive Power Case Studies

*Korematsu v. United States*

It was in the landmark decision in *Korematsu v. United States* that the highest court in the land, guardians of the United States Constitution, fell prey to the actions of an irresponsible federal government, and Orientalism-tainted public opinion including World War II era anti-Japanese sentiments. Though unfortunate, *Korematsu* provided a typical reaction by the court to presidential power during traditional wartime on issues framed as foreign affairs. The context of the case was the internment of Japanese and Japanese Americans on the United States West Coast during the period from 1942 through 1945, at which time the government evacuated nearly 110,000 persons of Japanese ancestry from their homes and detained them in rudimentary prison camps. In E.O.

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9066, FDR stated, “I hereby authorize and direct the Secretary of War, and the Military Commanders whom he may from time to time designate . . . to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded.”

One of the Japanese American citizens affected by this order was Fred Korematsu of Almeida County, California.

A second generation Japanese American or *Nisei*, Korematsu saw himself as more American than Japanese, but military officials found generational differences insignificant and targeted Korematsu for his Japanese heritage instead. On March 2, 1942, the military took control of Almeida County, where the Korematsus lived. Military commanders then told all persons of Japanese ancestry to evacuate immediately and relocate to government-run camps. Korematsu opted not to leave with his family, instead staying behind and changing his name and facial features in an attempt to trick authorities. The ploy did not work; Korematsu was “discovered” on the streets of San Leandro, California, possibly by a local pharmacist who recognized him and knew his real heritage. On May 30, 1942, police arrested Korematsu and the local media depicted him as a “Jap Spy.” Shortly thereafter, American Civil Liberties Union director Ernest Besig approached Korematsu, wanting to use his situation as a test case for the legality of the evacuation and relocation orders. While Korematsu was being relocated to

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California’s Tanforan Assembly Center and later, the Topaz Camp in Utah where the rest of his family was located, his case made its way to the United States Supreme Court.  

In late 1944, the Supreme Court granted certiorari; they would hear the case. On December 18, 1944, the court issued its opinion on the constitutionality of Civilian Exclusion Order No. 34, which worked to exclude West Coast military areas of all persons of Japanese ancestry, including Fred Korematsu. According to Justice Hugo Black, who delivered the opinion, the Supreme Court held that while “it should be noted . . . that all legal restrictions which curtail the civil rights of a single racial group are immediately suspect . . . pressing public necessity may sometimes justify the existence of such restrictions.”  

Black also noted that these racial restrictions were subject to “rigid scrutiny.” Despite the questionable constitutionality of racial exclusion, the court upheld the exclusion order and Korematsu’s violation of it under the pretense of wartime security and the court’s inability to restrict military actions in defense of the country. The court contended that it simply could not reject the findings of military authorities that


79 The Civilian Exclusion Order No. 34 was issued by the Commanding General of the Western Defense Command, General John L. Dewitt, under the authority of Executive Order 9066 and the subsequent Act of March 21, 1942 that made that order into law. Korematsu v. United States, 323 U.S. 214 (1944), 219.

80 Korematsu, 216. Throughout the sources, the original terminology used by the authors, be it race or ethnicity has been maintained. However, the most correct term would be “ethnicity” as those interned were only Japanese-Americans, not the larger subset of Asian Americans, which may have been considered another race. Concurrently, government officials went to great lengths to exemplify the difference between Chinese and Japanese descendants during World War II, as one was “friendly” and the other “enemy.”

81 Rigid or strict scrutiny refers to a court reversing the legal presumption of constitutionality when the case deals with a “suspect class,” such as race, placing the burden on the government to prove its policy is constitutional. Justice Hugo Black, in Korematsu, first promulgated the idea of suspect classifications. Korematsu, 216-224.
internment of all Japanese and Japanese-Americans on the West Coast was necessary for the safety of the country. The court backed the decision with the idea that there was not enough time, according to military authorities, to determine which Japanese-Americans were loyal or not. While the internment camps shut down shortly after the Korematsu decision, their place as an unfortunate part of American history remained secure. However, a more careful analysis of the Korematsu decision and the justices behind it, utilizing political science concepts, reveals the complex interplay of judicial politics that supported Roosevelt’s power as Commander in Chief during World War II.

In the case of Japanese internment, Roosevelt framed a domestic issue with wartime necessity. In a 1998 article, political scientists Aaron Wildavsky posed, “From 1938, when conservatives regrouped their forces, to the time of his death, Franklin Roosevelt did not get a single piece of significant domestic legislation passed.” However, Roosevelt was extremely successful in wartime legislation, including early attempts such as the cash and carry policy. As a result, it made sense that Roosevelt would want internment examined as a wartime measure. The court could have viewed Korematsu as a logical extension of the president’s power via Curtiss-Wright. The Commission on Wartime Relocation and Internment of Civilians (CWRIC) 1982 Report indicated that internment was simply the final stage in a long struggle against the

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82 Korematsu, 216-224. Though the Korematsu decision was quickly touted as a disaster by legal scholars such as Eugene Rostow, modern works suggest that Korematsu actually played a part in a larger process of social learning in which the government reacts, the court agrees (or not), and the public judges within the moment. While the government reaction may seem overexaggerated in retrospect, at the time it was rational. Overall, the public has learned to question government decisions as a result. Mark Tushnet, “Defending Korematsu: Reflections on Civil Liberties in Wartime,” Wisconsin Law Review 2003, no. 2 (2003): 273, 307; Justl, “Disastrously Misunderstood,” 279-280; Eugene V. Rostow, “The Japanese-American Cases—A Disaster,” Yale Law Journal 54 (1945): 492.

Japanese people on the West Coast. CWRIC noted, “Resentment of effective economic competition also inflamed public feeling and, combined with differences of language and culture, left the small minority of Japanese-Americans on the West Coast comparatively isolated—a ready target at a time of fear and anxiety.”\textsuperscript{84} Those who found the Japanese culture strange and West Coast farmers who rallied against Japanese land ownership rights in fear of economic competition sought passage of laws such as the Alien Land Law of 1913 to limit Japanese rights, long before World War II.\textsuperscript{85} The controversial nature of the \textit{Korematsu} case and the subsequent endorsement by the court indicated that Wildavsky’s two presidencies theory held strong during a period of traditional armed conflict. The success of Roosevelt’s internment policy at the court indicated the strong influence of a wartime president, not the weakness of a domestic presidential concern.

In the early years of American involvement in World War II, the public sought removal of those of Japanese ancestry due to largely racialized questions of loyalty or economic interests. According to one article from the \textit{Christian Science Monitor}, public opinion polls in California indicated, “traditional American tolerance and rights of citizenship should not stand in the way of the most complete possible assurance against ‘fifth column’ attacks in an emergency.”\textsuperscript{86} Representative Homer D. Angell of Oregon (R) agreed. Angell claimed, “It is a well-known fact that many of the Japanese, even


\textsuperscript{85} CWRIC Report. See also Mark Brilliant, \textit{The Color of America has Changed: How Racial Diversity Shaped Civil Rights Reform in California, 1941-1978} (New York: Oxford, 2010).

though born in America, believe in dual citizenship and owe allegiance and loyalty to the Emperor of Japan.”

Another article in the New York Times cited San Francisco Board of Supervisors President Dan Gallagher, who claimed, “the Mayor ought to put an embargo on truck garden produce brought in here by the Japanese. Everything can be taken care of here by our own truck gardeners.”

Likewise, the Los Angeles Times urged internment of all Japanese and Japanese-Americans while subsequently emphasizing the economic significance of the Japanese and Japanese-American population in Los Angeles County. The Los Angeles Times noted that the Japanese owned and operated more than 25,000 out of 40,000 acres of vegetable acreage in county. These examples indicated that while there was a perceived threat due to the large West Coast population of Japanese and Japanese-Americans, this threat was more economic than military. The Japanese population along the West Coast posed a domestic problem for California legislators, but by framing the issue with the war, Roosevelt’s subsequent policies gained success on a national level. Despite conflicting reports by General DeWitt, government intelligence ultimately indicated a lack of any fifth column activity by the Japanese population in the United States, but as a wartime presidential policy, internment remained positive in the eyes of the public, Congress, and the court.


89 “American Japs Removal Urged,” Los Angeles Times (February 3, 1942); John L. Burling to Solicitor General Charles H. Fahy, April 13, 1944, box 37, file 2, Papers of Charles Fahy, 1933-1957, FDRL. Burling indicated to Fahy that General DeWitt’s report included that there were several factors such as frequent signaling by unlawful radio transmitters, inability to raid the homes of Japanese-Americans to search for these transmitters, and discovery of ammunition, rifles, and maps showing the militancy of the Japanese aliens. Burling also indicated that the Federal Communications Commission had no evidence of any illegal transmissions and that Federal Bureau of Investigation raids of Japanese homes yielded no materials of military concern.
Despite Roosevelt’s elevated power as Commander in Chief, by 1944 he also had the benefit of having appointed every member then sitting on the court except Owen Roberts. The Roosevelt Court was much more likely to side with Rooseveltian policies according to the attitudinal model of judicial behavior. This was especially true under the pretense of what Roosevelt viewed as important policy, the economic aspects of the New Deal and wartime policies that were often economic in nature as well. The only true conservative on the court in 1944 who took part in the *Korematsu* decision was Justice Roberts (see table 4.1). 90 Confirming this analysis, Roberts voted against Roosevelt and the government in the case of *Korematsu*, writing his own dissent. However, Justices Frank Murphy and Robert Jackson also dissented and wrote separate opinions. 91

While dissenting opinions generated by Roosevelt appointees, including Murphy who fell into the clear Roosevelt-favoring majority of the court, indicated a fault with the attitudinal model in the *Korematsu* case, a closer examination of these opinions indicated a more nuanced discrepancy. Justice Roberts noted:

I dissent, because I think the indisputable facts exhibit a clear violation of Constitutional rights…it is the case of convicting a citizen as a punishment for not submitting to imprisonment in a concentration camp, based on his ancestry, and solely because of his ancestry, without evidence or inquiry concerning his loyalty and good disposition towards the United States. …Constitutional rights have been violated. 92

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92 *Korematsu*, 226.
Roberts indicated his clear disdain for the actions of the Roosevelt administration in his dissent, adding, “an Assembly Center was a euphemism for a prison.” However, while Murphy and Jackson disagreed with the majority opinion due to the racial motivations evident behind internment, they did not go against the right of the president as Commander in Chief to do such a thing if truly necessary. Critical race theory suggested a larger anti-Japanese mindset was at play in the decision and reflected in the dissents, yet the larger issue of wartime executive power remained the focus. Murphy claimed, “In dealing with matters relating to the prosecution and progress of a war, we must accord great respect and consideration.” Murphy also added that military authorities must have wide discretion, but he noted that a judicial test of whether or not the Government could plead military necessity failed in the case of Korematsu. In Murphy’s opinion, an individual’s constitutional rights could be deprived if the public danger was “‘immediate, imminent, and impending,’” which would then supersede the regular constitutional process. In the case of Fred Korematsu, however, Murphy noted that Japanese internment did not correspond directly with a realistic threat along the coast in 1942, and must therefore be racially motivated.

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93 *Korematsu*, 230.


95 *Korematsu*, 233.

96 *Korematsu*, 234.

97 *Korematsu*, 235.
Justice Jackson was the only justice thoroughly concerned with racial motivations behind Japanese internment and the court’s decision. Justice Jackson contended:

A military order, however unconstitutional, is not apt to last longer than the military emergency. …But once a judicial opinion rationalizes such an order to show that it conforms to the Constitution…the Court for all time has validated the principle of racial discrimination in criminal procedure and of transplanting American citizens.\(^{98}\)

In a temporary situation, Jackson agreed with Murphy, rights might be abridged, such as in the earlier case of *Hirabayashi v. United States* in which the court upheld curfew restrictions that were part of the Japanese relocation program. Jackson saw *Korematsu* as a dangerous precedent, however, a “loaded weapon” that could allow any authority to disregard the Constitution under the pretense of urgent need.\(^{99}\) In the subsequent case of *Ex Parte Mitsuye Endo* the court held that loyal citizens of the United States, no matter what ethnicity, could not be held without cause, further defining the dissent in *Korematsu*. According to Jackson’s notes from the justices conference, Black voted to affirm the *Korematsu* decision because “If we hold Endo to be freed [it] would go [a] long way to hold this [the *Korematsu* decision] furnished the same.”\(^{100}\) Jackson’s notes indicated that it was significant that these two opinions came out together. The court handed down the unanimous *Endo* decision the same day as *Korematsu*.\(^{101}\) Despite the apparent fissure of the court in the case of *Korematsu*, the attitudinal model, with the

\(^{98}\) *Korematsu*, 246.


\(^{100}\) Robert Jackson, Conference Notes on *Korematsu v. United States*, 1944, box 132, file 7, Robert Houghwout Jackson, Manuscript Division, LOC (hereafter cited as JP).

expectation that all justices would favor Roosevelt, proved true under closer examination of the justices’ dissents, showing that political models may give valuable insight into how the court functions during times of traditional warfare, deferring to the executive.

In conjunction with the ideological standing of the court, Roosevelt remained highly popular throughout the years of Japanese internment, further pressuring the court to comply. Internment lasted between February 19, 1942 and January 2, 1945, during which time Roosevelt’s approval rating ranged between seventy-nine and sixty-six percent. In December of 1944, just before the court handed down the Korematsu decision, Roosevelt’s approval rating was a strong seventy-two percent. 102 A published protest letter to Roosevelt, signed by several California residents in 1943, claimed similar feelings. “[W]e feel that this Japanese question should be given a great deal more serious thought before the Japanese are freed from internment, allowed back into civilian life where we know they will make civil existence and efficiency more difficult,” noted the signees. 103 With internment nearing an end, the court still supported the president’s policy. Public approval, indicated through the Gallup polls on presidential approval during this time, likewise suggested to the court that they not stray too far from Roosevelt’s policies, including internment.

Similarly, members of the press indicated their support of internment as well, signaling the court to follow suit. 104 In one 1943 Los Angeles Times article, the author


noted, “As a race, the Japanese have made for themselves a record for conscienceless treachery unsurpassed in history. Whatever small theoretical advantages there might be in releasing those under restraint in this country would be enormously outweighed by the risks involved.”105 Even after internment was to end, the Washington Post reported in December of 1944, “There will be some noisy protests against their [the Japanese] return, even though they are to be carefully ‘screened’ for any disloyal tendencies.”106 By upholding internment, but recognizing the racial discrimination of it, the court’s decision retained support from the press who also favored Roosevelt’s policies.

The Korematsu decision itself relied upon earlier case cues in regard to executive power, but dissenting opinions also warned against applying the decision to future instances of racial discrimination. Likewise, the majority opinion held some reluctance to uphold the war power of the president due to its association with internment. Though Korematsu did not directly cite the Curtiss-Wright decision, the majority opinion, by upholding Roosevelt’s executive order, firmly held that the president as Commander in Chief and his military delegates had ultimate authority over foreign policy. The court did not, however, deny that Congress had the war power as well, retaining a traditional outlook on war. Black alleged in the majority opinion:

The 1942 Act was attacked in the Hirabayashi case as an unconstitutional delegation of power; it was contended that the curfew order and other orders on which it rested were beyond the war powers of Congress, the military authorities, and of the President, as Commander in Chief of the Army… In the light of the principles we announced in the Hirabayashi case, we are unable to conclude that

105 “Stupid and Dangerous,” Los Angeles Times, April 22, 1943.

it was beyond the war power of Congress and the Executive to exclude those of Japanese ancestry from the West Coast war area at the time they did.\textsuperscript{107}

Additionally, a draft concurring opinion written by Justice Wiley Rutledge, who eventually joined the majority, did note the applicability of \textit{Curtiss-Wright}. The \textit{Korematsu} majority opinion relied heavily upon earlier cases involving Japanese internment, including \textit{Kiyoshi Hirabayashi v. United States} on curfew violation, and \textit{Ex Parte Misuye Endo} dealing with illegal imprisonment of an American citizen. The \textit{Endo} opinion, delivered by Justice William O. Douglas, noted, “Broad powers frequently granted to the President or other executive officers by Congress so that they may deal with the exigencies of war time problems have been sustained” and cited \textit{Curtiss-Wright}.\textsuperscript{108} \textit{Endo}, delivered the same day as \textit{Korematsu}, served as a death knell to internment, yet it reaffirmed the sole organ doctrine present explicitly or implicitly through cues in the wording of the majority opinions.\textsuperscript{109}

Though each of these internment cases supported executive power over foreign policy, they were also careful to acknowledge the traditional war-making role of Congress and warn against open racial discrimination. The court’s fissure of opinions over \textit{Korematsu} in combination with the \textit{Endo} decision cued the government that while the court supported broad executive power during war, it would be hard-pressed to support open racial discrimination in future cases. The precedent was set for expansion of presidential power during wartime and foreign affairs, however.

\textsuperscript{107} \textit{Korematsu}, 217-218.

\textsuperscript{108} Wiley Rutledge, Draft Concurrence on \textit{Korematsu}, undated, box 93, file 8, Wiley Rutledge Papers, Manuscript Division, LOC; \textit{Ex Parte Mitsuye Endo}, 298.

\textsuperscript{109} \textit{Korematsu}, 246.
In the end, *Korematsu* served as a typical case of the court’s wartime subservience to the executive. Though faced with the irredeemable policy of racial discrimination, the court rallied around Roosevelt because it was *a time of war*. In the intensified wartime atmosphere of the country, the court upheld *Korematsu* on the premise (no matter how unfounded) of national safety and security, despite the justices’ obvious disdain for the racial policies implicitly endorsed by their decision. By bowing to the executive in this instance, the court demonstrated just how willingly it would bend to the Commander in Chief’s desires.

*Youngstown Sheet & Tube Co. et al. v. Sawyer*

Unlike *Korematsu*, with its deceptive undertones of racism, which might have offered a challenge to the court’s willingness to defer to the executive under the precept of strict scrutiny, *Youngstown* fell into a previously established presidential seizure of power that could have been an easy decision for the court based on the historical precedent of Roosevelt’s seizure of coal and other industries during World War II. However, the period of continuous warfare that the court operated in during the 1950s was drastically different from the traditional war in 1943. In *Youngstown* the fuzzy state of continuous warfare served to confuse the court, leading to a disjointed opinion concerning executive power. Though legal scholars have often pointed to *Youngstown* as a case quashing presidential power, closer analysis reveals the court’s more nuanced position that reinforced traditional subservience to the Commander in Chief during *war.*

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Due to the conflict in Korea, Truman decided to test his capabilities as the Commander in Chief. In the spring of 1952, the United States steel industry was at a bargaining standstill, trapped between labor’s desire for higher wages and management’s outrage over government price caps on their product. The Korean situation caused Cold War tensions to escalate rapidly, Truman knew that a strike in the steel industry would devastate American armament for the war and send shockwaves through the domestic economy. According to Truman’s memoirs, “Under our system the responsibility rests on one man—the President.”\(^\text{111}\) Truman felt that it was his duty, as president, to protect the nation and, as Commander in Chief, to protect the nation’s war making ability and potential for success. Under these auspices Truman decided to issue Executive Order 10340 on April 8, 1952, which allowed Secretary of Commerce Charles Sawyer to seize most of the nation’s steel mills and put them under government control, eliminating any potential for a labor strike (due to a halt in negotiations between workers and management) and allowing the production of steel to continue.\(^\text{112}\)

Truman firmly believed that government seizure of an industry was within his powers. “Our government is fixed on the basis that the President is the only person in the executive branch who has the final authority. Everyone else in the executive branch is an

\(^{111}\) Truman, *Years of Trial and Hope*, 60.

agent of the President,” Truman noted in his memoirs. In a situation that seemed to suggest there were no other alternatives, Truman used his “final authority” to direct Sawyer, as an agent of the president, to seize the mills. Concurrently, the Executive Order claimed that the president’s action was necessary to avoid a national catastrophe, since a work stoppage would immediately imperil the national defense at a time when American armed forces were fighting in Korea. It was evident that Truman saw Korea as a conflict akin to war and expected the benefits of increased executive power as a result.

However, Truman’s own maneuvering within the liminal zone of continuous warfare created further confusion over the definition of the Korean conflict that would later hinder legal efforts to claim all the full rights of presidential war power. At the beginning of June 1950, Truman publically claimed the United States was closer to peace than any time since WWII, while less than a month later the fighting erupted in Korea. Truman blurred the line between peace and war by referring to Korea as a “police action” and telling the press the US was “not at war.” To just what effect Truman saw the steel situation as an actual threat to the nation was undocumented as he refused to discuss Korea in black and white terms, but the perception of threat would serve as an important part of his legal defense.

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Immediately after Truman issued E.O. 10340, Sawyer notified the steel mills. In a telegram sent from Sawyer to the steel mills coming under government control, he appointed the current presidents “operating managers” of their respective companies for the United States. In the initial stages of the seizure, the companies remained in operation as they previously had been except for the flying of the American flag and the keeping of a separate set of books for the period of seizure. The Associated Press reported that the Truman administration still wanted unions and industry to agree to new terms, but the talk of strike lingered. As the seizure operation continued, Sawyer warned the steel industry that he would begin considering what action to take regarding “terms and conditions of employment.” At this point, the owners in the steel industry came to see government seizure as a ruthless plan to force labor’s wage demands on management, despite the harm it would cause the industry.\textsuperscript{116}

The public reacted negatively to Truman’s seizure, failing to see the emergency on which he based his actions. In a political cartoon from 1952, the press adversely depicted Truman as a king, draped in traditional finery, ruling over the steel industry (see fig. 4.1). This cartoon showed the public’s reaction to Truman’s steel seizure as tyrannical rather than an accepted wartime power. Though historians often portray Truman as a weak president, this cartoon stylized Truman as an all-powerful despot. Another equally dramatic depiction showed presidential seizure as a hand breaking through the Constitution to snatch up “private property” (see fig. 4.2). In this situation, the private property illustrated appeared as a factory almost overshadowed by the giant gloved hand of the president. Again, the implication that Truman’s seizure was

unconstitutional stood out plainly. The press subsequently reported that Sawyer was planning a wage increase near management’s previous best offer, and that the government was planning to accept the highest offer tendered, a considerable twelve and a half cents more per hour plus five cents more in fringe benefits. Industry panicked, and a later memo on the behalf of respondents filed with the steel companies writ of certiorari to the U.S. Supreme Court, cited a firm belief that Sawyer would have granted the union whatever wages and concessions it wanted if the government was in control.117

However, Truman continued to press his message of urgency and national defense as a viable reason for government seizure of the steel industry. In a December 1951 letter, Director of the Office of Defense Mobilization Charles E. Wilson wrote to Truman, “If threatened stoppage in the steel industry should take place, it would have an immediate and very serious impact on our entire defense production program as well as on our total civilian economy.”118 Truman responded, “I think we are about to get on top of the steel strike and I am sure your report will fill the bill,” assuring Wilson that the two of them were on the same page regarding the significance of the steel strike.119

Utilizing the fuzzy language of the previous seven years of continuous warfare, Truman contended that the nation was in an emergency situation and that peace and war


118 Charles E. Wilson to HST, December 21, 1951, WHCF: PSF, box 118, file 1; TP, HSTL.

119 HST to Wilson, December 19, 1951, WHCF: PSF, box 118, file 1; TP, HSTL.
were no longer differing concepts but patently synonymous in the atomic age. In a radio and television address, Truman reiterated steel’s importance for both defense and peace. “Steel is our key industry. It is vital to the defense effort. It is vital to peace,” Truman stated. The president’s portrayal of the Korean War as a national emergency at home, while downplaying the situation abroad as a police action, continued to blur the meaning of modern warfare.

While the Korean conflict was at the forefront of Truman’s address, the atomic energy program, the economy, the Chinese communists, the Iron Curtain, and prevention of another world war also became part of the discussion of the necessity for government seizure of the steel mills, depicting the plasticity of continuous warfare. Truman claimed, “With American troops facing the enemy on the field of battle, I would not be living up to my oath of office if I failed to do whatever is required to provide them with the weapons and ammunitions they need for their survival.” He continued, “These are not normal times. These are times of crisis. . . The situation can change over night [sic].” A memorandum from the Economic Stabilization Agency (ESA) to White House staffer Harold Enarson on the role of government in dealing with labor disputes, likewise reiterated the confusing period of continuous warfare. “Our present situation of

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121 Truman Radio Address.


123 Truman Radio Address.

124 Truman Radio Address.
partial mobilization is one of indefinite and probably rather long duration. Conceivably, it may phase into a total war,” the ESA claimed.\textsuperscript{125} Whether Truman understood the situation to be a true emergency, he certainly wanted the American public, press, and steel industry to perceive it as an emergency.

Unfortunately for Truman, leaders within the steel industry were growing more suspicious of the government’s motives, and Congress, still manipulating the Korean situation for their own political use, seemed unwilling to support the president’s actions at home. According to Truman’s memoirs, he had sent a message to Congress the day after he seized the steel mills. “I asked Congress to provide specific legislation for terms and conditions for the government operation of the mills,” Truman noted.\textsuperscript{126} Truman also claimed that he would have been happy to follow any policy Congress wanted, even if it canceled the seizure. However, some confusion arose regarding the guidelines for dealing with labor disputes set forth in the Taft-Hartley Act, which Truman seemingly disregarded.\textsuperscript{127} On television, Truman had cited the Taft-Hartley procedures as too slow and incapable of preventing a shutdown. Seeing it as being well within his powers, Truman seized the mills and waited for Congress to make the next move. Truman ultimately claimed that he did not want to seize the steel mills, but it was the best alternative until congressional action and would still provide ample opportunity for

\textsuperscript{125} Economic Stabilization Agency to Harold L. Enarson, “Labor-Management Agreement on the Role of the Government in Dealing with Labor Disputes in the Immediate Period of National Defense Preparation, April 5, 1951, box 3, file 1; Enarson Papers, HSTL.

\textsuperscript{126} Truman, \textit{Years of Trial and Hope}, 472.

\textsuperscript{127} Truman, \textit{Years of Trial and Hope}, 472; The Taft-Hartley Act was also known as the National Labor Relations Act. For more information on the details of the Taft-Hartley Act, see House Special Subcommittee of the Committee of Education and Labor, \textit{National Labor Relations Act of 1949}, 81st Cong., 1st sess., 1949.
bargaining between labor and management. Twelve days after the seizure took place, however, Truman sent another message to Congress, which refused to act.\textsuperscript{128}

At this point, it became apparent that there was some disconnect between Truman’s actions and his powers as president, thus creating a constitutional crisis. It was Congress’s job to take private property for public use, but they seemed to do nothing in the case of steel seizure, so Truman took it upon himself. The power to do so stemmed, not from statutory law, such as the Selective Service Act of 1948 or the Defense Production Act of 1950, both of which might have allowed the president to take property under certain conditions, but from Truman’s assumption of inherent powers in the Constitution.\textsuperscript{129} It was this aspect of assumed power that Congress staunchly disapproved of, especially when there were already mechanisms in place to deal with the situation. As a result, the Senate attempted to place an amendment on an appropriations bill, which would effectively cancel the seizure by wrangling in the money needed to run the mills.\textsuperscript{130} The amendment seemed unlikely to pass both houses and Truman would have vetoed it after passage anyway. In the absence of congressional action, Truman utilized the powers he believed he had as Commander in Chief to protect the nation


\textsuperscript{130} Interestingly, Congress chose to utilize its “power of the purse” in this situation, when it came to more direct interference with the voting public at home, yet ignored this power in dealing with funding the Korean War overall. This paradox suggests congressional desirability for political maneuverability due to the murkiness of the Korean situation and continuous warfare overall.
during a time of crisis, giving the Supreme Court reason enough to explore the parameters of executive power further.\textsuperscript{131}

The owners of the steel companies did not see the crisis that Truman proposed. Instead, they saw their profits regulated by the government in an underhanded attempt to convince the nation that the country was in peril and that management was being unfair in the bargaining process that kept the mills running. Labor unions were unwilling to sacrifice for the defense effort once the situation in Korea seemed to stabilize, and faced with shutdown or government operation, workers may have preferred the benefits under the latter when it came to the steel crisis.\textsuperscript{132} Newspaper articles focused on issues like U.S. economic stability and how the mobilization process cloaked this larger problem. In one article from the \textit{Chicago Daily Tribune}, the author noted, “Mr. Truman’s seizure, or attempted seizure, of the steel mills, changes the crisis in that industry from an economic one to a political one.”\textsuperscript{133} The Korean War became a problem as the government placed price controls on industry and post-World War II inflation kicked in, causing laborers to demand higher wages. The steel industry knew that higher wages would mean lower profits, despite higher sales because of the war. This became even more apparent as the government seizure led labor unions to believe their bargaining rights were no longer with steel management but with the government.


\textsuperscript{132} Casey, \textit{Selling the Korean War}, 199.

It was for these economic reasons that the steel companies took their cause to court. In the affidavit of Walter E. Watson, vice president of Youngstown Sheet and Tube Company and president of Youngstown Metal Products Company, he stated that the seizure was a coercive effort to get the steel companies to accept the recommendations of the Wage Stabilization Board, the government body in charge of handling labor disputes. It was the economic ramifications of seizure that gave the Supreme Court a measure for damages necessary for it to hear the steel seizure case when the time came.\(^{134}\)

As the United States flag rose above steel mills across the country, industry leaders were already waging their own war, a legal war, against the president’s actions. The case came to the courts as *Youngstown Sheet & Tube Co. et al. v. Charles Sawyer* and questioned the legal authority of the president to seize the nation’s steel mills. Although there were other issues at hand in the case, including financial damage to the steel industry and unfair bargaining practices, one of the most crucial issues centered around whether the seizure order was within the constitutional powers of the presidency.\(^{135}\) It was from this standpoint that the court illustrated the ambiguous nature of continuous warfare and its legal impact on executive power issues.

*Youngstown* served as a remarkable case study regarding executive power because it took place during the initial period of continuous warfare when the definition of war blurred, it offered a look at constitutional principles, and the Supreme Court’s many opinions in the case offered an opportunity for plentiful analysis. Legal scholars have


\(^{135}\) *Youngstown v. Sawyer*, 582.
sometimes speculated as to the consequences of Youngstown since the outcome seemed
to paradoxically endorse and quash executive power. A careful analysis of the
complexities of judicial behavior and historical circumstances revealed that it merely
quashed part of Truman’s executive authority, instead setting the guidelines for future
expansion under the vague terms of war in lieu of statutory law.

The Youngstown case ultimately questioned the role of the executive and how one
man could have such a different opinion of his powers than those around him in the other
branches of government. As a result, the Truman administration painted its side of the
Youngstown case as one of inherent powers via the Commander in Chief clause, aiming
for the boost in power that Wildavsky predicted under his two presidencies theory. Due
to the Korean War and overall Cold War tensions, the Justice Department believed it had
a clear-cut case in favor of the president’s actions. Consequently, U.S. attorneys asserted
that the president had “inherent power” supported by the “Constitution, by historical
precedent, and by court decisions.” The government’s attorneys readily admitted that
the language of the Constitution was vague, but that because the president had assumed
these inherent powers repeatedly throughout history, they were clearly evident in Article
II.

The government’s argument ran into a problem, however, when the case came up
against Judge David A. Pine in the U.S. District Court for the District of Columbia.

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President Franklin Roosevelt appointed Pine, a former U.S. Attorney, to the court in 1940. Although it seemed reasonable to assume that Pine would decide in favor of the president, since Truman had been Roosevelt’s vice president and shared many of the same initial policy beliefs as FDR, the government miscalculated. Pine wrote a scathing fifteen-page opinion citing former U.S. Supreme Court Chief Justice William Howard Taft’s 1916 book *Our Chief Magistrate and his Powers*. In this work, Taft stated that there were no inherent powers in the Constitution. Taking on the government’s argument for prior acts that supported this reading of Article II, Pine declared that several wrongs did not make something right and that these prior acts had been illegal as well. The court found the government’s actions to be illegal. Though Pine’s ruling might have seemed out of character from a traditional attitudinal perspective, as a Roosevelt appointee who should have favored Roosevelt’s—and by default Truman’s—policies, historical analysis of newspaper articles from the day of the decision reported that there was applause on Capitol Hill regarding Pine’s decision. This reaction from Congress suggested that external pressures, such as the public confusion over the state of war and therefore the necessity of seizure, might have swayed Pine in a different direction.\(^\text{138}\)

After Pine’s severe blow to the government’s case and subsequent denial of a stay, the steel seizure case made its way to the Court of Appeals and finally the United States Supreme Court, all in less than five weeks. Solicitor General Philip B. Perlman

presented the government’s case, and in the government’s brief to the court, he
maintained that the Constitution was a living document and very much open to
interpretation.\textsuperscript{139} In the brief, Perlman claimed, “We submit that, contrary to the view of
the district judge, past practice and usage constitute strong constitutional precedent.”\textsuperscript{140}
However, he also contended that, whereas Judge Pine had believed the government
sought unlimited executive power, the government was actually seeking recognition of a
limited executive power as stated in the Constitution. This limited power had to be
sufficient to permit emergency action. Perlman also emphasized the damage caused for
future necessary uses of executive power if Pine’s ruling stood. “[U]npredictable
emergencies” that remained unforeseen might require a necessary volume of executive
power, according to Perlman’s argument.\textsuperscript{141}

However, the steel companies’ attorneys sought to uphold the district court’s
opinion and both legally and publicly push the president’s seemingly blatant disregard for
the law and assumption of power as reasons for the seizure being illegal. In the
petitioner’s brief, they pressed the idea of unlimited executive power and a president only
accountable to the country as the government’s underlying motive. At the same time, the
steel companies found an ally in Congress and began asserting the availability of
congressional law already on the books, such as the Taft-Hartley Act, to deal with labor
issues. In Congress, many debated the president’s actions. Some legislators believed
seizure to be a reasonable action \textit{if} the president had gone to Congress and asked them to

\textsuperscript{139} The Steel Seizure Case, 515, 506. See also: Louis Fisher, “Is the Solicitor General an Executive
or a Judicial Agent—Caplan’s Tenth Justice,” \textit{Law and Social Inquiry} 15, no. 2 (Spring 1990): 305-320.

\textsuperscript{140} The Steel Seizure Case, 508.

\textsuperscript{141} The Steel Seizure Case, 510, 504, 513.
amend the Taft-Hartley Act. Others thought that there was no excuse for seizure. Senator John Bricker (R-OH), citing a Washington Post article regarding FDR’s seizure of Montgomery Ward, noted that Roosevelt’s seizure “was done under the pressure of wartime emotions.” Bricker saw none of the same factors in 1952, complicating the meaning of war further. Representative Abraham Multer (D-NY) told the House that whatever was happening in Korea could become a full-fledged war and that steel was a basic requirement. Unlike Korematsu where the government successfully framed a domestic issue as a wartime problem, giving Roosevelt more leeway as a wartime president, the public and courts framed Youngstown primarily as a domestic labor issue, yielding less power to Truman under the two presidencies theory. The companies utilized this confusion over the war issue and historical precedent to contend that the president blatantly disregarded statutory law in a grab for power.

However, the Truman administration continued to structure its actions and arguments around the concept of war in conjunction with the court’s previous general deference to presidential war power. “In view of the Supreme Court’s generous construction of presidential power during wartime, Truman and the White House staff were confident that the courts would uphold the seizure,” claimed legal historian Maeva

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142 The Steel Seizure Case, 606, 596; Cong. Rec., 82d Cong., 2d sess., 1952, 98: 3676-3677.


145 Roy E. Brownell II sought to explain how both Youngstown and Curtiss-Wright could both be used as part of national security precedent, arguing for an idealist critique that posits greater presidential powers in national security issues over domestic affairs and that presidential power also varies overall according to congressional authorization or lack thereof. Roy E. Brownell II, “The Coexistence of United States v. Curtiss-Wright and Youngstown Sheet & Tube v. Sawyer in National Security jurisprudence,” Journal of Law and Politics 16, no. 1 (2000): 14-15.
Marcus.\textsuperscript{146} Truman hoped that the court would rally around the president during a time of war, as they had for Roosevelt. However, historian Steven Casey claimed that because the Truman administration publicly viewed Korea as a short-term emergency, and did not create a wartime public information agency, it likewise dispelled the “rally round the flag effect” that normally would accompany strong actions.\textsuperscript{147} As a result, Truman’s popularity remained low and neither the court nor public came to his aid.

From the beginning of the government’s seizure of the steel industry, the Truman administration had adhered to the idea that it was a necessary action due to the Korean War. Truman himself did not have a hard time maintaining this belief over the several months of the steel crisis. In general, Truman believed, “As Commander in Chief…any stoppages in any of the basic industries [were] direct threats to the war effort and the national security.”\textsuperscript{148} During the end phases of World War II, Truman had issued executive orders to seize Goodyear Tire and Rubber Company and Gulf Oil Corporation under this same theory.\textsuperscript{149} In connection to this understanding, Sawyer’s “Order No. 1” issued to seized steel companies on April 8, 1952, stated that government took possession “in order to assure the continued availability of steel and steel products during the existing national emergency proclaimed on December 16, 1950.”\textsuperscript{150} Sawyer was

\textsuperscript{146} Marcus, \textit{Truman and the Steel Seizure Case}, 102.

\textsuperscript{147} Casey, \textit{Selling the Korean War}, 122.

\textsuperscript{148} Truman, \textit{Year of Decisions}, 496.

\textsuperscript{149} Frederick M. Vinson to HST, May 31, 1945, box 353, file 10, Vinson Papers; Vinson to HST, July 4, 1945, box 353, file 10, Vinson Papers.

\textsuperscript{150} \textit{The Steel Seizure Case}, 22. Truman issued an official national emergency that cited communist aggression, including what was happening in Korea, as a reason for Americans and American industry to sacrifice for the national defense and security efforts on December 16, 1950. HST, “Proclamation 2914—Proclaiming the Existence of a National Emergency,” December 16, 1950, APP.
referring to the Korean War and the general fight against communist aggression as the “existing national emergency” despite Korea’s confusing status as a police action or undeclared war. The proclamation of an official national emergency was Truman’s attempt at taking a stronger stand on the Korean situation without completely abolishing his political mobility by citing war or peace.\textsuperscript{151} Sawyer also stated in Order No. 1 that he could terminate the seizure at any time when “such possession and operation are no longer required in the interests of national defense.”\textsuperscript{152} While the national emergency may have given Truman some leeway to act, his denial of a traditional state of war publically disabled the administration’s legal argument before the court.

For the Truman Administration, national defense stood as a viable excuse for seizure by the Commander in Chief from the very beginning. As the case reached the Supreme Court, numerous deponents on the side of the government further reiterated this claim. Secretary of Defense Robert A. Lovett claimed in his affidavit, “communist aggression is forcing the free world to fight a limited war on the battlefield and an unlimited war of preparation and production.”\textsuperscript{153} Lovett continued, “The cessation of production of steel for any prolonged period of time would be catastrophic,” due to the fact that the steel industry provided a staple for “weapons, arms, munitions, and equipment.”\textsuperscript{154} Furthermore, Lovett noted that “atomic energy, petroleum, power, and transportation programs,” which were used to increase war potential, would be under

\textsuperscript{151} Casey, \textit{Selling the Korean War}, 176, 178-179.
\textsuperscript{152} \textit{The Steel Seizure Case}, 23.
\textsuperscript{153} \textit{The Steel Seizure Case}, 27-28.
\textsuperscript{154} \textit{The Steel Seizure Case}, 29.
severe stress if the steel industry shut down.\textsuperscript{155} This claim was made in affidavits by Chairman of the U.S. Atomic Energy Commission Gordon Dean, Administrator of the Defense Production Administration Manly Fleishmann, Secretary of the Interior Oscar Chapman, and many more government experts. All of these deponents claimed, in one manner or another, that the continuance of steel production was absolutely necessary because of the current war (Korea) and the impending domino effect that a stoppage of steel production would have on other defense industries.\textsuperscript{156}

Unfortunately, the Truman administration had a hard time proving not that steel was necessary for fighting a war, but that there even was a war to be worried about fighting. The “strategic importance” of Korea, a peninsula that few Americans knew existed until the U.S. became involved there, proved elusive to the American public. In addition, because the Korean War was an undeclared war, circumstances forced the Truman administration to fight without acknowledging the war’s total dimensions. As a result, Congress refused to act as if Korea were a “real war.”\textsuperscript{157} Though legislators were initially cautious to react to the Korean situation, they quickly manipulated the fuzzy nature of this non-war for their own use, with Republicans reframing the issues around foreign affairs and Truman’s leniency toward communism.\textsuperscript{158} Newspaper editorials also stressed confusion over the state of conflict, claiming “that Truman had overstepped his constitutional powers, since the United States was not at war.”\textsuperscript{159} This nondescript

\textsuperscript{155} The Steel Seizure Case, 29.

\textsuperscript{156} The Steel Seizure Case, 31-34, 39, 43, 44, 46, 49, 62.

\textsuperscript{157} Marcus, Truman and the Steel Seizure Case, 3.

\textsuperscript{158} Casey, Selling the Korean War, 38-40.

\textsuperscript{159} Marcus, Truman and the Steel Seizure Case, 89.
character of the Korean “war” inevitably caused problems for the government’s case in *Youngstown*. According to Marcus, “The seizure episode is more profitably viewed, therefore, as an illustration of the problems faced by an administration in prosecuting a limited war, especially one which has not been declared by Congress.”160

Focusing on the confusion over the status of the Korean War, the steel companies took up the claim that there was no *actual* national emergency and seizure was an unjust use of executive power. In the brief for the respondent companies, they stated, “it [seizure] is action taken for the purpose of settling a labor dispute by executive fiat.”161 First, the steel companies claimed that the Universal Military Training and Service Act, which the government cited as also allowing a method for seizure, did not allow such a thing. The companies then noted that the president had not been following the law, but was trying to settle a labor dispute. Finally, the companies noted that the president could only use the Commander in Chief powers when the public was in immediate danger and normal government procedure was too slow.162 The respondent’s argument then stated, “[We] should be unwilling to place such a law on the books until we actually face such an emergency, and Congress applies the remedy for the particular emergency only.”163 The respondents looked at the action as a domestic issue, not part of a larger national emergency or war.

The court ultimately issued a divided six-to-three decision holding the seizure was an unconstitutional use of executive power, but the various opinions offered as part of the

160 Marcus, *Truman and the Steel Seizure Case*, 258.

161 *The Steel Seizure Case*, 593.

162 *The Steel Seizure Case*, 627-628, 584, 636-637.

163 *The Steel Seizure Case*, 599.
decision reflected a far more complicated view. Overall, the court did not authorize the president’s action in the case of Youngstown as an extension of the Commander in Chief powers because “the steel mills were not part of a theater of war.” According to the majority opinion:

It is clear that, if the President had authority to issue the order he did, it must be found in some provision of the Constitution. And it is not claimed that express constitutional language grants this power to the President. The contention is that presidential power should be implied from the aggregate of his powers under the Constitution. …

The order cannot properly be sustained as an exercise of the President's military power as Commander in Chief of the Armed Forces. The Government attempts to do so by citing a number of cases upholding broad powers in military commanders engaged in day-to-day fighting in a theater of war. Such cases need not concern us here. Even though "theater of war" be an expanding concept, we cannot with faithfulness to our constitutional system hold that the Commander in Chief of the Armed Forces has the ultimate power as such to take possession of private property in order to keep labor disputes from stopping production. This is a job for the Nation's lawmakers, not for its military authorities.

However, the majority opinion seemingly disregarded several significant aspects of the 1950s. Foremost, the advent of the nuclear age, historically, demanded a more rapid response in government action. The “here today, gone tomorrow” attitude of the era following the use of the American atomic bomb was only amplified by the Soviet Union’s first test of the bomb in 1949. The court appeared to disregard this feeling, instead citing the availability of slow legislative procedures as another option. According to journalist Roland Sawyer, “The court divided on the question of whether or not the crisis between the free nations of the world and the Soviet Union was sufficient to

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164 Segal and Spaeth, *Supreme Court Attitudinal Model*, 168.

override the checks and balances the Constitution bestows upon the President, Congress, and the courts.”\textsuperscript{166}

This decision reflected popular confusion over the Cold War as a “war,” and the Korean War as a part of that nontraditional war and as an undeclared war. “[A]bsent the existence of a genuine emergency, the court was unwilling to cloak an exercise of inherent power with the authority of law. The justices, reflecting the public consensus, believed the time had come to reassert the ordinary limits on presidential power,” noted Marcus.\textsuperscript{167} The majority opinion proclaimed, “The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good and bad times.”\textsuperscript{168} There was no true public consensus over the seizure situation or executive power, but Judge Pine’s earlier decision had been popular and because Congress had some laws in place that might have effectively dealt with the situation, the court could not allow recognition of inherent powers in this case.\textsuperscript{169}

The inclusion of several concurring opinions exemplified the graduated nature of the majority decision, showing that the justices were not taking a firm stance against executive power as the majority opinion alone might suggest. Justice Frankfurter’s concise concurrence blatantly stated this point. Frankfurter noted:

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\textsuperscript{166} Roland Sawyer, “Congress Gets Steel Tilt as Workers Strike After High Court Voids Seizure,” \textit{Christian Science Monitor}, June 2, 1952.

\textsuperscript{167} Marcus, \textit{Truman and the Steel Seizure Case}, 227.

\textsuperscript{168} \textit{Youngstown v. Sawyer}, 589.

\textsuperscript{169} Marcus, \textit{Truman and the Steel Seizure Case}, 226. See also: Michael Stokes Paulsen, “\textit{Youngstown} goes to War,” \textit{Constitutional Commentary} 19, no. 1 (Spring 2002): 215-259. Paulsen contends \textit{Youngstown} obliterates inherent executive authority, but he overlooks the maneuverability of continuous warfare.
Although the considerations relevant to the legal enforcement of the principle of separation of powers seem to me more complicated and flexible than may appear from what MR. JUSTICE BLACK has written, I join his opinion because I thoroughly agree with the application of the principle to the circumstances of this case.\(^{170}\)

While he agreed with the result, Frankfurter also added, “The issue before us can be met, \textit{and therefore should be}, without attempting to define the President's powers comprehensively. I shall not attempt to delineate what belongs to him by virtue of his office beyond the power even of Congress to contract.”\(^{171}\) This statement showed a greater reluctance to delve into the limits of presidential power, hinting toward caution on the court’s part.

Justice William O’ Douglas also articulated a call for caution in his concurrence and suggested that the current emergency was too dubious to make a final judgment on executive power. Douglas argued:

If we sanctioned the present exercise of power by the President, we would be expanding Article II of the Constitution and rewriting it to suit the political conveniences of the present emergency. …Article II, Section 2, makes the Chief Executive the Commander in Chief of the Army and Navy. But our history and tradition rebel at the thought that the grant of military power carries with it authority over civilian affairs.\(^{172}\)

Though Douglas referred to the present emergency, the Korean War, he also noted his reluctance in expand the powers of the Commander in Chief to “civilian affairs.” This proclamation meant that Douglas was unable to see the steel seizure in the light of foreign affairs and saw seizure only as a domestic issue. However, Douglas’ concurrence did not recommend the president to have no expanded power in wartime or in a true

\(^{170}\) Youngstown v. Sawyer, 589.


\(^{172}\) Youngstown v. Sawyer, 632. Emphasis added.
emergency, but seemed to submit that it was not currently one of those times. Justice Burton agreed about the nature of the current situation, adding in his own concurrence:

The present situation is not comparable to that of an imminent invasion or threatened attack. We do not face the issue of what might be the President's constitutional power to meet such catastrophic situations. Nor is it claimed that the current seizure is in the nature of a military command addressed by the President, as Commander-in-Chief, to a mobilized nation waging, or imminently threatened with, total war.173

The court fragmented generally along the question of, not just wartime authority, but the current circumstances and just what facts constituted a real “war.”

Justice Jackson’s concurrence most clearly laid out the bounds of executive authority. According to Jackson:

Presidential powers are not fixed but fluctuate depending upon their disjunction or conjunction with those of Congress. …

When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum. …

When the President acts in absence of either a congressional grant or denial of authority, he can only rely upon his own independent powers, but there is a zone of twilight in which he and Congress may have concurrent authority, or in which its distribution is uncertain. Therefore, congressional inertia, indifference or quiescence may sometimes, at least, as a practical matter, enable, if not invite, measures on independent presidential responsibility. …

When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter. Courts can sustain exclusive presidential control in such a case only by disabling the Congress from acting upon the subject.174

What Jackson contended in his concurrence was that presidential power existed and was quite expansive, but could only be exercised openly in an absence of congressional authority or when Congress’ power was uncertain. The “zone of twilight” that Jackson referenced articulated the court’s own shifting orientation concerning executive authority.

173 Youngstown v. Sawyer, 659.
Burton again supported Jackson’s ideas in his own concurrence, arguing, “The Constitution has delegated to Congress power to authorize action to meet a national emergency of the kind we face. Aware of this responsibility, Congress has responded to it. It has provided at least two procedures for the use of the President.”\textsuperscript{175} Jackson’s twilight suggested a fuzzy area that was politically malleable, but because of Taft-Hartley and other statutory limits as suggested by Burton, the \textit{Youngstown} case itself could not serve as an example of that twilight. However, this cue from the court told the president to exercise his power carefully, outside of congressional limits.

Subsequently, the court’s dissents advocated the existence of a real emergency and the need for a strong executive with the ability to take control in these modern times. Marcus claimed the “dissenters’ interpretation would have been proper if there had been a declaration of war.”\textsuperscript{176} According to the dissenting opinion, written by Chief Justice Vinson and joined by Justices Reed and Minton:

> Those who suggest that this is a case involving extraordinary powers should be mindful that these are extraordinary times. A world not yet recovered from the devastation of World War II has been forced to face the threat of another and more terrifying global conflict.\textsuperscript{177}

The dissenters thoroughly acknowledged the unique circumstances of the time regarding warfare, yet left it no better defined. Curry’s initial hypothesis that there was a “rally effect” in the court when the nation was at war proved untrue in his final analysis, showing that armed conflict was unfortunate for the president when he (or his actions) came up before the Supreme Court. A distinct difference in cases involving foreign or

\textsuperscript{175} \textit{Youngstown v. Sawyer}, 656. Emphasis added.

\textsuperscript{176} Marcus, \textit{Truman and the Steel Seizure Case}, 222.

\textsuperscript{177} \textit{Youngstown v. Sawyer}, 668.
military powers versus those dealing with domestic power issues—the president faring well in the former, but not in the latter—compounded this analysis. However, most political scientists ignore any differentiation between traditional war as “armed conflict” and the shifting language of war to mean other things during the 1950s, i.e. Cold War, continuous war, or national emergency, missing the larger historical shift that took place during the Truman administration and was evidently under consideration in such cases as Youngstown. Due to this gap in political science research, the historical context of continuous warfare exposed the necessity of a reexamination of judicial behavior models.

Subsequently, these new perceptions of warfare also altered the theater of war, making it much less defined overall (such as the domestic fight against communism during the Cold War). According to Justice Robert Jackson’s conference notes from the Youngstown case, the concept of warfare divided the court. Jackson noted that Frankfurter believed there was no war without Congress’ formal declaration, while Vinson argued that congressional appropriations for the war meant that the United States had a duty to see it carried out properly. Congressional malleability in the liminal zone between traditional peace and traditional war further confused the court, whose members saw Congress as compliant with the war whether it was formally in existence or not. Black contended that war or not, the United States was not in “great danger” and that over the past two years the court had made greater invasions of liberty under this excuse.¹⁷⁸ The Youngstown case appeared to fit neatly into political science models, during armed conflict and dealing with a domestic power issue, when an imperial

president might fare poorly. However, the concept of war in the 1950s was fluid, altering this analysis, and potentially blurring the lines between foreign and domestic issues as well; therefore, a more interdisciplinary approach looking at both history, political science, and the law provides the best analysis of *Youngstown*.

When examining the effect of presidential prestige on the Supreme Court in the case of *Youngstown*, it became apparent that, while there was no lag, public opinion affected the court’s decision. As the case entered the Supreme Court in 1952, President Truman appeared to believe that the government had a strong argument. Working from the precept that there was a five-year lag between public opinion and its reflection on the court, Truman also had a strong position. In 1947 Truman had reasonably high approval ratings, though down from his 1945 high of 87 percent, which public opinion polls reflected as well. In the opinion of *Youngstown*, Justice Jackson noted, “By [the President’s] prestige as head of state and his influence upon public opinion he exerts a leverage upon those who are supposed to check and balance his power which often cancels their effectiveness.” However, Truman misjudged his prestige and his power over the court in 1952.

In the year of the *Youngstown* decision, Truman had the lowest approval rating of any American president. This low public approval equated to a significant drop in Truman’s prestige as well. The media exaggerated Truman’s problems by adopting a largely anti-government stance that eventually swayed public opinion against Truman. In


addition, the popularity of Judge Pine’s decision at the District Court level also led to a decreased support for steel seizure. In 1952 Truman’s approval ratings had plummeted because of the unpopular Korean War, government economic controls, and the continuing presence (or perception) of communism and corruption in the federal government. According to Gallup polls from the period, Truman’s average approval rating for his second term in office (1949-1953) was around 36.5 percent, but in the spring of 1952 public approval reached its lowest point at 22 percent (see fig. 4.3).181

Just prior to the Youngstown case, the press was ridiculing Truman for his recent dismissal of the very popular General Douglas MacArthur. Some articles went as far as advocating presidential impeachment, and Republican Governor Thomas E. Dewey (Truman’s previous foe in the 1948 election) called the Truman administration a “disastrous failure of leadership in Washington.”182 The strong trend of public opinion against Truman and dipping presidential approval ratings during this period surrounding and directly before the court heard Youngstown might have affected how the justices voted. As further evidence of this, William Rehnquist, future Chief Justice of the Supreme Court and court judicial clerk during Youngstown, blamed “public mood” and Truman’s low approval rating for the government’s loss in the case.183

181 The Steel Seizure Case, 475; Marcus, Truman and the Steel Seizure Case, 130, 34; Gallup. Legal scholar Edward T. Swaine argued, much like Truman’s choice to get involved in Korea without the approval of Congress, he also chose to ignore Congress when deciding to seize the steel mills because of political economy reasons. Essentially, Truman’s agenda could not fail if never put up for approval in the first place. Edward T. Swaine, “The Political Economy of Youngstown,” Southern California Law Review 83, no. 2 (January 2010): 263-264.


Youngstown was a split decision by the Supreme Court, though not along the more typical ideological divisions per the attitudinal model, suggesting more intricacies to the result. In a court composed of supposedly similarly ideologically-minded justices, the difference should have been much smaller. The dramatic fissure in Youngstown showed that other factors beyond ideology also played into the decisions of the justices. While some political scientists have based the ideological stance of the justices primarily on economic and civil liberties issues as expressed in pre-confirmation editorials (Segal-Cover Scores), this approach yielded disappointing results for the Roosevelt and Truman Courts. These courts struggled under the unique circumstances of depression, war, and continuous warfare. Though ideological correlation within the Roosevelt and Truman Courts was not without importance, it could not be the sole reason behind decisions such as Youngstown, again suggesting the need for a more nuanced interpretation of the decision and the court’s behavior within the fuzzy parameters of continuous warfare.184

In examining the court sitting for Youngstown, Sherman Minton, Harold Burton, Tom Clark, and Fred Vinson were all Truman appointees. While appointment alone did not give Truman a majority number of allies on the court, Franklin Roosevelt appointed the remaining justices. Since Truman formerly served as vice president under Roosevelt,

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succeeding him as president after his death, Roosevelt and Truman shared similar political ideologies. Truman’s own pledge to follow Roosevelt’s policies after April 1945 further solidified this argument. As a result, the entire court should have been sympathetic to President Truman’s position in the case of *Youngstown*. Historically, however, the fuzzy nature of continuous warfare made this predicted attitudinal outcome unreliable, as the court fissured over the meaning of war and definition of the Korean conflict. Additionally, whereas Roosevelt focused on political appointments that reflected his policy prerogatives, Truman often thought collegially and put his friends into positions on the court based on the concept of loyalty. This difference in appointment strategy along with the still ambiguous nature of modern warfare, sometimes led to divergent opinions concerning executive power in foreign affairs. Just as Truman and Congress were unable to fully grasp a modern definition of war and were therefore forced to operate within the twilight zone, so too was the court.

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Another factor that may have altered the justices’ votes was their personal executive experience. Justices are more likely to support presidential power issues if they formerly served in an executive position at the state or federal level. Being more familiar with the challenges of an executive office, these justices should be sympathetic to the president when he comes before the court. However, the only justice on the court for Youngstown with arguable executive experience was Harold Burton, who had formerly served as the mayor of Cleveland, Ohio, before Truman appointed him to the court in 1945.\footnote{187} Despite Burton’s liberal stance, executive experience, and appointment by Truman, he voted against Truman in 1952.

Finally, an examination of the background of the justices illuminated their positions in Youngstown. By examining the majority justices, research revealed hints to the justices’ stances against excessive executive power. For example, despite being a former Democratic US Senator and Roosevelt’s first appointment to the court in 1937, Hugo Black had also been a labor lawyer in favor of worker rights. In the steel seizure case, Black focused on the actual impact that seizure had on the laborers and union bargaining prerogatives, finding that seizure was not a correct procedure and that there were already labor arbitration laws in place for the president to follow. Jackson’s conference notes confirmed that Black was unconvinced by anything the other justices had to say. In another instance, Roosevelt had almost chosen William O. Douglas, known for his distinct distrust of government power, as his running mate in 1944.\footnote{188} In his place, Roosevelt chose Harry Truman. In today’s court, “appointment to the Court is

\footnote{187}Curry, “Adjudication of Presidential Power,” 20; Vinson Court.

\footnote{188}Jackson, Conference Notes, JP, LOC; Vinson Court.
the culmination of [the justices’] employment and life goals,” but Douglas was just one instance of an earlier generation of jurists who believed the highest goal was the presidency. In a 1951 letter from Truman to Douglas where Truman lambasted Douglas for publicly supporting communist China, Truman reminded Douglas of his political failures. Only a year before Truman seized the steel mills, he noted:

I am being very frank with you Bill because fundamentally I am very fond of you but you have missed the boat on three different occasions if you really wanted to get into politics. Since you are on the highest Court in the land it seems to me that the best thing you can possibly do would be to give your best effort to that Court and let the President of the United States run the political end of foreign and domestic affairs.

Douglas could have felt animosity toward Truman in particular, which elevated his distrust of excessive power. Jackson’s notes confirmed this and showed that Douglas thought the power to seize should be in the legislature.

Furthermore, those justices who sided with the minority also had backgrounds likely to affect their positions in Youngstown. Foremost, Chief Justice Vinson had formerly served as the head of the Office of War Mobilization in 1945 and suggested that the government seize the coal industry when they threatened to strike. The government had, in fact, seized coal mines in May 1945 (under Truman) when a strike threatened the domestic consumption and use of coal as a war material. Vinson also backed Truman’s recommendations to seize Goodyear and Gulf Oil in 1945. Additionally, the press considered Vinson to be Truman’s personal choice for vice president, then president in 1952. Despite Vinson’s public disinclination toward the presidency, this choice

190 HST to Douglas, September 13, 1951, box 380, file 2, DP, LOC.
191 Jackson, Conference Notes, JP, LOC.
illustrated the close connection he and Truman shared. Additionally, Justice Minton also had close personal ties to Truman as a good friend, and he consistently upheld issues of national security over everything else. In a personal letter to Vinson, Minton commented on politics, Vinson’s family, and their dissent in the steel case, illustrating his interest in siding together on the case. As a result, Supreme Court justices used more considerations in their decisions than just ideology, making personal connections, background, and historical circumstances relevant.

A closer look at the language in the Youngstown opinions allowed for valuable analysis of the actual language, which showed that court members were not steadfastly against executive power. The sheer number of concurring opinions in the case of Youngstown suggested that court members had much to say. For instance, Justice Clark’s concurring opinion noted, “the Constitution does grant to the President extensive authority in times of grave and imperative national emergency.” Jackson’s notes indicated that Clark did not want to wipe out executive power entirely, but limit his opinion “to this case.” Clark, like many of the justices in the majority, thought that executive power was not as clear-cut as the majority opinion claimed. In a note to Frankfurter from March of 1952, Clark wrote, “I could join with you [on Youngstown] had you not concurred in the opinion of the court which I construe to limit presidential


194 Jackson, Conference Notes, JP, LOC.
power to Congressional grant." Burton further illustrated that idea with his statement about the danger level of the US situation in Korea, suggesting it was not as threatening as the government argued. Continuous warfare was unique during the Korean War because it did not have the usual elements of a traditional war, yet it was not a period of peace on the home front either. Again, members of the majority made it clear that they were not leveling an all-encompassing blow to executive power but only in this very particular situation. These concurring opinions also suggested that inherent powers did, in fact, exist but a true emergency signified by an attack or threat thereof must precede or accompany them.

Another issue at hand that the court sent cues about was executive power in the face of statutory law. Clark again revealed his thoughts on this topic:

I conclude that, where Congress has laid down specific procedures to deal with the type of crisis confronting the President, he must follow those procedures in meeting the crisis; but that in the absence of such action by Congress, the President’s independent power to act depends upon the gravity of the situation confronting the nation.

What Clark really said was that the president had freedom to do as he wanted during an “emergency” assuming that there are no previous laws in place to deal with the issue at hand. In the rapidly changing Cold War environment, it seemed reasonable that Congress would have had a hard time keeping up with executive actions. Jackson added to Clark’s opinion with his own, noting that presidential power was restricted in the case of Youngstown only because Congress had already set statutory law to deal with labor disputes. Jackson also proclaimed that Supreme Court decisions could not keep power in

195 Clark to Frankfurter, March 31, 1952, box 124, file 10, CLP, HSTL.

196 Youngstown v. Sawyer, 659.

197 Youngstown v. Sawyer, 662.
Congress’ hands if they did not take initiative. Only Congress can “prevent power from slipping through its fingers,” Jackson proselytized, sending a strong cue to Congress that the court would not be responsible for maintaining the balance of power.

Finally, the majority also took up the fuzzy concept of “war” during the period, specifically in relation to the Korean War. Jackson’s concurring opinion stated that only Congress had the ability to declare war but that a “state of war” might exist without a formal declaration. Though he felt it inappropriate to deal with the status of the Korean crisis, Jackson set a clear distinction between war *de jure* and war *de facto*.

Frankfurter added, “No remotely comparable practice can be vouched for executive seizure of property at a time when this country was not at war in the only constitutional way in which it can be at war.” These concurrences suggested that the government’s argument might have been stronger if Korea had been a properly declared war instead of a police action. While this might suggest that the Constitution very specifically laid out the war powers between Congress and the executive, the court also showed a shift in their own concept of war. Black noted in the majority opinion in *Youngstown* that the concept of the “theater of war” was expanding. This final statement cued society that, while Presidential seizure was not currently acceptable during imperfect war, it very well could be in the future.

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198 *Youngstown v. Sawyer*, 654.

199 *Youngstown v. Sawyer*, 654.


201 *Youngstown v. Sawyer*, 611.

Conclusion

The Supreme Court’s decisions in cases dealing with executive power throughout the forties and fifties served to extend executive power under the expanding parameters of warfare. When comparing the 1952 case of *Youngstown* to *Korematsu*, a traditional wartime case, it was evident that the concept of war shifted from one case to the other. *Youngstown v. Sawyer* appeared to be a solid blow to executive power with the Supreme Court holding that Truman did not have the constitutional authority to seize the nation’s steel mills. However, upon closer examination it became evident that the *Youngstown* case was a complex example of judicial behavior at its finest. Foremost, historical examination of these hypotheses showed that *Youngstown* was not a blow to executive power but a reaffirmation of the expansion of inherent powers of the president as Commander in Chief during times of war. The fissured opinions in *Youngstown* likewise illustrated the confusing nature of continuous warfare and the necessity for a more inclusive historical and political analysis of court actions. Subsequently, the court served to set out vague guidelines for future use of executive power, which would allow it to flourish in the Cold War Era amidst the inconsistent understanding of “war” and rapidly changing global dynamics. By setting imprecise terms, the court fostered the growth of executive power and encouraged expansion of the meaning of war, which yielded more room for an imperial presidency to grow.
CHAPTER V

MOVING IN: EISENHOWER’S HOUSE OF PEACE

Following the inauspicious Youngstown decision, the questionable position of American forces in Korea, and continuing threat of communism at home and abroad, Truman opted out of a second run for the presidency in 1952. The country was yearning for a leader who could guide them through the Cold War and back toward peace, but under the system Truman had set up this seemed a difficult role to fill. By the 1950s, the world had fundamentally changed. Under the threat of nuclear war, the global community, and the United States especially, was no longer able to go back to the isolationist principles of the interwar period. However, Americans still sought a return to the peacefulness associated with a lack of war, which characterized that era. With nuclear war a very real possibility, the 1950s made the idea of war a constant and more permanent part of American life. Without a full return to peace after WWII and the advent of the Korean War soon thereafter, Americans began to accept this lack of traditional peace and often-subtle though ever-present state of continuous warfare. When the voters returned to the polls in 1952, they sought a candidate who could best fit within these modern circumstances and lead the country despite all these uncertainties. This man would have to serve in a position torn by peace and war—a continuous wartime president.

For this purpose, the Democratic party chose the eloquent yet unexciting Adlai Stevenson, then governor of Illinois. In Stevenson’s acceptance speech at the Democratic National Convention, he sought to quell Americans’ fears about the continuation of one
party in power for more than two decades. In a moralistic speech peppered with Christian references, Stevenson articulated, “You will hear many sincere and thoughtful people express concern about the continuation of one Party in power for twenty years. I don't belittle this attitude. But change for the sake of change has no absolute merit in itself.”¹ Uninspiring, Stevenson’s motives for winning the election crystallized around upholding the power of the Democratic party and little else, ultimately causing voters to question if he could serve in the complicated modernity of continuous warfare. Taking a more critical stance on the Republican party and their nominee, former general Dwight D. Eisenhower, Stevenson continued. “[I]s it the part of wisdom to change for the sake of change to a Party with a split personality, to a leader, whom we all respect, but who has been called upon to minister to a hopeless case of political schizophrenia?” Stevenson pondered.² The accusation against the GOP referenced differences between the two main emerging wings of the Republican party that came into play during their own nomination process: the liberal Republicans who favored Eisenhower and interventionism, and the conservatives who favored Senator Robert Taft of Ohio, a staunch non-interventionist who called for a complete repeal of New Deal programs. Though Stevenson would continue to emphasize Republican disunity, this strategy ultimately failed when faced with Eisenhower, who fit better as a popular candidate than partisan contender, appealing to Americans’ needs.


² Stevenson, “Nomination Speech.”
The same disunity message resurfaced, repeatedly, in Stevenson television campaign commercials during 1952. In one commercial, known as “Platform Double-Talk,” a two-headed GOP nominee on display at a “Republican side show” spouted paradoxical stances on issues in response to questions from the audience. Concerning the Korean War, for example, “Mac GOP” commented, “We don’t belong in Korea. Let the Commies have it.” While his other side noted, “We should expand the war, open a second front in China.” The commercial ended with a narrator telling the viewers, “Don’t you be confused, vote for Stevenson for president.” Unfortunately for the Democrats, they experienced their own, more obvious “political schizophrenia” during the following months before the election as Stevenson attempted to both support Truman’s administration as well as separate himself from the controversy embroiling in it. In the absence of Democratic conformity, Eisenhower was able to gain advantage and tout his unique qualifications for the office that did not revolve around party platforms but cast him as the right candidate for the time.

Bipartisanship would come to be an important part of the 1952 campaign, and although the statement would prove futile for Stevenson, he referenced the illusory construction of a bipartisan “house” of government in his acceptance speech. Stevenson asked, “Do you doubt the power of any political leader, if he has the will too [sic] do so, to set his own house in order without his neighbors having to burn it down?”

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5 Stevenson, “Nomination Speech.”
Stevenson aimed to downplay partisanship and emphasize his separateness from the Truman administration, he instead foreshadowed Eisenhower’s almost covert extension of the continuous warfare that Truman had begun and his construction of a house of peace to conceal this militaristic enterprise. This imbroglio and the impending electoral success of Eisenhower would serve to illustrate the permanence of continuous warfare beyond party affiliation and underscore the significance of Eisenhower’s almost non-partisan role.

In the shadow of the Korean War, still lingering during 1952, Stevenson’s campaign was ultimately unable to fit into the political climate launched by Truman. In a letter to Clark Clifford at the start of the Korean War, Truman wrote, “I think every effort should be made to avoid the appearance that this is a contest between two nations but it should be made to appear what it is, i.e., a contest between one aggressor nation and the rest of the peace-loving world.” What Truman’s letter to Clifford indicated was the president’s manipulation of the public perception of war. By maintaining the somewhat fuzzy status of the Korean conflict throughout 1950-1952, Truman extended his political maneuverability within his final year in office, yet this lack of clarity also hindered Stevenson’s campaign, as he was unable to embrace the usefulness of the ambiguity provided by continuous warfare.

With the media turning against the situation in Korea by 1952, Truman had little choice but to continue to operate within the gray parameters he had set up for the nondescript conflict, which meant dragging Democratic nominee Adlai Stevenson along as well. Stevenson was forced to try to maneuver within the ambiguousness of Korea or

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6 HST to Clifford, June 30, 1950, CP box 43, file 15; TP, HSTL. Emphasis added.
take the political risk of separating himself from Truman and Democratic policy altogether. According to one article from the *Los Angeles Times*, “There is a tone of unadorned pessimism in the current reports...The fact that after two years of war the Korean struggle is still inconclusive...is already handicapping our position in other countries.” Additionally, the press began to report that some of the facts coming out of Korea, such as statistics on American aviation effectiveness, were artificially inflated or false altogether. “There is a deliberate effort to hide casualties and conceal losses,” reported the *Chicago Daily Tribune* in May 1952. Republicans encouraged this shift in the media by referring to the conflict as a “useless war” and claiming that no Democratic administration had had *peacetime* prosperity since the Civil War, which implied an ulterior economic motive to the continued fighting in Korea. Likewise, Republicans rendered the Democrats as a party of hawks, warmongering instead of focusing on peaceful prerogatives.

Stevenson, torn by an obvious public cry for change and his support of the policy of the Truman administration, surrendered to the fuzziness of Korea in an effort to defend himself against the Republicans. Using the excuse that it would give the communists “vital information,” Stevenson refused to reveal his plan for ending the war in Korea,

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8 Wayne Thomis, “Observer tells Impressions of Korean Air War,” *Chicago Daily Tribune*, May 25, 1952. This article also noted that much of the information about American successes in Korea was unavailable to the public as the US government considered it to be “classified” material. See also: Henry S. Hayward, “Tide of Korean Air War Turns Sharply Against UN,” *Christian Science Monitor*, January 12, 1952.

though he claimed a plan existed.\textsuperscript{10} This attempt to throw his critics off-balance failed, however, when Republican vice presidential contender Richard Nixon made a mockery of Stevenson’s secret plan. Nixon argued, “Mr. Stevenson is putting out bait for votes and working a cruel hoax on the men fighting and dying in Korea and their families and loved ones at home.”\textsuperscript{11} Nixon’s statement brilliantly drew attention to the hard truth about Korea, whatever its technical status—that American boys were dying there in a useless war proffered by the Democrats.

Coinciding with Nixon’s tactics, Eisenhower took a completely different approach from the Democrats and exposed Korea for what it was, a war. In a speech delivered in Detroit on October 21, 1952, Eisenhower noted:

In this anxious autumn for America, one fact looms above all others in our people’s mind. One tragedy challenges all men dedicated to the work of peace. One word shouts denial to those who foolishly pretend that ours is not a nation at war.

This fact, this tragedy, this word is: Korea.\textsuperscript{12}

Eisenhower then went on to proclaim that he had enlisted in the greatest cause of his life, “the cause of peace.”\textsuperscript{13} By clarifying Korea as a war, Eisenhower and the Republicans gained an even greater advantage in the 1952 election. Working from his stature as a general and war hero, Eisenhower made his campaign about doing what he knew, winning a war. By pledging to end the unpopular Korean War, Eisenhower was able to highlight his military knowledge, yet play up a desire for peace shared by the country.


\textsuperscript{11} Associated Press, “Nixon Flays.”

\textsuperscript{12} DDE, speech, October 24, 1952, Box 2, Folder 1, Speech Series, Dwight D. Eisenhower’s Papers as President, Dwight D. Eisenhower Presidential Library, Abilene, KS. (Hereafter cited as DDEL).

\textsuperscript{13} DDE, speech, October 24, 1952.
Both of these attributes subsequently played well in the media and amongst the electorate who desired a candidate who could straddle both war and peace.\textsuperscript{14}

As president, Eisenhower would finalize the house of peace utilizing his military background and leadership skills to make continuous warfare a permanent feature of post-war American life. In order to do this, Eisenhower cloaked, first his campaign and later, his presidential rhetoric in an outward message of peace. Defining himself as a soldier of peace, Eisenhower operated within a uniquely dualistic role that allowed him to maintain a public affiliation with peace through a superficially downsized military, while using budgetary maneuvering to support overall US military growth and covert operations abroad. Paired with a genial, at times almost non-partisan, relationship with Congress and the American people, Eisenhower’s peace plans, including the Atoms for Peace Program, embedded continuous warfare into peace dialogue, melding the two permanently. Under the Eisenhower administration, traditional peace and traditional war were officially forsaken for a modern version of permanent continuous warfare.

Eisenhower began this transition during the 1952 campaign by taking his stance for peace to the extreme. In one instance, Eisenhower refused a White House briefing on the situation in Korea with Stevenson present in an effort to separate himself publicly from the Democrats’ foreign policy position. Writing to Eisenhower about the incident, Truman noted, “What I’ve always had in mind was and is a continuing foreign policy. You know that is a fact, because you had a part in outlining it.”\textsuperscript{15} Truman’s letter referenced Eisenhower’s active participation in Truman administration foreign policy


\textsuperscript{15} HST to DDE, August 16, 1952, Ferrell, ed., \textit{Off the Record}, 263. Emphasis added.
prior to 1952, which Eisenhower now appeared to counter. This message to Eisenhower illustrated the purely political nature of Eisenhower’s refusal to meet at the White House with the Democrats, not his actual feelings toward Truman policy—policy that Eisenhower had himself helped to create. Though Truman saw the incident as a personal snub, Eisenhower’s plans were to maintain and strengthen the foreign policy structures set up under Truman. Realizing that the American people had grown weary of war, due to the Korean situation, Eisenhower merely sought to differentiate his campaign and foster the inherent powers available with continuous warfare under a veil of peace.16

Eisenhower, even during his campaign for the presidency, sought to solidify the continuous warfare that Truman had created, under an overt message of peace. While Truman refused to take a stance on the formal designation of Korea as a war or something else, Eisenhower took the opposite approach. Eisenhower, as a general, could more easily work within the parameters of traditional war, which the somewhat confusing situation in Korea easily supplied. As an advisor to Truman during the nuclear build up from 1948-1950, Eisenhower believed there could never be international control over nuclear weapons. Likewise, one of Eisenhower’s main disagreements with General Douglas MacArthur was over his policy that there was “no substitute for victory.” Instead, Eisenhower understood that nuclear weapons would and did change the face of warfare, leading toward prevention or containment of armed conflict.17 So while

16 In his diary, Truman noted that Eisenhower was not as smart as he originally thought. Truman wrote that Eisenhower’s staff “furnished the intelligence,” that it was not Eisenhower’s own analysis. Likewise, Truman’s staffers believed early in 1952 that Eisenhower, while an excellent “soldier-statesman,” would not make a good president because powerful Republicans could too easily manipulate him. HST diary entry, August 19, 1952, Ferrell, ed., Off the Record, 264; Neustadt to Elsey, May 10, 1952, “Re: The Press Club Speech,” box 4, file 10; Neustadt Papers, HSTL.

Eisenhower may have pegged Korea as a traditional war, he fully understood the larger underlying concept of continuous warfare and its relation to the global nuclear environment. Just as he sought to “maximize his flexibility” during his career in the military, he likewise sought to maximize his political flexibility by manipulating the Korean situation to his advantage in 1952. Eisenhower agreed with Truman’s foreign and defense policies, supporting the unification of the armed services under the Department of Defense, universal military training, and preventative warfare through preparation, but in 1952, Eisenhower was concerned with the decreasing support of the American people for war. As a result, he sought to design an outwardly dissimilar path from Truman and the Democrats that shifted the nation’s focus away from war toward peace.\textsuperscript{18} With this illusion, Eisenhower was able to solidify the malleable continuous warfare by permanently ensconcing it in the message of peace that the American people desired.

Eisenhower was the ultimate candidate in 1952 because, as a military mind, he understood the synonymy that war and peace held after WWII, as could no other politician. Despite his campaign and presidency evoking a strange, almost melodramatic, desire for a more traditional peace, Eisenhower bestrode the line between peace and war. Harold Stassen, Eisenhower’s later director of the short-lived United States Foreign Operations Administration, noted that while the Eisenhower campaign staff had decided that foreign and domestic policy had merged post-WWII, their separate treatment in 1952

\textsuperscript{18} Pickett, Eisenhower Decides to Run, 35, 57, xvi; Milton Eisenhower, interview by John Luter, 1967, interview OH-292, transcript, Columbia University Oral History Project, DDEL.
was only a campaign tactic.\textsuperscript{19} While Eisenhower pledged a return to peace, decreased military spending and peaceful uses of atomic energy, and upheld a genial relationship with Congress and the American people, he was covertly solidifying the malleable continuous warfare, which Truman had first created, for future administrations.

Eisenhower as President

To General Eisenhower, war and peace went hand in hand with one naturally associated with the other, but as a potential presidential candidate Eisenhower embraced the fuzziness within which modern peace or war might occur. Even before Eisenhower’s run for office, as Columbia University’s president in 1951, he pushed for the Institute of War and Peace studies. The institute pledged to “investigate the function of war as a ‘method of protecting values considered even more precious than the values which war places in jeopardy’” and “’attempt to find less costly ways of protecting those things for which we are willing to fight.’”\textsuperscript{20} Despite the Eisenhower campaign’s clear stance on peace in Korea, even Eisenhower’s earlier attempts to foster peace studies at Columbia resulted in a blurring of the once separate concepts. The Institute of War and Peace essentially pledged to uphold the fighting of war for peace, a paradoxical notion that fell in line with Eisenhower’s position as a soldier of peace and belief that without war, peace could not exist.

As president, Eisenhower ushered in a seemingly placid period in American history, despite the continuing fight against communism at home and abroad. In many


\textsuperscript{20} Pickett, \textit{Eisenhower Decides to Run}, 30-31. As quoted in Pickett’s book.
ways, this tranquility aligned with Eisenhower’s proffered vision for peace he had emphasized during the campaign. According to Stassen, “Eisenhower should be recognized as the most brilliant leader for world peace in this century.” However, Eisenhower’s concept of peace was not the traditional, post-war return to solemnity that future analysts would assume, but rather the fuzzy, suggestive idea that war and peace were intimately linked. During Eisenhower’s presidency, he permanently fused the traditional concept of peace to the modern concept of continuous warfare, while maintaining peace rhetoric that the public accepted. Created out of the confusion of continuous warfare and fuzzy language of the Truman administration, the house of peace stabilized under Eisenhower’s heavily publicized peace activities. When scrutinizing Eisenhower’s words carefully, it became evident that most of his public statements included mention of continuous warfare.

While Truman’s statements began to blur war and peace unsophistically as they naturally merged in the post-World War II environment, Eisenhower’s statements reflected a much more conscious effort to conceal this unity. This suppression is most evident due to Eisenhower’s simplistic speech-making methods. In fact, Eisenhower argued with his speechwriters continually about their attempts to make him sound elitist and overly eloquent, instead preferring his common, Midwestern way of talking. Eisenhower once told Emmet Hughes, his chief speechwriter, “I’m basically a Kansas farm boy, and damn it, I’m going to talk that way.”

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this demeanor, including his first inaugural address. Using short, sometimes choppy sentences, Eisenhower proclaimed:

We must be ready to dare all for our country. For history does not long entrust the care of freedom to the weak or the timid. We must acquire proficiency in defense and display stamina in purpose. … The peace we seek, then, is nothing less than the practice and fulfillment of our whole faith among ourselves and in our dealings with others. This signifies more than the stilling of guns, casing the sorrow of war. More than escape from death, it is a way of life.  

In this portion of his inaugural address, Eisenhower spoke of peace as a way of life, but this “peace” also included an able defense, military strength, and an outward effort to display these characteristics to others. Eisenhower’s concept of peace was more than just an end to traditional war, “the stilling of guns.” Under Eisenhower, peace became synonymous with continuous warfare.

While Eisenhower’s rhetorical abilities served his purpose as a peace advocate and won him accolades from the public who saw him as a plain spoken, straight-talking individual, those in the press began to see Eisenhower as ill-prepared for the role of president and a tool of the Republican leadership. Due to Eisenhower’s folksy rhetoric and nonchalant public demeanor, the press and future historians often painted him as inept. According to journalists Joseph and Stewart Alsop of the Washington Post, “The greatest political decisions of the Eisenhower Administration are quite literally being made behind President Eisenhower’s back.”

Critics who focused on his frequent golfing and fishing trips quickly pegged Eisenhower as a “Do Nothing President.”

Conservative Republican Robert W. Welch, Jr., co-founder of the John Birch Society,

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even went so far as to refer to Eisenhower as a “mere stooge” in his 1963 book *The Politician*.\(^{25}\) Despite these criticisms, a booming economy and outwardly peaceful decade pushed Eisenhower’s public approval ratings up into and beyond the sixtieth percentile for the majority of his time in office.\(^{26}\)

Authentically, Eisenhower was an incredibly intelligent and dedicated individual dating back to his upbringing in rural Kansas. Though the Midwest did not offer many exciting opportunities for Eisenhower, or his five brothers, his parents consistently taught him the virtues of self-reliance, integrity, and ambition. Ida, Eisenhower’s mother, taught all of her sons to do their own laundry and cooking so as not to ever have to rely on someone else. With six boys in one small house, it was never enough just to complete a task either; there was constant competition to see who could do something the best. Likewise, the strict Mennonite religious philosophy of his parents translated into a very structured home life bookended by prayer in the morning and at night. During the day, Eisenhower and his brothers had school and chores.\(^{27}\) The comfort that Eisenhower felt with this regimented daily agenda translated well into his later career in the military and fostered his organizational practices in the White House. Likewise, Eisenhower’s rise to the top of the American military and political realm reflected the competitiveness and self-sufficiency of his childhood.


Revisionist historians saw the conflict between the portrayal of an apathetic Eisenhower and the relatively harmonious decade of the 1950s as a sign that there was more to Eisenhower’s leadership style. Beginning in the late 1970s, scholars reevaluated Eisenhower through this new perspective. Political scientist Fred I. Greenstein gave a name to Eisenhower’s leadership style, labeling it as a “hidden-hand” presidency in 1982. Greenstein purported, “The very practices that led political observers to underestimate Eisenhower were central to his leadership.”28 These practices included a strategic use of language, refusal to get involved in public fights, an ardent desire to fulfill his public duty, and an obsession with organization and structure.29 This analysis was unsurprising as Eisenhower’s moralistic parents ingrained all of these attributes into their son as a child in Kansas. However, R. Gordon Hoxie of the Center for the Study of The Presidency went so far as to tag Eisenhower as the “principal architect of the modern institutional presidency.”30 Working from newly declassified documents available in the Eisenhower Presidential Library, Greenstein and others represented Eisenhower as an incredibly able and intellectual man who dominated the role of president, despite an outward appearance of simplicity or disinterest.

While Greenstein and his contemporaries convincingly articulated a more complex Eisenhower than previous scholars had believed, they ignored the historical situation in the 1950s that gave meaning to Eisenhower’s carefully chosen phrases and actions. Just as Roosevelt’s megalomania made sense in the dual crises of depression and


war, and Truman’s collegiality in his contrived post-Roosevelt position, Eisenhower fit in his period as well. Greenstein argued, “Many of Eisenhower’s presidential utterances directly play on the public image of the military hero who is a soldier of peace.”

Greenstein goes on to attribute this quality to Eisenhower’s desire to appeal widely to the public as a sort of popular head of state. However, Greenstein discounted the paradoxical notion of a soldier of peace in the first place. In a more traditional period where the end of armed conflict naturally brought peace, Eisenhower’s strategy would seem out of place or unnecessary. In the fuzzy era of continuous warfare, where modern peace and modern war were synonymous, Eisenhower’s strategy of playing the soldier while speaking for peace made sense. The type of peace that Eisenhower sought to maintain was the relative calmness found in the liminal zone between traditional peace and war. During Eisenhower’s administration, this peace was characterized by US economic and military hegemony that fostered continual, though subtle, global tension through the massive buildup of the US military and continued use of containment policy. Though articulated as the Cold War in the 1950s, this tension continued long beyond the American concern over communism.

At the same time, Eisenhower’s public denigration of involvement in decision-making was far from apathetic, instead helping to conceal his role in perpetuating the buildup of the military-industrial complex. While revisionist historians attributed this to Eisenhower’s “hidden hand” mentality, in reality, it was part of his personal turned presidential skillset. Just as Roosevelt and Truman came into the presidency with a certain set of skills, so too did Eisenhower. For Eisenhower, as a career military man,

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indoctrination into the military organizational structure was standard and something that suited him well due to his regimented upbringing. What Greenstein referred to as an obsession with organization was Eisenhower’s personal and military background coming into play in the White House. Eisenhower willingly delegated authority to subordinates, who were trusted to make decisions in a typical military fashion. The chain of command, however, always led back to Eisenhower, though the level of his involvement in certain decisions and actions fluctuated.\textsuperscript{32} Though this was vastly different from the decision-making control that Roosevelt and Truman utilized, it was more transferrable to future presidents, helping to maintain a structure of power across administrations, again solidifying the house of peace.

Ultimately, by delegating many tasks away to his Cabinet members and liaison officers, Eisenhower was able to maintain separate public and political agendas, which was crucial to making continuous warfare permanent under the guise of peace. By speaking of peace and war as separate concepts in his public speeches, Eisenhower sought to solidify his own public role as a peacemaker. However, Eisenhower’s push for a reorganized Department of Defense, continued testing of nuclear weapons, and support for the “Eisenhower Doctrine” that pledged unrequited military aid to countries threatened by communist aggression, greatly diverged from this public path toward peace.\textsuperscript{33} It was the very political maneuverability available through the blurring of the

\textsuperscript{32} Hoxie, “Eisenhower,” 589-590.

\textsuperscript{33} The Eisenhower Doctrine, established in 1957, would become a more formalized articulation of the house of peace that Eisenhower had been utilizing throughout his presidency. Eisenhower publicized the doctrine, based on the core concept of military intervention as equally “important…to the peace of the world.”

The doctrine not only gave wide latitude for US intervention, based off a simple request for help, but also continued to solidify the president’s power to control American troops in a potential armed conflict without a formal declaration of war. Though the militaristic language of the Eisenhower Doctrine was
two concepts, peace and continuous war, that in reality, allowed Eisenhower to carve out his niche as a soldier of peace in the modern era of continuous warfare.

The Atoms for Peace Program

In office less than a year, Eisenhower began his first major program foray as president, which emphasized his role in upholding the US house of peace while further defining his status as a soldier of peace. With a speech before the general assembly of the United Nations Eisenhower claimed, “Clearly, if the peoples of the world are to conduct an intelligent search for peace, they must be armed with the significant facts of today's existence.”

Eisenhower then went on to discuss the current nuclear situation in the world and again express his interest in peacemaking. As a result, Eisenhower proposed, “It is not enough to take this weapon out of the hands of the soldiers. It must be put into the hands of those who will know how to strip its military casing and adapt it to the arts of peace.”

In both statements, Eisenhower paired militaristic language with peaceful intentions, further illustrating his conflicting nature and attempt to conceal continuous warfare within the concept of peace.

By the 1950s, the threat of nuclear war had become a more permanent part of the global mindset amidst growing US-Soviet nuclear capabilities. Just as physicist Leo Szilard told Lewis Strauss on January 25, 1939, nuclear energy could produce both

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35 DDE, “Atoms for Peace.”
energy and “atomic bombs.” A focus only on peaceful uses of atomic energy could not remove the ultimately militaristic capabilities of such a tool. According to author Richard Rhodes, physicist Philip Morrison remembered, “when fission was discovered, within perhaps a week there was on the blackboard in Robert Oppenheimer’s office [at Berkeley] a drawing—a very bad, an execrable drawing—of a bomb.” As illustrated by these early nuclear pioneers, the primary use of atomic energy was for weapons of war. Though Eisenhower sought to remove the concept of war and highlight the concept of peace in terms of nuclear energy with his UN speech, he essentially rallied for control of world fissionable material by an Atomic Energy Agency, a part of the UN. Cloaked in Eisenhower’s language of peace, a redistribution of atomic materials to the UN appeared as the fastest route toward global utilization of the peaceful components of atomic energy, such as inexpensive power supplies. However, this redistribution would also diminish the destructive capabilities of the world’s atomic stockpiles, including that of the Soviet Union—a boon to US Cold War objectives.

Eisenhower’s initiative, known as “Atoms for Peace,” served as a showcase for American efforts toward international control of atomic materials in an effort to create “peaceful” uses of nuclear energy, though it ultimately worked to help conceal US military enterprises. The most blatant demonstration toward this end was a series of museum exhibits displayed all around the world, including the Library of Congress. These exhibits included such articles as model nuclear airplanes and ships, and displays

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showing the futuristic application of atomic energy to agriculture, medicine, and more. According to a letter from Acting Director of the Library of Congress Abbott Washburn to Eisenhower in 1955, “the ‘Atoms for Peace’ exhibits have proved the most effective means we have for conveying the full meaning of your U.N. message of December 8, 1953.” Washburn noted that the Library of Congress exhibit would be traveling to San Francisco, as well as Central and South America. Similar exhibits were also on display in India, Pakistan, the United Kingdom, Helsinki, Yugoslavia, Berlin, Rome, Vienna, and São Paulo, with even more exhibits under construction. A National Security Council memorandum revealed an even greater significance for the Helsinki exhibit, in particular. According to NSC 5525 from June 30, 1955, “An exhibit on peaceful uses of atomic energy in Helsinki was arranged to coincide with the Communist-organized World Peace Congress, announced for May 22–28. Advance publicity for the exhibit can be credited with contributing to the Communist decision to postpone the opening of the Peace Congress for one month.” This note from the NSC showed further confusion over the purpose of the entire Atoms for Peace program. In one regard, the US wanted to spread information about peaceful means of atomic energy, but as the Helsinki circumstances

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38 Abbott Washburn to DDE, May 27, 1955, Box 453, File 6, WHCF: OF, EP, DDEL.


demonstrated, the US also was in competition with the Soviet Union for the promotion of “peace” during the Cold War.

In an even greater effort to display the usefulness of atomic energy beyond the battlefield, Eisenhower proposed the construction of a nuclear ship in the spring of 1955. The president slated this “atom-powered merchant ship,” dubbed an “Atom Ship for Peace” by the media, to travel around the world as a useful display of the non-destructive power of the atom. Though Eisenhower supposedly intended the ship for use as a trade vessel, an article in the *New York Times* connected it to military implications as well.

The article’s author contended:

>[V]isiting the ports of the world [the atom ship] will bring both knowledge and practical demonstration of the peaceful uses of atomic energy in medicine, agriculture and power production to the underdeveloped and power-starved areas of the world and help them thereby to plan their own industrial and technical revolution in the light of the atomic age. …the greatest and freest possible world trade that we can achieve without damage to our own economy is also an integral part of our defense against the perils facing us.\(^41\)

This peculiar and peaceful economic function of the atom ship aimed to take atomic energy outside the militaristic implications of the Cold War. However, as historian Melvyn Leffler contended in his *Preponderance of Power*, the Cold War was economic in nature, pitting the Soviet Union’s desire for expanded trade networks against that of the United States. Although Leffler focused only on the Cold War in his work, and not the underlying ambiguous nature of continuous warfare, his analysis provided a viable connection between the atom ship’s peaceful economic intentions and the underlying military needs at which the *New York Times* hinted.\(^42\) Though promoted as a


merchant ship, the atom ship might just have easily served as a warship, again engaging the notion of military prowess in opposition to peace. Along these lines, when discussing the atom ship project, Congress mentioned the submarine U.S.S. Nautilus, the first nuclear-propelled warship, launched in 1954, reiterating the dualistic war/peace function of atomic vessels. Congress ultimately recommended an approval of appropriations for the “U.S.S. Atomic Enterprise” peace ship for 33.65 million dollars, but the entire scenario demonstrated a shift in US perceptions of peace that Eisenhower reinforced as a soldier of peace. With a growing permanence to the Cold War, threat of nuclear war, and the situation in Korea, Americans gradually saw peace as inclusionary of subtle though constant threat—a formidable component of continuous warfare.

Despite Eisenhower’s overwhelming message of peace at the UN, before the US Congress he revealed a more militant motive behind the sharing of atomic energy information, which reiterated a fundamental change in perceptions of peace. In a message to Congress on February 17, 1954, Eisenhower requested Congress amend the Atomic Energy Act of 1946. Eisenhower stated:

I urge…that authority be provided to exchange with nations participating in defensive arrangements with the United States such tactical information as is essential to the development of defense plans and to the training of personnel for atomic warfare.  


Eisenhower went on to request cooperation with friendly nations on the exchange of “restricted data” on industry uses of atomic energy and fissionable materials required for these uses. “Such amendments should prescribe that before the conclusion of any arrangements for the transfer of fissionable material to a foreign nation, assurances must be provided against its use by the recipient nation for military purposes,” Eisenhower added.45 However, as part of the congressional discussions over the amendments, Chairman William S. Cole (Representative, R-NY) determined that “special material,” mainly nuclear material, would remain the property of the United States “as an exercise of the powers of the United States to arm itself, and to prepare for its defense.”46 While there were undoubtedly beneficial peacetime uses of atomic energy, such as nuclear reactors, the main concern of the Joint Committee on Atomic Energy and their witnesses focused on retention of ownership of nuclear materials and caution in sharing information with foreign countries, due to the undeniable threat of nuclear war associated with atomic energy.

Concerns over the Atoms for Peace program also infiltrated the Eisenhower administration itself. In a memorandum from Gerard C. Smith, special assistant for atomic energy matters in the Department of State, to Lewis Strauss, chairman of the Atomic Energy Commission, Smith laid out his concerns over recent proposed amendments to the Atomic Energy Act of 1946. Specifically, Smith was concerned that the section dealing with shared information might imply that an international pool of informed allied countries was purely to serve the United States’ own defense

45 Joint Committee, AEA, 10. Restricted data was defined later in the same document to mean information regarding “military utilization of atomic weapons.” Joint Committee, AEA, 11.

46 Joint Committee, AEA, 14.
prerogatives. The section of the proposed amendment stated, “the President has approved and authorized the execution of the proposed agreement for cooperation, and has made a determination in writing that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security.”

While the amendment articulated the promotion of global common defense, Smith expressed concern that within this common defense was an implied defense of the United States; therefore, the Soviet Union could view this as “an added instrument of American world dominance.”

Furthermore, congressional discussions of the Atoms for Peace program revealed the militant nature of Eisenhower’s so-called peace objectives. During a discussion of the Atoms for Peace Program, Representative John Bricker (R-OH) noted that there were many advantages to basing the program around bilateral agreements instead of entirely through the UN. Bricker claimed, “we avoid Soviet obstruction by dealing with other nations individually. Even a veto-proof international atomic energy agency could be tied up in knots by Soviet propaganda.” On the surface, Bricker’s comments appeared to harbor the same Cold War concern over Soviet meddling that any discussion of national security revitalized. Bricker was not talking about national security, but a plan for peaceful uses of atomic energy, which should have harbored no negative repercussions by the Soviets. In actuality, however, the Atoms for Peace Program could not be, despite

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48 Joint Committee on Atomic Energy, Draft in Bill Form Incorporating Changes Proposed to be Made in H.R. 8862 and Companion Bill S. 3323, 83d Cong., 2d sess., 1954, Committee Print, 49.

49 Smith to Strauss, June 30, 1954.

Eisenhower’s rhetoric, solely based on peaceful motives. The world had fundamentally changed by the 1950s, and in his role as a soldier of peace, Eisenhower sought to epitomize this shift. Repeatedly, within the Eisenhower administration and in Congress, the focus was on atomic energy in the service of warfare and defense, with peaceful use a mere addendum. Though Eisenhower would make peace the overwhelming objective in his public sentiments, the underlying purpose was much closer to defense objectives such as his plan for massive retaliation.

To Eisenhower, peace served as a shield against anti-war and anti-defense arguments that focused on the possibility of nuclear annihilation in the next large-scale war. In the global context of the 1950s, these peace proclamations would serve as little defense in a real life nuclear scenario, however. As a result, the Eisenhower administration advocated a radical theory of massive retaliation, which preached the extensive use of nuclear warheads in response to any attack but had the end effect of maintaining the liminal zone between peace and war.\[51\] This plan was first sanctioned in National Security Council memorandum 162/2 of October 30, 1953, which claimed that “In the face of the Soviet threat, the security of the United States requires...A strong military posture, with emphasis on the capability of inflicting massive retaliatory damage by offensive striking power[.]”\[52\] Massive retaliation fit within the concept of

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\[51\] Donald Alan Carter, “Eisenhower versus the Generals,” *Journal of Military History* 71, no. 4 (October 2007): 1181. Carter argued that Eisenhower promoted massive retaliation even against the advice of experts such as General Matthew B. Ridgeway and Army Chief of Staff General Maxwell Taylor, both four star generals. Massive retaliation did have its negatives, however, as it was nearly impossible to use it against low-level threats and regional challenges. As a result, the Eisenhower administration would find itself embroiled in areas around the world throughout the 1950s. Carter, “Eisenhower versus the Generals,” 1181, 1184, 1187, 1188; Richard M. Saunders, “Military Force in the Foreign Policy of the Eisenhower Presidency,” *Political Science Quarterly* 100, no. 1 (Spring 1985): 107.

“brinkmanship” that promoted bringing two parties to the brink of war, at which time, under the threat of massive nuclear retaliation, the threat would subside, retaining peace.\textsuperscript{53} Although NSC 162/2 expressed concern that the Soviet’s use of “the fear of atomic warfare and the hope of peace” would divide the free world, this was exactly the tactic that the Eisenhower administration sought to use against communism.\textsuperscript{54} The obscenity of using war to promote peace tainted Eisenhower’s foreign policy objectives during the 1950s, but prospectively, promoted the extension of continuous warfare and maintenance of an exterior of peace.\textsuperscript{55}

As further evidence of the hypocritical nature of the Eisenhower administration with reference to atomic peace plans, Eisenhower continued to test and increase new forms of nuclear weaponry as part of the US military arsenal. In a statement by Strauss on March 31, 1954, he noted, “one important result of the hydrogen bomb developments has been the enhancement of our military capability to the point where we should soon be more free to increase our emphasis on the peaceful uses of atomic power—at home and abroad.”\textsuperscript{56} As Strauss indicated, Eisenhower’s main objective remained military strength, despite his continuing message of peace. Likewise, Strauss’ comment that the administration could now increase its emphasis on peaceful uses suggested that peace was a secondary objective at best. An April 1954 telegram sent from Djakarta to


\textsuperscript{54} NSC Memo 162/2, 5.

\textsuperscript{55} NSC Memo 162/2, 7.

Eisenhower further supported this conclusion. The message, sent by the Sentral Organisasi Buruh Seluruh Indonesia (SOBSI), a large Indonesian trade union, emphasized that the Indonesian people felt threatened by recent US hydrogen bomb explosions in the Pacific. The telegram emphasized that these tests were not “serving [the] cause of peace” but instead emphasizing “American war designs” and threatening the lives of Asiatic peoples.57

The inability of the Eisenhower administration to separate atomic weapons of war from atomic energy for peace was a lingering issue with the Atoms for Peace program, but also a meaningful historical detail. Eisenhower was unable to separate these two issues because, in actuality, they were inseparable in the global atmosphere of the Cold War. The administration even wanted to claim that weapons testing contributed to peacetime uses of atomic energy in 1955. Faced with the creation and release of a film titled, “Atomic Tests in Nevada,” Morse Salisbury, the director of the Division of Information Services of the US Atomic Energy Commission, wrote to C. Herschel Schooley, director of the Office of Public Information in the Department of Defense, that “contributions if any by weapons tests to peacetime development were incidental, and could not be planned for.”58 Salisbury told Schooley that he should disregard inclusion of this subject in the movie specifically, yet include a brief narration and Eisenhower’s UN speech on Atoms for Peace at the end of the movie. Salisbury noted the narration text, “The towering cloud of the atomic age is a symbol of strength, of defense, of

57 SOBSI (Sentral Organisasi Buruh Seluruh Indonesia) to DDE, April 5, 1954, Box 450, File 9, PP: Dulles-Herter, EP, DDEL.

58 Morse Salisbury to C. Herschel Schooley, March 10, 1955, Box 450, File 10, PP: Dulles-Herter, EP, DDEL.
security for freedom-loving people everywhere—people who want peace.”

In Salisbury’s narration, peace and war once again became fuzzy as the mushroom cloud of atomic war was tied to people desiring peace.

A 1950s pamphlet on the “Pathway to Peace” further muddled the already ambiguous nature of Eisenhower’s declaration for peace. Though designed for general distribution amongst the public, specifically at Atoms for Peace exhibits and conferences, “Pathway to Peace” took a decidedly militaristic spin on supposedly peaceful uses of the atom. Subtitled, “United States Proposals for the Control and Reduction of Arms,” the pamphlet declared, “As never before, and especially in the nuclear age, there is no alternative to peace.” Likewise, “if a worthwhile peace is to be gained, it must be not merely the absence of a condition of war—it must be a positive, safeguarded peace, one with justice and durability,” noted the introduction.

Obtaining peace was not an option, according to the pamphlet, but a necessity. In this regard, the government promoted peace as a long-term condition and nothing just short of actual war, but a more traditional notion of peace. However, the path advocated for the creation of such a peace in the pamphlet was full of implied military necessity as well.

Foremost, “Pathway to Peace” called for a lessened world nuclear threat, a reduction in non-nuclear armaments, and a counter to the possibility of a surprise attack. All of these concepts, though touted as a deterrence to war and harbinger of peace, were further explained in fuzzy detail that illustrated less peaceful prerogatives. As an

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59 Salisbury to Schooley, March 10, 1955.

60 Disarmament Staff, “Pathway to Peace: United States Proposals for the Control and Reduction of Arms,” undated, Box 581, File 1, WHCF: OF, EP, DDEL.

61 Disarmament Staff, “Pathway to Peace.”
example, the government explained stockpiles of fissionable materials as a considerable threat to world peace, yet equally emphasized their usefulness for “peaceful purposes.” Instead of seeking to eliminate stockpiles, the pamphlet emphasized conversion to alternative uses. Additionally, the pamphlet prompted an international system of aerial and ground inspection in order to deter surprise attacks. Eisenhower’s “Open Skies” program essentially called for a system of spy planes, cloaked under the idea of a peacetime inspection service. 62 “The development of various means of photography now permits round-the-clock surveillance through all weather, by day or by night, in spite of camouflage,” noted the Pathway to Peace pamphlet. 63 This qualifier went beyond the more mundane concept of inspection and implied that there were more sinister intentions under investigation. This confusion played itself out in real life during the 1960 U-2 incident, where Eisenhower embarrassingly explained why the Soviets were able to shoot down a US spy plane. 64 In the epic battle between the US and Soviet Union, peace prerogatives were always tainted by Cold War objectives, maintaining the underlying state of continuous warfare.

Finally, national security premises clouded any true notion of peace throughout Eisenhower’s “Atoms for Peace” and “Pathway to Peace” programs. “The American people are determined to maintain and if necessary to increase U.S. armed strength for as long a period as is necessary to safeguard peace and to maintain our security,” noted

62 Disarmament Staff, “Pathway to Peace.”

63 Disarmament Staff, “Pathway to Peace.”

Eisenhower at the Geneva Summit in 1955. Along with peaceful motivations for disarmament and inspection, Eisenhower threatened to increase U.S. military strength as well, all under the concept of peace. The “Pathway to Peace” pamphlet quoted this Eisenhower speech:

> During the early phases of a disarmament program, the United States would continue to hold such strength, *not for aggression*, nor for *narrow national purposes*, but as a contribution toward world stability in this transitional period.

Though Eisenhower again appeared to promote peace, the underlying parameters of such a peace included a more militaristic predisposition. The widely circulated “Pathway to Peace” pamphlet reflected Eisenhower’s dualistic role as a soldier of peace and the administration’s continuing deceptive use of peace as a deflector for ulterior motives in the liminal zone between peace and war.

Congress and the New Look

With major programs and concepts such as Atoms for Peace underway, Eisenhower quickly came to rely on Congress for funding requests and approval of yearly budgets, so he created a structured approach to dealing with Congress. While the slim Republican majority in both houses during the first two years of Eisenhower’s administration worked in his favor, he also held a unique advantage in dealing with Congress. Due to Eisenhower’s considerable lack of partisanship and overall moderate views, he was largely able to woo both parties when necessary; therefore, Eisenhower avoided the typical party roadblocks to most policy formation.

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65 Disarmament Staff, “Pathway to Peace.” Emphasis added.

66 Disarmament Staff, “Pathway to Peace.” Emphasis added.
Eisenhower also wanted a structured approach to dealing with Congress that reflected his military organizational nature, which future presidents might easily repeat. Unlike Roosevelt, who easily manipulated Congress into acquiescence, and Truman, who focused on personal political relationships to make legislative deals, Eisenhower could do neither. As a military man, Eisenhower lacked the personal political connections that Truman held, and Eisenhower’s penchant for order and organization left him unable to maneuver through the political spectrum of Congress, twisting people to his need like Roosevelt. Instead, Eisenhower created a congressional liaison office within the White House, which focused solely on dealing with Congress.\footnote{Collier, “Eisenhower and Congress: The Autopilot Presidency,” \textit{Presidential Studies Quarterly} 24 (Spring 1994): 310.}

The congressional liaison office was the first of its kind and remained a permanent White House fixture into the future, illustrating the transferability of Eisenhower’s structure. Eisenhower’s liaison officers primarily visited congressional offices, made phone calls to legislators, lunched with members, and invited senators and congressmen to various functions with the president. Likewise, liaison officers had easy access to Eisenhower himself, which proved impressive when dealing with legislators and their various agendas.\footnote{Collier, “Eisenhower and Congress,” 311.} Speaking about the congressional liaison office in an interview in 1967, Eisenhower noted, “If you’re going to do anything, you’ve got to make Congressmen your personal friends; that’s really what I tried to do.”\footnote{DDE, interview by Ed Edwin, 1967, interview OH-11, transcript, Columbia University Oral History Project, DDEL.} Since Eisenhower was a relatively new Republican, his relationships with party leaders on both
sides of the aisle were built around his personality and friendship, while his connection with regular members was left up to the liaison office.\textsuperscript{70}

Though Eisenhower faced two considerable defense-related battles with Congress during his presidency, over the Bricker Amendment in 1954 and the restructuring of the Department of Defense in 1958, he enjoyed a relatively harmonious relationship with Congress overall.\textsuperscript{71} This was largely due to the actions of the liaison office and Eisenhower’s considerable use of the veto power. It was also due to his efforts, though not wholly orchestrated, to promote a nonpartisan agenda. Eisenhower himself was


wildly popular, rating an average of sixty-five percent approval throughout his presidency.\textsuperscript{72} According to a Gallup press release from 1953, pollsters determined that Eisenhower was the only man in recent history “who could have been elected President on EITHER ticket.”\textsuperscript{73} The public did not see Eisenhower as a Republican or a Democrat and did not blame him for the pitfalls of his party either. A study by political scientist Harvey Zeidenstein argued, “Eisenhower’s popularity was so personal, so uniquely divorced from partisan and ideological politics, that Congress considered it irrelevant to whether they supported his positions.”\textsuperscript{74} As a result, Eisenhower was able to cement continuous warfare as a non-partisan issue by working extensively with both parties’ leadership, sometimes clashing with his own party’s conservative prerogatives.

The battle over the Bricker Amendment was just such an instance and stood as solid evidence of Eisenhower’s party flexibility and willingness to work with any members of Congress to meet his agenda. A desperate response to the Democratic policies of Roosevelt and Truman, the Bricker Amendment illustrated a lingering fear of foreign intervention and presidential power mostly associated with isolationist ideas. Senator John Bricker (R-OH) proposed this constitutional amendment on January 7, 1953 in order to make all treaties and executive agreements with foreign nations and international organizations enforceable \textit{only with} corresponding legislation, as passed by the US Congress. Conservative Midwestern Republicans such as Taft heavily backed the


\textsuperscript{74} Zeidenstein, “Presidential Popularity,” 228.
amendment, which would have the effect of greatly reducing the president’s treaty-making and foreign negotiation abilities. Though Republican, Eisenhower found himself at odds with his own party over the amendment. 75

As a military general, Eisenhower understood the immediacy that accompanied modern, potentially nuclear, warfare and saw the Bricker Amendment as an antiquated isolationist concept, dangerous to US defense. In a letter to Senator William Knowland (R-CA) Eisenhower stated:

Adoption of the Bricker Amendment in its present form by the Senate would be notice to our friends as well as our enemies abroad that our country intends to withdraw from its leadership in world affairs. The inevitable reaction would be of major proportions. It would impair our hopes and plans for peace and for the successful achievement of the important international matters now under discussion. This would involve the diversion of atomic energy from warlike to peaceful purposes. 76

Though alerted that the Eisenhower administration would not support such an amendment, conservative Republicans still continued to push for its passage. The amendment ultimately fell short of the two-thirds majority needed by only one vote, but illustrated one of Eisenhower’s many breaks with his own party and overall political fluidity. 77 The battle over the amendment also showed Eisenhower’s dedication to executive power in foreign affairs despite his outward public disinterest in governing.


It was largely due to Eisenhower’s almost nonpartisan political maneuverability and popularity that he was able to push through budget proposals with little alteration, concealing evidence of military expansion. Although Eisenhower pledged, in his first State of the Union, a return to “economic health” that included a balanced budget and reduced deficit, he also advocated maintaining an “adequate military power” by meeting the “huge costs of our defense,” which greatly limited his ability to downsize a federal budget heavily tilted in favor of the military. Under the parameters of peace, Eisenhower should have been able to reduce all aspects of defense spending and still maintain a satisfactory national military, but within the framework of continuous warfare, he sought to manipulate the federal budget around a new type of defense need based on nuclear weaponry. Eisenhower’s famous “New Look” defense plan emphasized strategic air power and a nuclear arsenal that promised a greater military impact at a lower cost.78

The Eisenhower administration laid out the New Look plan as early as October 1953, though it would not entirely go into effect until the 1955 budget.79

The New Look, though premised on the Cold War between the US and the Soviet Union, created an alarming permanence to continuous warfare that would expand beyond Eisenhower’s presidency. As defined by NSC 162/2 of October 30, 1953, “it is necessary that the United States…continue, for as long as necessary, a state of limited defense mobilization.”80 This position between general peace and general war left Eisenhower squarely within the fuzzy parameters of continuous warfare. A key factor in

79 NSC Memo 162/2, 1-27.
80 NSC Memo 162/2, 7.
Eisenhower’s position was his desire to boost the US economy and civilian morale, which relied upon a budget-friendly alternative to actual armed conflict that still provided a necessary security front, as seen through the Cold War perspective. According to the language of NSC 162/2, the type of peace that Eisenhower spoke of publicly was far from the minds of the National Security Council. Though the details of massive retaliation and continuous mobilization fell under the NSC’s discussion of “peacetime aims,” these concepts did not aim to promote peace at home or globally as Eisenhower pledged to do with his Atoms for Peace program. In further evidence of the ambiguity of the New Look, peacetime aims focused on a situation just short of general war, whereas the Eisenhower administration’s “war aims” detailed the complete destruction of the Soviet regime in the event of an actual armed conflict.  

In an effort to put the New Look plan into function, Eisenhower sought the approval of Congress and an appropriately downsized federal budget, though like Truman, Eisenhower would serve these ends mainly by shifting money around instead of making actual cuts. Defense cuts and stretches such as the placement of money on atomic weapons and air power programs instead of traditional armaments began as early as 1951, but left billions of dollars in the military production pipeline well into 1956. With the military working from these excess funds, Eisenhower era defense cutbacks were really much less dramatic than they appeared. In reality, Eisenhower filtered many of his defense cuts to another area of the defense budget. As seen through the funding of the Manhattan Project, the budgetary system throughout the thirties, forties,

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81 NSC Memo 162/2, 5-6, 26-27.

and fifties had a great deficiency in that it was difficult, if not impossible, to trace exactly how departments spent allocated appropriations. In the estimated budget for 1954, prepared by Truman, the largest expected increase was for the Department of Defense, focused mainly on increases in the Air Force budget for a total of 17.5 billion dollars. This amount was more than 2 billion dollars above the estimate for 1953. Funding for the Navy likewise increased, though only slightly, and that of the Army decreased considerably. Truman itemized each of these departments under the Department of Defense in the 1954 budget. Truman explained the overall increase in budget spending as part of his administration’s determination to build the armed forces to a “state of readiness,” despite the ongoing war in Korea.\textsuperscript{83}

The first budget prepared under the Eisenhower administration showed marked differences from that of the Truman administration, though inherently followed the same focus on defense spending that Truman had initiated. Most significantly, the proposed 1955 budget conglomerated the military branches together under the Department of Defense, no longer itemizing the individual cost of each. As a result, the overall budget showed a significant decrease in defense spending from an estimated 41.5 billion dollars in 1954 to 37.5 billion dollars in 1955 for “military functions.”\textsuperscript{84} Eisenhower did not mention individual costs for the separate branches in his initial budget, though they would appear in the final version. However, discussions in the House of Representatives reflected a concern over the reduction in military spending and curiosity about where

\textsuperscript{83} Joint Committee on Internal Revenue Taxation, \textit{Summary of the President’s 1954 Budget}, 83d Cong., 1\textsuperscript{st} sess., 1953, 10, 11, 12.

\textsuperscript{84} Joint Committee on Internal Revenue Taxation, \textit{Summary of the President’s 1955 Budget}, 83d Cong., 2d sess., 1954, 18.
these cuts would happen. Representative Errett Scrivner (R-KS) relayed information from the Military Subcommittee on Appropriations hearings over the proposed budget. According to Scrivner, Representative Robert Sikes (D-FL) showed much concern over the defense cuts. Sikes argued:

I have been disturbed about the real meaning of the ‘new look’ in defense policy. To me it means a weakening of our overall military strength at a time of continuing danger from communism. I am quite seriously disturbed about the proposed manpower reductions, particularly in the Army.  

The subcommittee further discussed that the cuts were made to non-military personnel and that even with smaller overall numbers, a force armed with atomic weapons would be considerable nonetheless. According to the Chief of Staff of the US Army General Matthew Ridgeway, “we could beef up the firepower on a percentage basis of our divisions 500 percent, or maybe 10,000 percent, by putting a few of these atomic weapons in the division.” In cautious support of what appeared to be blatant military cuts during the height of the Cold War, Ridgeway noted that the Army had worked to help prepare the budget based on “economic and strategic decisions which have been made at a higher level.” Ridgeway then articulated this higher level to mean the Commander in Chief. Scrivner added that the president “has a reputation of being a pretty good military man” in what appeared to be a bit of committee humor. “I wanted to be sure we all understood, because it does make a difference,” Scrivner concluded. The subcommittee conversation revealed that while the Army took a budget cut, nuclear

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weaponry was quickly making inroads to cover the manpower losses as a less expensive alternative. Additionally, since these decisions came from Eisenhower, as a five star military general, they carried heavier weight amongst the committee, despite some concerns.

While military funding appeared to be decreasing, funding for atomic weapons tests and construction was increasing alongside though budgeted separately from, defense; this allowed Eisenhower to claim defense acts and peace prerogatives while steadily funding a massive nuclear program. Truman crafted the Atomic Energy Commission’s budget separately from the defense budget so it would not fall under his budget ceiling during the 1940s. This policy broadened under Eisenhower’s New Look, which produced and deployed thousands of nuclear weapons without connecting them to the military. Those in government circles commonly believed nuclear weapons offered a “bigger bang for a buck,” though they were far more expensive in reality and carried much heavier political consequences for their bang.89 As a result, Eisenhower made military increases under the unconnected budget for the Atomic Energy Commission, giving the illusion of defense cuts while the government funded a massive nuclear program. As reflected in the 1955 budget, the AEC’s budget increased by 225 million dollars over the 1954 budget.90 Eisenhower also transferred funding for research

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programs from the Department of Defense to the National Science Foundation in 1955, furthering the deception of defense cuts.\textsuperscript{91}

Eisenhower filtered money away from traditional military and defense funds while still pushing financial resources toward his defense goals. To the public there appeared to be a dip in defense spending under Eisenhower’s administration, yet there was actually an increase. Through Eisenhower’s careful construction of the budget and movement of military expenditures into other budgetary areas, Eisenhower continued the illusion of peace and security over a massive modern military buildup. This continued blurring of peacetime and wartime labels would become more difficult after the issuance of the 1957 report \textit{Deterrence and Survival in the Nuclear Age} (Gaither Report), that called for a dramatic increase in military spending, expanded civil defense plan, integrated foreign and defense policies, and warned of a growing missile gap between the US and USSR. The report was a direct response to the Soviet launch of Sputnik, the first artificial satellite in space. There was little mention of peace in the report, but as part of the panel’s suggestions for an integrated policy, they did recommend that nuclear weapons be kept in US custody in \textit{peacetime}, but placed under NATO command in \textit{wartime}.\textsuperscript{92} The difference between peace and war was now negligible and the panel left the terms undefined. The panel argued, “If not integrated into our foreign policy, any substantial program to reduce the vulnerability of the United States might be widely interpreted as signaling a retreat to ‘Fortress America.’”\textsuperscript{93}

\textsuperscript{91} \textit{The Budget for 1955}, 72.


\textsuperscript{93} SAC, “\textit{Gaither Report},” 22.
This fortress, backed by extensive nuclear and traditional military weapon stockpiles by 1957, was essentially the house of peace in its final form. The Gaither panel’s suggestion that America was a fortress relied upon their knowledge of military and defense programs already underway or possible under a further increased budget. Superficially, the Eisenhower administration continued to pledge fiscal responsibility and peace. After the Gaither Report appeared, however, Eisenhower requested 1.27 billion dollars in supplemental appropriations for defense to go toward missile construction and research, and strategic air command.  

Despite Eisenhower’s best effort at keeping defense spending in check, he could not wholly continue to preach peace and downsize under the heightened threat of Soviet advancement seen in the Sputnik launch and perceived missile gap inherent in the Cold War world. In Eisenhower’s message to the Congress on the 1959 budget, he stated, “Expenditures in 1958 are now estimated to be $38.9 billion compared with the original 1958 estimate of $38 billion. Estimated expenditures for 1959 are $39.8 billion, an increase of $0.9 billion over the current estimate for 1958, $1.3 billion higher than in 1957, and $4 billion more than in 1956.”  

By 1961, the estimated Department of Defense budget was near 46 billion dollars. Even with Eisenhower’s initially crafty maneuvering of funding toward defense, he was ultimately unable to avoid a noticeable increase in defense spending during a time of proclaimed “peace.”


Keeping the Peace

With defense budgets constantly on the rise amidst the Cold War, Eisenhower continued to minimize direct use of American forces in favor of actions just short of actual armed conflict that fell into the realm of continuous warfare. Though Eisenhower advocated extreme and wide-reaching policies such as massive retaliation and the Eisenhower Doctrine, in practice his administration took a much more conservative route that was less likely to create an actual war. This stance allowed Eisenhower to appear tough on communism, yet still preach peace. According to an assessment of Eisenhower scholarship by historian Mary S. McAuliffe, “although Eisenhower's commitment to peace was real, it was limited to the prevention of large-scale nuclear warfare. His alternatives to war consisted of a broad range of activities, including counterinsurgency and political warfare.”\(^9\) McAuliffe’s analysis only held true under a modern concept of peace as continuous warfare—where keeping the peace simply meant a confusion of peace and war for political advantage. In particular, Eisenhower was a firm advocate of “unconventional warfare” utilizing the Truman-created Central Intelligence Agency’s foreign information. These lessons in keeping the peace speckled the Eisenhower presidency, most notably in Iran, Guatemala, Vietnam, and Lebanon.

Eisenhower’s extensive use of the Central Intelligence Agency for the first time in American history in Iran in 1953 further ingrained the concept of continuous warfare. The intelligence offered by the CIA afforded Eisenhower the leeway he needed to act militarily without an obvious and public deployment of troops that would tarnish his role.

as peacekeeper. Though Truman created the CIA under the National Security Act, Eisenhower was the first to utilize the agency for “peacetime” covert activity. In 1953, CIA information was used in a US-backed coup d’état to remove Iranian Prime Minister Mohammad Mossadeq.  

Though British interest in Iranian politics had been ongoing for decades, US interest only developed in 1950 amidst growing unrest and economic recession in Iran. In close proximity to the Soviet Union, leaders in the US Government saw Iran as a dangerous situation within the definition of Truman’s containment policy. According to a secret CIA document from October 1947:

The ruling groups [in Iran] are united in their fear of Soviet ambitions, and with the decline of British power in the Middle East, they are turning more and more to the US and the UN for support, a policy which is consistent with the basic anti-Soviet, anti-Communist, and pro-US attitude of the majority of the people. However, the continued failure of the government to rectify critical internal conditions is seriously jeopardizing Iranian stability. 

As a result, Truman installed a small Point Four aid program, pushed greater US financial backing of business interests in Iran, and increased the CIA and embassy staff in the country. Despite this considerable increase in US presence, Truman opted to work

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with the Mossadeq government to quell the ongoing controversy (mainly regarding British oil interests) and keep Iran in the “Western camp.”

The government’s plan for Iran shifted dramatically after the 1952 election because military advisors believed Eisenhower would take stronger action than the Truman administration had. Though Truman had primarily sought to keep Soviet influence out of Iran and keep the flow of oil from the region open, Eisenhower upgraded the significance of the situation in Iran in an effort to firmly establish western influence and prevent a communist takeover. According to a CIA document from November 1952, “The USSR appears to believe that the Iranian situation is developing favorably to its objectives. …the USSR has the capability for greatly increasing its overt and covert interference in Iran at any time, to the detriment of US security interests.” As early as February 1953, top CIA officials decided on a coup to remove Mossadeq from power. After some snags, the coup was successful as of August 1953, and the US-backed Fazlollah Zahedi was installed as prime minister.

Though scholars have sometimes interpreted the 1953 Iranian coup as a battle over US oil interests or a simple Cold War struggle to prevent the expansion of communism, the coup had larger implications when viewed through the perspective of

continuous warfare. The Truman administration had the chance to back a British invasion of Iran, which would have likely resulted in an actual war for western domination, but Truman chose to avoid US involvement in armed conflict. Eisenhower, newly sworn in as president, also chose to avoid a physical confrontation, instead opting to safeguard US interests through covert activities. Though the situation in Iran would continue to cause problems for the US until the present day, leaders in the government did not consider war an option until the early 1990s due to the preoccupation with the larger problem of the Soviet Union. Though easily pigeonholed into the containment policy or oil interests, Iran provided a testing ground for large-scale unconventional warfare that would become a mainstay in the US avoidance of armed conflict. As a result, US peace plans could continue unabated, while the US subsequently removed hostile regimes without war.

Likewise, the methods utilized by the CIA in Iran transferred to a similar situation in Guatemala in 1954. In part, members of the Eisenhower administration worried that Guatemala would become a base for Soviet expansion in the Western Hemisphere. This concern was largely due to a land redistribution program initiated by popular Guatemalan President Jacobo Arbenz Guzmán in 1952. Though Arbenz claimed he sought a modern, economically independent, capitalist state, his land redistribution program focused on government seizure of uncultivated land for redistribution to individual farmers. The unauthorised


105 Gasiorowski, “The 1953 Coup,” 275, 266.
Guatemalan government then compensated landowners for this taking at three dollars per acre in guaranteed twenty-five year bonds. While the program equally affected those with or without wealth across the board, including Arbenz himself, who had 1,700 acres taken, it also impacted American business interests. 106

Although the Eisenhower administration would define the Arbenz government as an agent of international communism, the feud largely took place over the interests of the American-owned United Fruit Company. United Fruit was the largest landowner in Guatemala and had maintained a presence since the late 1800s. However, the company’s land holdings included roughly eighty-five percent uncultivated land, which the Arbenz government confiscated. The Eisenhower administration subsequently requested that Arbenz denounce his communist allies and those in his government who followed communist teachings, and return the land to United Fruit. According to a sanitized CIA memorandum from February of 1954, Mrs. Arbenz’s secretary noted that Arbenz “would not accept assistance from any group which proposed to remove Communists as he considered them the only honest and devoted civil servants in Guatemala.” 107 The CIA saw this as evidence that Arbenz was firmly within the communist camp.


Unsurprisingly, Arbenz refused to oust communists from government, so the United States cut off relations with Guatemala.\textsuperscript{108}

Following the same design as in Iran, the Eisenhower administration began fomenting a plan to destabilize the Guatemalan government and remove Arbenz from office, utilizing unconventional warfare. The CIA attempted to turn the Guatemalan military against Arbenz and on June 18, 1954, sent in a 200-man army trained by the CIA and led by exiled Lieutenant Colonel Carlos Castillo Armas. This small force, combined with clever CIA radio broadcasts served to convince the Guatemalans that there was a large military presence and that fighting was widespread. On June 27, Arbenz turned over control of the government to Armas.\textsuperscript{109}

Once again, the Eisenhower administration saw both business interests and Cold War anxiety as the justification for the removal of Arbenz, but as in Iran, continuous warfare allowed the Eisenhower administration to manipulate both motives while still maintaining its desired political façade. With only circumstantial evidence of communist influence in Guatemala, Eisenhower and the CIA pushed for removal of a popularly elected government.\textsuperscript{110} Though the threat of the spread of communism was a real component of US foreign policy during the Cold War, the methods behind dealing with this perceived threat would have overall greater impact than the Cold War itself.


\textsuperscript{110} Rabe, \textit{Eisenhower and Latin America}, 57.
Avoidance of armed conflict, or even the appearance of involvement, in global conflicts allowed the US to continue its outward message of peace while the CIA pushed covert military action in places like Iran and Guatemala. This combination of words and actions again blurred the definitions of peace and war.

While covert activities were still happening in Guatemala, Eisenhower was publicly attempting to deal with the growing unrest in Indochina. Beginning after World War II, Vietnam attempted to declare its independence from France under the communistic leader Ho Chi Minh. The loss of colonial holdings was common to European imperial powers in the post-WWII era, but the proximity of Vietnam to both the Soviet Union and China along with Ho’s penchant for communism posed a larger threat within the parameters of the Cold War. After failed negotiations, relations between France and Vietnam completely disintegrated by 1946, leading to the First Indochina War between Ho’s Democratic Republic of Vietnam and the French. The US pledged economic aid to the French in the struggle by 1950, but with US involvement in Korea, Vietnam continued to remain inconsequential to US foreign policy interests.111

Faced with continuing French defeat, Eisenhower sought to involve the US in the war in Vietnam more greatly, arguing that if one country in this region fell to communism, those around it would easily fall as well. On April 7, 1954, Eisenhower

articulated this idea at a press conference when posed with the question of the strategic importance of Vietnam to the “free world.” Eisenhower explained both the specific (production and political reasons) and general strategic importance of Vietnam. Generally, Eisenhower noted:

[Y]ou have broader considerations that might follow what you would call the "falling domino" principle. You have a row of dominoes set up, you knock over the first one, and what will happen to the last one is the certainty that it will go over very quickly. So you could have a beginning of a disintegration that would have the most profound influences.

The media quickly dubbed the falling domino principle the “domino theory,” which would continue as the primary policy for US involvement in Vietnam throughout the fifties, sixties, and seventies.

Although the domino theory itself, under the heightened tension of the Cold War and larger containment policy, almost guaranteed US involvement in Vietnam, Eisenhower continued to expound a commitment to peace and retain his role as a soldier of peace. In the same press conference where he initially defined the domino theory, Eisenhower added, “the hope is always that it is peaceful conciliation and accommodation of these problems” when asked about his plans to get the UN involved in the situation. Having won his campaign on the premise of ending the Korean War and maintaining peace, Eisenhower was leery of openly involving the US in a military action that could challenge his soldier of peace role. After talking with the president about united action between the US, England, and France concerning Vietnam, Secretary of State John Foster Dulles released a statement to the press. On April 10, 1954 Dulles

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112 DDE, “News Conference.”
113 DDE, “News Conference.”
114 DDE, “News Conference.”
claimed, “Our purpose is…to create the unity of free wills needed to assure a peaceful settlement which will in fact preserve the vital interests of us all.”\textsuperscript{115} Shortly after this statement, Dulles attended a meeting in London where it was agreed that the US and England would take part, along with other nations involved, in a collective defense action through the UN.\textsuperscript{116} In a joint statement issued by Dulles and British Foreign Secretary Anthony Eden, the two stated, “We recognize that our basic objective at the Geneva Conference will be to seek the re-establishment of a peace in Indochina.”\textsuperscript{117} Dulles helped retain Eisenhower’s exterior of peace through these statements, but as the French situation in Vietnam grew more desperate, US involvement tipped precariously toward armed conflict.

While signs of further US concern over the status of Vietnam surfaced during the latter part of April and May, Eisenhower sought a more subdued route to quelling the communist threat in Vietnam than US involvement in the war. The first public suggestion that there was more than a simple dedication to peace underlying the Eisenhower administration’s plans for Vietnam appeared in a comment by Vice President Richard Nixon. On April 16, before the press, Nixon made the comment:

If in order to avoid further Communist expansion in Asia and particularly in Indochina, if in order to avoid it we must take the risk by putting American boys in, I believe that the executive branch of the government has to take the politically unpopular position of facing up to it and doing it...\textsuperscript{118}


\textsuperscript{117} Dulles and Eden, “U.S.-U.K.-French Discussions,” 623.

\textsuperscript{118} Jon W. Western, \textit{Selling Intervention and War: The Presidency, the Media, and the American Public} (Baltimore, MD: Johns Hopkins University Press, 2005), 57.
Nixon’s comment, though quickly explained away by the State Department, and nullified altogether by Dulles, hinted at a parallel administration discussion of deeper US involvement. Historian Frederick W. Marks III argued that Dulles was the one seeking to keep Eisenhower’s enthusiasm for sending ground troops to Vietnam in check, despite Eisenhower’s open proclamations to retain peace.

Although Marks over dramatized Eisenhower’s desire for US involvement in Vietnam, Eisenhower was a soldier of peace with a realistic willingness to fight in order to avoid nuclear war and achieve the larger objective of containment. Operation Vulture, a secret US plan (1954) to rescue French forces at Dien Bien Phu using American bombers and small tactical nuclear weapons, may have been where Nixon’s statement for more US involvement originated. This plan would have avoided a traditional armed conflict through modern tactics and weaponry while subsequently showing US strength in the Cold War. By avoiding large scale US involvement, Eisenhower could maintain the reality of continuous warfare while still leaving Americans secure in the house of peace. Despite the use of reconnaissance flights and a distinct naval presence in the Gulf of Tonkin during negotiations, Eisenhower never put Operation Vulture into effect.

Instead, the Geneva Accords of 1954 continued to stave off US involvement in Vietnam until the 1960s, and Eisenhower maintained his public peace platform.\textsuperscript{120}

Finally, in 1958 Eisenhower had the first real opportunity to diverge from his public path toward peace and test the Eisenhower Doctrine, in Lebanon. Lebanese President Camille Chamoun, a Christian who had practiced pro-US foreign policy, sought to extend his term in office by amending the Lebanese constitution in 1958. Under this circumstance, Lebanese Muslims who supported Egyptian President Gamal Abdel Nasser’s demand for Pan-Arab nationalism called for Chamoun’s removal. In May of 1958, amidst violence in Lebanon, the US supplied Chamoun with weapons to put down anti-government riots. Later, Eisenhower provided troops to Lebanon in support of Chamoun.\textsuperscript{121}

Faced by a coup d’état in nearby Iraq, Eisenhower decided in mid-July 1958 that it was time to act in Lebanon. Though concerned about the fall of the region to communist influences, Eisenhower also knew that propping up an unpopular government might hurt the integrity of the United States amongst other developing countries. On July 15, 1958, however, Operation Blue Bat filtered 14,000 US Marines into Beirut, Lebanon


In a message to Congress, Eisenhower noted his reasons for sending in American troops:

> Readiness to help a friend in need is an admirable characteristic of the American people, and I am, in this message, informing the Congress of the reasons why I believe that the United States could not in honor stand idly by in this hour of Lebanon's grave peril.\(^{123}\)

In line with his peacekeeping agenda, Eisenhower also wanted to make clear that US involvement in Lebanon was, in no way, to be confused with a US entrance into war. In an official statement, Eisenhower claimed:

> In response to this appeal from the government of Lebanon, the United States has dispatched a contingent of United States forces to Lebanon to protect American lives and by their presence there to encourage the Lebanese government in defense of Lebanese sovereignty and integrity. These forces have not been sent as any act of war.\(^{124}\)

Despite these venerable reasons, Eisenhower immediately sought the quickest way for the US to disentangle itself from Lebanon. After Lebanon held elections in September and the new government led by former general Fuad Chehab safely took power, American troops returned home, unharmed.\(^{125}\)

> The rebels had supported the newly elected president of Lebanon, yet the US sought to recognize this government in an effort to retain stability in the region. Lebanese President Fuad Chehab accepted the new government of Iraq and stated his

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\(^{123}\) Notice that Eisenhower did not ask Congress to allow him to send troops or even for congressional support, he simply informed Congress of his actions after the fact, staying in line with expanded CINC powers under continuous warfare. Dwight D. Eisenhower, “Special Message to the Congress on the Sending of United States Forces to Lebanon,” July 15, 1958, APP.

\(^{124}\) Dwight D. Eisenhower, “Statement by the President on the Lebanese Government’s Appeal for United States Forces,” July 15, 1958, APP.

\(^{125}\) Hahn, “Securing the Middle East,” 44-45; Little, “His Finest Hour?” 27.
lack of opposition to Arab nationalism. Despite concerns by the Eisenhower administration, the US likewise recognized the new government of Iraq. Chehab soon requested US troops withdraw from Lebanon and they did, quietly. These actions by the US, though they served their purpose under the Eisenhower Doctrine, set up a strange relationship between the US and Middle East that would last well into the future. Though initially concerned about the “independence and integrity of Lebanon,” which meant communism’s potential influence over the people of the region, Eisenhower’s administration would lose prestige in the region when faced by opposition from the very people it sought to help. Supposed US peace efforts in the Middle East would swiftly disintegrate into actions in favor of US oil interests, and little else, during future administrations.126

Despite the fact that US troops only occupied Lebanon from July through October of 1958, the action showed the incredible power of Eisenhower and forecast the future power for presidents under continuous warfare. As Commander in Chief, the president wielded American troops as a weapon to support policy prerogatives abroad, no longer hindered by Congress. Though the Eisenhower Doctrine proved successful in Lebanon, the situation illustrated the modern version of peace at gunpoint that became standard in the fuzziness of continuous warfare.

Overall, Iran, Guatemala, Vietnam, and Lebanon provided points that emphasized Eisenhower’s full embrace of continuous warfare and the structures set up under the Truman administration, mainly the CIA and congressional deference to the Commander in Chief, which would continue to perpetuate the fuzzy nature of peace and war. These

formidable events stood out only slightly amongst a decade of turbulence cloaked in peace. Eisenhower dealt with political crises in the Suez, Taiwan, Berlin, and Paris, deftly avoiding conflict in all circumstances. Although Eisenhower would leave many of these critical situations for his successors to deal with, his administration illustrated that Truman’s house of peace, a permanent, liminal zone between peace and war, was thoroughly in operation by 1960.

Conclusion: Move in Day

On January 17, 1961, Dwight D. Eisenhower bid the nation farewell in a televised address. “A vital element in keeping the peace is our military establishment. Our arms must be mighty, ready for instant action, so that no potential aggressor may be tempted to risk his own destruction,” Eisenhower stated in a final combination of his public peace platform and covert military buildup. Eisenhower then went on to detail the growth of the military industrial complex during his presidency and to warn of its immense power. Eisenhower noted, “The potential for the disastrous rise of misplaced power exists and will persist.” Oft noted as the most famous portion of any Eisenhower speech, this

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“warning” yielded future fodder for opponents of military expansion. However, it was also a warning against the increased executive power apparent in a nation continuously at “war,” which relied upon a perpetual military buildup under the control of the Commander in Chief. With virtually all viable checks on the president’s war power removed, there was great potential to abuse this increased power through thinly veiled arguments regarding national security, war, or in the interest of peace. While the political malleability of continuous warfare allowed for greater military control by the Commander in Chief and instantaneous response in the rapid world of nuclear warfare, it also opened the door to the imperial presidency.

Though Truman may not have intended his governmental and national security framework to provide for an imperial presidency, Eisenhower, through his own extensive use of these structures, saw the potential for abuse amidst the haziness of continuous war. “We must face the fact that the house of peace must be built on the rock of power,” Truman had proclaimed early in his presidency, and by 1960, both peace and power were firmly in place.129 In the end, continuous warfare provided a “twilight period” between traditional peace and war where the horrors of war subsided but the associated executive and governmental powers did not, leading toward greater political malleability and potential for abuse. While the Cold War publicly overshadowed continuous warfare until the fall of the Soviet Union in the early 1990s, this covert war continued until the present day and underlined all US foreign policy prerogatives.

Truman, Eisenhower, and other presidents concealed this continuous war by building around it a house of peace. “We [Americans] are a moral people. Peace is our

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129 Handwritten outline of message on UMT, undated, CP, HSTL.
goal, with justice and freedom. We cannot, of our own free will, violate the very principles that we are striving to defend. The whole purpose of what we are doing is to prevent world war III. Starting a war is no way to make peace,” stated Truman in his last message to the American people as president. Truman’s final message diverged from his earlier rhetoric that confusingly sought to combine peace and war, but called into question his definition of each. The outward appearance of peace, promulgated through Truman’s fuzzy language, Eisenhower’s covert activities, and federal subservience to the executive throughout the 1940s and 1950s, helped Americans, unknowingly, embrace the modern idea of warfare. Therefore, while starting a war was not a way to make peace, continuous warfare’s existence certainly did not preclude “peace.”

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EPILOGUE

THE MODERN HOUSE OF PEACE

September 11, 2001 brought the imperial presidency to the surface of American politics once again. Faced with a full-blown, global conflict against terrorist enemies everywhere, President George W. Bush fully utilized his expanded powers as Commander in Chief, in some instances arguably stepping beyond the limits of the Constitution.¹ In the absence of the Cold War, continuous warfare persisted into the twenty-first century, bringing with it expanded executive power and the potential of an imperial president.

Through an interdisciplinary approach to studying executive power, Building a House of Peace revealed the entirely new concept of continuous warfare, which allows scholars to examine modern presidential power beyond the parameters of the Cold War relied upon by previous historians, including the recent presidency of George W. Bush. The truly interdisciplinary nature of executive power scholarship like this work takes such studies’ usefulness beyond one particular field. By focusing on Congress and the Supreme Court and utilizing political science and legal scholarship, Building a House of Peace demonstrated the necessity of advanced and expanded perspectives offered by a

combination of the aforementioned fields with history, yielding an entirely new perspective to presidential studies.

Though no President since Richard Nixon had abused the power of the presidency at the same imperial level, Bush perhaps came closest when viewed from this new perspective. On September 20, 2001, in a message to Congress Bush stated, “Tonight we are a country awakened to danger and called to defend freedom. Our grief has turned to anger, and anger to resolution. Whether we bring our enemies to justice, or bring justice to our enemies, justice will be done.” With an undefinable enemy, seemingly found everywhere, the situation forced Bush to rely upon his own skills as President, the power granted to the executive through the acquiescence of Congress and the Court, and his increased powers as Commander in Chief under continuous warfare. In an effort to maintain the American house of peace, Bush sought revenge against the perpetrators of the September 11 attacks using the structure set up by Truman more than fifty years before.

The modern house of peace, the one under Bush’s care from 2001 until 2009, was creaky, drafty, and in desperate need of renovation, yet continued to stand firm just as Truman had built it. Bush responded to 9/11 with a call to arms that sent American soldiers to Afghanistan and eventually Iraq. According to the President, “Our war on terror begins with al Qaeda, but it does not end there. It will not end until every terrorist group of global reach has been found, stopped and defeated.” Following this initial proclamation, the government articulated a new program of foreign policy, the Bush

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Doctrine, which called for preemptive strikes against potential enemies. Though ambitious and controversial, the Bush Doctrine sought to confine conflict abroad and maintain the house of peace at home. When warfare, congressional apathy, and Court support coalesce, executive power has the ability to go completely unchecked to the point of an imperial presidency, even in the current era.

On September 18, 2001, Congress aided Bush with the passage of a joint resolution authorizing use of military force against terrorists (not a formal declaration of war) and several terrorism prevention measures. First, in an effort of bipartisanship, legislators scrambled to pass the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act). This law allowed the government to designate certain groups as terrorist, use covertly obtained information against terrorists in legal cases, and make support of terrorist organizations a criminal activity. Likewise, the PATRIOT Act strengthened US security and American borders while expanding limits on warranted searches. Though originally controversial, the act passed in October of 2001.

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4 Authorization for Use of Military Force, Public Law 107-40, 107th Cong., 1st sess. (September 18, 2001), accessed February 7, 2013, http://news.findlaw.com/hdocs/docs/terrorism/sjres23.es.html; Katherine E. Ellison, “US Legislative Initiatives to Combat Terrorism since 9/11,” in Combating Modern Terrorism (1968-2011), vol. 1 of Counterterrorism: From the Cold War to the War on Terror, ed. Frank Shanty (Santa Barbara, CA: Praeger, 2012), 482-483. See also: Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56, 107th Cong., 1st sess., (October 26, 2001). According to Congress’s resolution of September 18, “the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.” This proclamation gave the Bush administration a wide latitude in dealing with terrorists. Authorization for Use of Military Force.
Congress initially gave up its power during continuous warfare because of the changing nature of war and its insecurity regarding new methods of war, but also because of benefits that occurred by lax use of congressional power. Congress used the opportunity provided by the War on Terror to pass several security measures that retained the American illusion of peace and safety, and offered distinct legislative benefits. These measures included the creation of a new Department of Homeland Security (DHS) in 2002 and the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTP), which modified Truman’s original National Security Act by restructuring the intelligence community. DHS combined more than twenty federal agencies and organizations into one department that carried a 30 billion dollar budget in its first year of operation. DHS contracts provided a windfall to businesses nationwide that provided security-related services and products, pushing legislators to fast track security issues, such as IRTP, for district and state economic incentives that confirmed their reelection.5

Americans, shocked by September 11, supported Bush and expansive legislative measures under the idea that this was simply daily life in the modern house of peace. Though saturated by global conflict, the house of peace stood strong as the government promised Americans their safety and continued peace at home. A National Terrorist Advisory System (terror alert level), heightened airport security, and no-fly lists issued by the government assured Americans of this security.6


The outward appearance of peace, promulgated through covert activities, fuzzy language, and federal subservience to the executive throughout the forties and fifties had led Americans to embrace the idea of warfare under an illusion of peace; the government upheld this house of peace until the present through a manipulation of power provided by continuous warfare. It was this liminal zone between traditional war and traditional peace that allowed political actors to employ warfare for their own purposes and granted extended executive power to the President as a result. This left Americans to believe peace embodied their nation, even as American military forces participated in acts of war openly or covertly. As Eisenhower had illustrated in the 1950s, peace and war were patently synonymous in the era of continuous warfare and traditional concepts of each were thoroughly shattered by the mid-twentieth century. Using the framework set up by Truman, solidified by Eisenhower, and implemented by every other President, Bush had confirmed the structural soundness of the house of peace in the twenty-first century and demonstrated how it might shelter an imperial presidency *even today*. 
Figure 2.1: Atomic Energy Political Cartoon, 1946. Source: The Call (New York), March 11, 1946, box 45, file 4, Harold L. Ickes Papers, Manuscript Division, Library of Congress, Washington D.C.
Figure 3.2. International Relations in War Materials or Processes. Reproduced from Senate Special Committee on the Investigation of the Munitions Industry, Munitions Industry (Nye Report Part 8), 74th Cong., 2d sess., 1936, S. Rep. 844, 289.
Fig. 3.4. Flyer issued by Robert Taft in 1950. *Source:* “The Veteran and the Welfare State,” box 1, file 57, Robert Taft Papers, US-95-05, Archives and Rare Books Library, The University of Cincinnati, Cincinnati, Ohio.
Fig. 3.5. Pro-Joseph Ferguson cartoon. The caption reads, “Take a good look at this—and vote for Joe Ferguson on November 7!” *Source:* “Doughboys,” box 1, file 22, Robert Taft Papers, US-95-05, Archives and Rare Books Library, The University of Cincinnati, Cincinnati, Ohio.
Fig. 4.1. Truman and Steel, May 11, 1952, *Washington Star*. Source: Truman and Steel, box 4, file 3; Enarson Papers, HSTL.
Table 3.1. Partisan breakdown of roll call votes on the Neutrality Act of 1939

<table>
<thead>
<tr>
<th>Party</th>
<th>House</th>
<th>Senate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Republican</td>
<td>172</td>
<td>24</td>
</tr>
<tr>
<td>Democrat</td>
<td>243</td>
<td>55</td>
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Table 3.2. Breakdown of partisan gains and losses in Congress, 1942-1945

<table>
<thead>
<tr>
<th></th>
<th>Senate</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Year</td>
<td>Dem.</td>
<td>Rep.</td>
<td>Other</td>
</tr>
<tr>
<td>1942</td>
<td>66</td>
<td>28</td>
<td>1</td>
</tr>
<tr>
<td>1944</td>
<td>57 (-9)</td>
<td>38 (+10)</td>
<td>1 (=)</td>
</tr>
<tr>
<td>1945</td>
<td>57 (=)</td>
<td>38 (=)</td>
<td>1 (=)</td>
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</table>

<table>
<thead>
<tr>
<th></th>
<th>House</th>
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</thead>
<tbody>
<tr>
<td>Dem.</td>
<td>267</td>
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<tr>
<td>Rep.</td>
<td>162</td>
</tr>
<tr>
<td>Other</td>
<td>6</td>
</tr>
<tr>
<td>1944</td>
<td>222 (-45)</td>
</tr>
<tr>
<td>1945</td>
<td>243 (+21)</td>
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<table>
<thead>
<tr>
<th>Overall Gain or Loss</th>
<th>Senate</th>
<th>House</th>
</tr>
</thead>
<tbody>
<tr>
<td>-9</td>
<td>-24</td>
<td>-4</td>
</tr>
</tbody>
</table>


*Note:* Dr. Roper is professor emeritus of physics at Virginia Polytechnic Institute and State University who writes on scientific connections to politics amongst other topics.
Table 3.3. Breakdown of Partisan Gains and Losses during Congressional Terms, 1945-1951

<table>
<thead>
<tr>
<th>Year</th>
<th>Senate</th>
<th>House</th>
</tr>
</thead>
<tbody>
<tr>
<td>1945-1947</td>
<td>57</td>
<td>38</td>
</tr>
<tr>
<td>1947-1949</td>
<td>45 (-12)</td>
<td>51 (+13)</td>
</tr>
<tr>
<td>1949-1951</td>
<td>54 (+9)</td>
<td>42 (-9)</td>
</tr>
<tr>
<td>Total Gain or Loss</td>
<td>-3</td>
<td>+4</td>
</tr>
</tbody>
</table>


Table 4.1. 1944 Supreme Court Ideal Points Arranged from Conservative to Liberal

<table>
<thead>
<tr>
<th>Year</th>
<th>Justice</th>
<th>Ideal Point</th>
</tr>
</thead>
<tbody>
<tr>
<td>1944</td>
<td>Roberts</td>
<td>2.75</td>
</tr>
<tr>
<td>1944</td>
<td>Stone</td>
<td>0.5</td>
</tr>
<tr>
<td>1944</td>
<td>Frankfurter</td>
<td>0.25</td>
</tr>
<tr>
<td>1944</td>
<td>Jackson</td>
<td>0.125</td>
</tr>
<tr>
<td>1944</td>
<td>Reed</td>
<td>-0.25</td>
</tr>
<tr>
<td>1944</td>
<td>Rutledge</td>
<td>-1.4</td>
</tr>
<tr>
<td>1944</td>
<td>Murphy</td>
<td>-1.5</td>
</tr>
<tr>
<td>1944</td>
<td>Douglas</td>
<td>-2</td>
</tr>
<tr>
<td>1944</td>
<td>Black</td>
<td>-2.5</td>
</tr>
</tbody>
</table>

Table 4.2. Michael Bailey’s ideal point scores for the 1952 Supreme Court and President arranged in order from most liberal to most conservative.

<table>
<thead>
<tr>
<th>Year</th>
<th>Institution</th>
<th>Name</th>
<th>Ideal Point</th>
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</thead>
<tbody>
<tr>
<td>1952</td>
<td>Supreme Court</td>
<td>Black</td>
<td>-1.77</td>
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<tr>
<td>1952</td>
<td>President</td>
<td>Truman</td>
<td>-1.68</td>
</tr>
<tr>
<td>1952</td>
<td>Supreme Court</td>
<td>Douglas</td>
<td>-1.31</td>
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<td>Supreme Court</td>
<td>Frankfurter</td>
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<tr>
<td>1952</td>
<td>Supreme Court</td>
<td>Jackson</td>
<td>0.29</td>
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<tr>
<td>1952</td>
<td>Supreme Court</td>
<td>Clark</td>
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<td>1952</td>
<td>Supreme Court</td>
<td>Burton</td>
<td>0.42</td>
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<tr>
<td>1952</td>
<td>Supreme Court</td>
<td>Vinson</td>
<td>0.65</td>
</tr>
<tr>
<td>1952</td>
<td>Supreme Court</td>
<td>Minton</td>
<td>0.74</td>
</tr>
<tr>
<td>1952</td>
<td>Supreme Court</td>
<td>Reed</td>
<td>0.8</td>
</tr>
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</table>


Table 4.3. Martin-Quinn ideal point scores for the 1952 Supreme Court arranged in order from most Liberal to most conservative.

<table>
<thead>
<tr>
<th>Year</th>
<th>Justice</th>
<th>Ideal Point</th>
</tr>
</thead>
<tbody>
<tr>
<td>1952</td>
<td>Douglas</td>
<td>-2.371</td>
</tr>
<tr>
<td>1952</td>
<td>Black</td>
<td>-1.237</td>
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<tr>
<td>1952</td>
<td>Frankfurter</td>
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<tr>
<td>1952</td>
<td>Jackson</td>
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<td>1952</td>
<td>Clark</td>
<td>1.124</td>
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<tr>
<td>1952</td>
<td>Minton</td>
<td>1.199</td>
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<tr>
<td>1952</td>
<td>Burton</td>
<td>1.23</td>
</tr>
<tr>
<td>1952</td>
<td>Reed</td>
<td>1.296</td>
</tr>
<tr>
<td>1952</td>
<td>Vinson</td>
<td>1.358</td>
</tr>
</tbody>
</table>


Note: The “Ideal Point” column represents Martin and Quinn’s suggested usage of their posterior mean (post_mn) score.
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