



TAKE THREE: THE 1973 WAR POWERS RESOLUTION

The Emperor Is Dead—Long Live the Empire: The Enduring Legacy of the Imperial Presidency

Andrew Preston 

Department of History, University of Cambridge, Cambridge, UK

This year marks the fiftieth anniversary of two important texts on excessive presidential war power. The first, the War Powers Resolution, is the subject of this forum; it is still in effect today, though how effective it has actually been is a matter of debate. The second text celebrating its half-century is Arthur M. Schlesinger, Jr.'s bestseller *The Imperial Presidency*, published in late 1973 to positive reviews and widespread cultural acceptance.¹ The influence of Schlesinger's book—or, more precisely, its title—is clear, and it has arguably had the more enduring effect on American understandings of executive war powers.

The Imperial Presidency has a basic thesis that is easy to understand: over time, beginning with the World War II era and accelerating rapidly in the early Cold War, the presidency sidelined Congress from its constitutionally defined role in foreign policy and military affairs. Before the 1940s, the White House and Capitol Hill had sometimes bickered but mostly respected each other's prerogatives and did not dare overstep their boundaries marked by the Constitution. There were exceptions, of course, and in some periods either the president or Congress might dominate, but on the whole the system worked. Things broke down in World War II, not because Franklin Roosevelt had an imperial disposition but because the unprecedented nature of the world crisis coincided with congressional isolationism, thus forcing FDR to experiment with imperfect means to achieve a necessary end, much as Abraham Lincoln had done during the Civil War. In normal times, such as after the Civil War, executive war powers quickly snapped back into place. But the globally existential challenges posed by Japan and Germany, and then by the Soviet Union and China, ensured that the presidency remained supreme in the conduct of war and diplomacy. "The new American approach to world affairs, nurtured in the sense of omnipresent crisis," Schlesinger wrote, "set new political objectives, developed new military capabilities, devised new diplomatic techniques, invented new instruments of foreign operations and instituted a new hierarchy of values. Every one of these innovations encouraged the displacement of power, both practical and constitutional, from an increasingly acquiescent Congress into an increasingly imperial Presidency."²

Schlesinger had never planned to write a book on the growth of presidential power; he was supposed to be writing a biography of Robert F. Kennedy but was finding it difficult to get motivated. By the spring of 1973, the unending nature of the war in Vietnam and the unfolding of the Watergate scandal had a combined effect on his outlook, and he resolved to ring the national alarm bell. Schlesinger was known for being prolific, but even by his standards, his

¹Arthur M. Schlesinger, Jr., *The Imperial Presidency* (Boston, 1973). The book was republished twice more in new editions, in 1989 and 2004, but unless specified all references to *The Imperial Presidency* are from this original 1973 edition [hereafter abbreviated as *IP*].

²*IP*, 164.

work rate on *The Imperial Presidency* beggars belief. In March 1973, he began what was meant to be a pamphlet; by August, five months and 200,000 words later, he was finished and a major book of more than five hundred pages was published in November.³

Schlesinger's superhuman efforts paid off, and *The Imperial Presidency* was an instant success. In a lengthy, detailed review for the *New York Times*, Gary Wills confessed up front that while he had been skeptical Schlesinger could treat the subject with detachment, it was clear he had "done his homework for this book." A decade later, Wills would pour scorn on Schlesinger as a sycophantic "honorary Kennedy" who would go "rather weak in the knees" at tales of John F. Kennedy's heroics, but in 1973 he praised *The Imperial Presidency* as "our best current book on the subject."⁴ The *Washington Post* gave it an unequivocal rave.⁵ Scholars also lauded the book even if they could not resist pointing out, as Richard S. Kirkendall put it in the *American Historical Review*, that Schlesinger was writing "history for political purposes."⁶ Even Russell Kirk, one of the intellectual gurus of the New Right and certainly no fan of Schlesinger's, found it "heartening" that such a high-profile chronicler of Democratic presidents could develop a "healthy apprehension" for unchecked government power.⁷

To be sure, Schlesinger's thesis was not exactly new. As political scientist Edward S. Corwin famously put it in 1940, by its very nature the Constitution is "an invitation to struggle for the privilege of directing American foreign policy."⁸ Corwin was not making an analytically original point; it was more an observation of something already widely recognized thanks to the battles of the 1930s with outcomes—the Neutrality Acts on one hand, the Supreme Court case *United States v. Curtiss-Wright* on the other—that pulled in opposite directions. In adjudicating Corwin's struggle, however, historians and political scientists mostly agreed with the Court's decision in *Curtiss-Wright* that the executive was "the sole organ of the federal government in the field of international relations," and that presidential primacy over war powers was a necessary evil in the nuclear age.⁹ As a strident critic of presidential authority and defender of congressional prerogatives, Corwin was a hostile exception to this presidential consensus, outnumbered by various theories of presidential leadership in foreign affairs by the likes of Charles E. Merriam, Harold Laski, Clinton Rossiter, James MacGregor Burns, and Richard Neustadt.¹⁰

³Diary entry, Aug. 13, 1973, Arthur M. Schlesinger, Jr., *Journals: 1952–2000* (New York, 2007), 374; Richard Aldous, *Schlesinger: The Imperial Historian* (New York, 2017), 353.

⁴Garry Wills, "The Imperial Presidency," *New York Times*, Nov. 18, 1973, 15, 20; Garry Wills, *The Kennedy Imprisonment: A Meditation on Power* (Boston, 1982), 85, 264.

⁵Bernard A. Weisberger, "The Imperial Presidency," *Washington Post*, Nov. 25, 1973, BW1.

⁶*American Historical Review* 80 (Apr. 1975): 529. See also Julius W. Pratt's review in the *Annals of the American Academy of Political and Social Science* 413 (May 1974): 215–6; Milton Cantor, "War Is the Health of the Presidency," *Reviews in American History* 2 (Sept. 1974): 322–31; and Sidney Warren's review in the *Journal of American History* 61 (Mar. 1975): 1156–7.

⁷Russell Kirk, "A Plebiscitary Emperor?" *Center House Bulletin* 4 (Winter 1974): 15.

⁸Edward S. Corwin, *The President, Office and Powers: History and Analysis of Practice and Opinion* (New York, 1940), 200. By 1957, Corwin's book was in its fourth revised edition and was a staple of political science courses nationwide.

⁹*United States v. Curtiss-Wright Export Corporation et al.*, 299 U.S. 304 § 27 (1936), <https://www.law.cornell.edu/supremecourt/text/299/304>.

¹⁰Edward S. Corwin, *Total War and the Constitution* (New York, 1947). For examples of the consensus in favor of presidential power, see Charles E. Merriam, *The New Democracy and the New Despotism* (New York, 1939); Harold J. Laski, *The American Presidency: An Interpretation* (New York, 1940); Pendleton Herring, *Presidential Leadership: The Political Relations of Congress and the Chief Executive* (New York, 1940); Clinton L. Rossiter, *Constitutional Dictatorship: Crisis Government in the Modern Democracies* (Princeton, NJ, 1948); James MacGregor Burns, *Congress on Trial: The Legislative Process and the Administrative State* (New York, 1949); Harold J. Laski, "The American President and Foreign Relations," *Journal of Politics* 11 (Feb. 1949): 171–205; Clinton Rossiter, *The American Presidency* (New York, 1956); Richard E. Neustadt, *Presidential Power: The Politics of Leadership* (New York, 1960); and James MacGregor Burns and Jack Walter Peltason, *Government by the People: The Dynamics of American National Government*, 6th ed. (Englewood Cliffs, NJ, 1966), 378, 393–9,

Indeed, in defending Harry Truman's authority to go to war in Korea, Schlesinger himself had once been part of this chorus of presidential supremacists, leading Corwin to single him out as one of the "high-flying prerogative men" who enabled excessive presidential power.¹¹

But Vietnam and Watergate razed the presidential consensus to the ground, and Schlesinger's book, though timely, was not unusual.¹² In fact, Schlesinger had not even coined the phrase "imperial presidency." In a searing critique of Kennedy's use of presidential power, published earlier in 1973, journalist Henry Fairlie had come close, portraying the chief executive as a "personal emperorship."¹³ But Fairlie thought the president was an emperor because he headed an actual empire, not because the presidency itself had usurped, anomalously and unconstitutionally, the powers of the legislative branch. The honor of coining such a memorable phrase instead fell jointly to two critics of runaway executive war powers, both writing in 1972, a year before Schlesinger even began his book. First came *New York Times* columnist Tom Wicker, who started using it to refer to the Nixon White House in January 1972.¹⁴ Wicker was followed by Senator J. William Fulbright, a stern critic of the war who warned that the "Imperial Presidency" had become an "elected, executive dictatorship" with "serious, even dangerous shortcomings" stemming from Americans viewing the office "with something of the awe and reverence accorded to monarchs of an earlier age."¹⁵

Still, it was the phenomenal success of Schlesinger's book that popularized the phrase "imperial presidency" and took it from obscurity to instant iconic status. Toward the end of 1973, for example, the president of the American Society of International Law confessed he was "haunted" by "this imperial presidency."¹⁶ Partisans at the extremities of the political spectrum similarly pointed to the consequences of executive war power: on the left, Noam Chomsky feared the "centralizing power in an imperial presidency"; on the right, Irving Kristol warned of a sprawling, unaccountable "imperial presidency" bureaucracy—perhaps a forerunner to today's "deep state"—even as he chided liberals for once having encouraged this very sprawl in the face of conservative opposition to big government.¹⁷ Walter LaFeber, a historian of

562, 576–8. While it is the case that Laski was British and taught at the London School of Economics, he frequently held visiting posts at American universities; was widely invoked by Americans at that time to be an authority on politics, including American politics; and his book cited here was originally delivered as a series of lectures at Indiana University. Thus it is fair to say he not only reflected but significantly contributed to the presidential consensus in American political science.

¹¹Edward S. Corwin, "The President's Power," *The New Republic*, Jan. 29, 1951, reprinted in Edward S. Corwin, *Presidential Power and the Constitution: Essays*, ed. Richard Loss (Ithaca, NY, 1976), 137–40. Schlesinger's subsequent critics continued to invoke this about-face: see, for example, Louis Fisher, *Presidential War Power* (Lawrence, KS, 1995), 89–91. Fisher is one of the heirs to the Corwin tradition of defending congressional authority over war powers.

¹²See, for example, Louis Fisher, *President and Congress: Power and Policy* (New York, 1972); Erwin C. Hargrove, *The Power of the Modern Presidency* (Philadelphia, 1974); Richard M. Pious, "Is Presidential Power 'Poison'?" *Political Science Quarterly* 89 (Autumn 1974): 627–43; Charles M. Hardin, *Presidential Power & Accountability: Toward a New Constitution* (Chicago, 1974); and Raoul Berger, *Executive Privilege: A Constitutional Myth* (Cambridge, MA, 1974).

¹³Henry Fairlie, *The Kennedy Promise: The Politics of Expectation* (New York, 1973), 3.

¹⁴See the following "In the Nation" columns by Tom Wicker: "The Anderson Papers," *New York Times*, Jan. 4, 1972, 33; "Challenge to the Senate," *New York Times*, May 14, 1972, E13; and "The Devil and the Deep Blue Sea," *New York Times*, Oct. 12, 1972, 47.

¹⁵J. William Fulbright, *The Crippled Giant: American Foreign Policy and Its Domestic Consequences* (New York, 1972), 227–9, 234–5.

¹⁶William D. Rogers, "The New World Politics and the Law," *American Journal of International Law* 67 (Nov. 1973): 276. In a supreme irony, Rogers—not to be confused with Nixon's first secretary of state, William P. Rogers—soon went to work for Henry Kissinger at the State Department.

¹⁷Noam Chomsky, "On Watergate," *Resist*, Nov. 25, 1973, Reveal Digital, www.jstor.org/stable/community.28043671; Irving Kristol, "The Inexorable Rise of the Executive," *Wall Street Journal*, Sept. 20, 1974, 12. For reasoned analyses of whether there has been a "deep state" in recent times, see Jon D. Michaels, "Trump and the 'Deep State': The Government Strikes Back," *Foreign Affairs* 96 (Sept./Oct. 2017): 52–6; David Rohde, *In Deep: The FBI,*

the New Left–influenced Wisconsin School that had once attracted Schlesinger’s ire, later reflected, “I used *The Imperial Presidency* in my lecture course, my senior seminar and my graduate seminars. It was a very important book.”¹⁸ If the phrase is now commonplace, that is down to Schlesinger, and even if he is often uncredited, his influence on broader academic, political, and cultural understandings of the executive branch is palpable.¹⁹

By 1980, the chief executive seemed to be in full retreat. That year, Gerald Ford bemoaned, “We have not an imperial presidency, but an imperiled presidency” that was “harmful to our overall national interests.”²⁰ According to a second edition of *The Imperial Presidency*, published with a new epilogue in 1989, Ronald Reagan revived some but not all aspects of Nixon’s national-security excess, and in 1998, with Bill Clinton “harried and enfeebled” by a special prosecutor, Schlesinger agreed that the imperial presidency was now dormant.²¹ A little over two years later, Michael Beschloss, the doyen of popular presidential history, definitively declared “the end of the imperial presidency.”²² This was clearly not the most astute prediction, as George W. Bush soon took the imperial presidency to new levels. The age of terror came as a profound shock to Schlesinger, who republished *The Imperial Presidency* in 2004 with a new introduction to take account of the “unprecedented, and at times unbearable, strain” Bush’s war on terror placed on the Constitution.²³

Yet Schlesinger should not have been so shocked, for the seeds for this development were there all along. In the first edition of *The Imperial Presidency*, he confessed that, despite his book’s provocative title, he did not worry about a strong executive per se, and he took pains to clarify that, while he did not want “a strong Presidency in general,” he did think the fast-moving crises of the modern age required “a strong Presidency within the Constitution.”²⁴ He believed that U.S. foreign policy required “vigorous presidential leadership,” even “presidential primacy,” just not “presidential supremacy.”²⁵ Not coincidentally, two of his heroes, Roosevelt and Kennedy, maintained their glowing reputations because, while they did as much as any president to concentrate war powers in the White House, they exercised their power responsibly in times of genuine national crisis.

Schlesinger’s principal concern was thus the lack of constitutional legitimacy of a system in which the presidency had come to dominate the other two branches of government. Paraphrasing Lincoln, he argued that the “indispensable ... principle was surely that no one man should have the power to send the nation into war.” Instead, the “decision to go to war must above all be made by Congress and the President together.”²⁶ What Schlesinger wanted

CIA, and *the Truth about America’s “Deep State”* (New York, 2020); and Stephen Skowronek, John A. Dearborn, and Desmond King, *Phantoms of a Beleaguered Republic: The Deep State and the Unitary Executive* (New York, 2021).

¹⁸Quoted in Aldous, *Schlesinger*, 357. For Schlesinger’s attack on Wisconsin-school revisionism, see Arthur M. Schlesinger, Jr., “Origins of the Cold War,” *Foreign Affairs* 46 (Oct. 1967): 22–52.

¹⁹For a good history of the term, as well as of Schlesinger’s body of work, see Laura Kalman, “Arthur Schlesinger, Jr., the Historical Profession, and *The Imperial Presidency*,” *Reviews in American History* 48 (June 2020): 316–29.

²⁰Quoted in Andrew Rudalevige, “The Decline and Resurgence and Decline (and Resurgence?) of Congress: Charting a New Imperial Presidency,” *Presidential Studies Quarterly* 36 (Sept. 2006): 510.

²¹Arthur M. Schlesinger, Jr., *The Imperial Presidency*, with a new epilogue by the author (Boston, 1989), 441; Arthur M. Schlesinger, Jr., “So Much for the Imperial Presidency,” *New York Times*, Aug. 3, 1998, A19.

²²Michael Beschloss, “The End of the Imperial Presidency,” *New York Times*, Dec. 18, 2000, A27.

²³Arthur M. Schlesinger, Jr., *The Imperial Presidency*, with a new introduction by the author (New York, 2004), xxiv. See also two articles in the *New York Review of Books* he wrote at this time: “Eyeless in Iraq,” Oct. 23, 2003; and “The Making of a Mess,” Sept. 23, 2004.

²⁴*IP*, 405.

²⁵*IP*, viii.

²⁶*IP*, 297–8, 325. For Lincoln’s anti-monarchical principle that “no one man should hold the power of bringing this oppression upon us,” i.e., taking the nation to war, see his letter about the Mexican War to William H. Herndon, February 15, 1848, in Abraham Lincoln, *Speeches and Writings: Speeches, Letters, and Miscellaneous Writings; The Lincoln-Douglas Debates* (New York, 1989), 175–6. Emphasis in original.

in the machinery of foreign affairs, then, was what he wanted in all things political—a vital center in which neither extreme could prevail: “The American democracy must discover a middle ground between making the President a czar and making him a puppet.”²⁷ Thus for all its praise by conservatives like Kirk and radicals like Chomsky, *The Imperial Presidency* was still, at heart, a manifesto for vital-center liberalism.

Schlesinger walked a fine line, finer than his categorical title suggested, and this explains how he could devise a conceptually powerful tool to envision the president as an emperor yet also recoil from the legislative method to restrain the imperial presidency. In its drafting stages, he criticized the War Powers Resolution as imposing unsound, possibly even counterproductive, restraints on the presidency. While other critics of the presidency, such as Wicker, felt that Congress did not go nearly far enough in harnessing the executive, Schlesinger feared it had gone too far.²⁸

Schlesinger was correct about the War Powers Resolution’s limitations—it was hardly a congressional “power to declare ‘peace,’” as some observers claimed—but not for the reasons he assumed.²⁹ Its limitations are not due to the discovery of some elusive constitutional equilibrium and the occasional resurgence in the midst of crisis, but because the nature of U.S. power projection in the world, as well as the national security state that makes it possible, have grown beyond what the Constitution can handle. Schlesinger’s “strong Presidency within the Constitution” does in fact exist, but only because the latter has evolved to accommodate the former; if the imperial presidency endures, it is not simply because the executive has colonized congressional war powers, but because, as Fairlie pointed out, the United States itself has become a kind of empire. Just because it is different from the typology of colonialism a century ago does not mean it is any less of an empire—extraterritorial, perhaps, with a normative and regulatory basis, but an empire all the same.³⁰ Schlesinger actually realized this, even if he could not bring himself to admit the extent to which his Cold War liberalism had helped bring it about: the American president, he wrote, had become “the most absolute monarch ... among the great powers of the world.”³¹

In the face of such power, which has seen not only the bipartisan militarization of U.S. foreign policy but a growing militarism within American society, tinkering on the margins with a congressional resolution can hardly suffice.³² As comforting as they feel, ad hoc congressional resolutions do not have nearly the same authority as the actual constitutional powers vested in Congress: a declaration of war and the power of the purse. Lawmakers may revoke resolutions for wars they regret, but that is just as symbolic as the passage of the resolution in the first

²⁷IP, x. For the original manifesto, see Arthur M. Schlesinger, Jr., *The Vital Center: The Politics of Freedom* (Boston, 1949). More recently, Schlesinger’s fellow liberals tried to harness the imperial presidency to recreate vital-center liberalism: Joseph Stieb, “The Vital Center Reborn: Redefining Liberalism between 9/11 and the Iraq War,” *Modern American History* 4 (Nov. 2021): 285–304.

²⁸IP, 301–7; Tom Wicker, “Making War, Not Love,” *New York Times*, Jan. 16, 1973, 39.

²⁹Kenneth Prewitt and Sidney Verba, *An Introduction to American Government*, 3rd ed. (New York, 1979), 384.

³⁰The literature on the imperial nature of the post-1945 United States is large, and growing, but for expressions of this normative/regulatory perspective, see especially Daniel Immerwahr, *How to Hide an Empire: A History of the Greater United States* (New York, 2019); see also David C. Hendrickson, *Republic in Peril: American Empire and the Liberal Tradition* (New York, 2018); and Andrew Preston, “America’s Global Imperium,” in *The Oxford World History of Empire*, vol. 2: *The History of Empires*, ed. Peter Fibiger Bang, C. A. Bayly, and Walter Scheidel (Oxford, UK, 2021), 1217–48.

³¹IP, ix.

³²On the militarization of American society, see Michael S. Sherry, *In the Shadow of War: The United States since the 1930s* (New Haven, CT, 1995); Andrew J. Bacevich, *The New American Militarism: How Americans Are Seduced by War* (New York, 2005); Mary L. Dudziak, *War Time: An Idea, Its History, Its Consequences* (New York, 2012); David Kieran and Edwin A. Martini, eds., *At War: The Military and American Culture in the Twentieth Century and Beyond* (New Brunswick, NJ, 2018); Mark Philip Bradley and Mary L. Dudziak, eds., *Making the Forever War: Marilyn B. Young on the Culture and Politics of American Militarism* (Amherst, MA, 2021); and David Fitzgerald, *Militarization and the American Century: War, the United States and the World since 1941* (London, 2022).

place.³³ In being shoved aside, Congress has not exactly put up much of a fight beyond symbolic gestures. Perhaps this is unfair; maybe an imperial presidency is the inescapable fate for a superpower in the modern international system, and we should all just learn to live with it. But either way, as long as U.S. global interests remain expansive, and as long as “national security” threat-perception remains virtually limitless, the imperial presidency will endure.

³³For example, Senate Democrats have twice voted (unsuccessfully) to revoke congressional resolutions authorizing both wars against Iraq: “Senate panel votes to repeal 1991 and 2002 laws authorizing wars with Iraq,” *New York Times*, Aug. 4, 2021, <https://www.nytimes.com/2021/08/04/us/politics/aumf-war-iraq.html?searchResultPosition=1>; “The Senate Eyes a Formal End to the Iraq War, and a Reassertion of Congress’ Power,” *NPR Politics*, Mar. 21, 2023, <https://www.npr.org/2023/03/21/1164744031/the-senate-eyes-a-formal-end-to-the-iraq-war-and-a-reassertion-of-congress-power>.