



Written by [Joe Wolverton, II, J.D.](#) on July 8, 2019

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## Disempowering the President

*War and the Rogue Presidency: Restoring the Republic After Congressional Failure*, by Ivan Eland, Oakland,

California: Independent Institute, 2019, 350 pages, hardcover.

The United Nations recognizes 195 countries. The United States has a military presence in more than 150 of those. A little math reveals that there are American military operations in nearly 77 percent of the world! With that in mind, there is no better time than now for a book completely committed to “restoring the republic after congressional failure.”

Congressional failure to do what? To exercise its exclusive constitutional authority to declare war!

In his latest book, *War and the Rogue Presidency*, author Ivan Eland calls out Congress for surrendering its war-making power to the president. “The expansion of executive power over the nation’s history — especially since the dawn of the long Cold War and seemingly perpetual war on terror — has been less caused by presidential usurpation and more a result of congressional abdication,” Eland explains in *War and the Rogue Presidency*, published by Independent Institute.

While Eland expertly identifies several reasons for the legislative branch’s export of its power of making war to the executive branch, he points to partisanship as perhaps the most relevant reason for that relinquishment. “However, as a result of the stark political polarization in the country ... the willingness of congressional or chamber majority leadership to push back against excessive executive action may very well depend on whether they share the same party affiliation as the president,” Eland observes.

No one who’s taken even peripheral notice of the behavior of lawmakers — federal and state — and their inclination to put faith to party above faith to principle could disagree with Eland’s statement.

Eland’s expert examination of the manifold ways political parties and their leadership structure contribute to congressional willingness to rubber-stamp executive combat operations reminds readers of John Trenchard’s savage discourse on the real purpose for a politician’s fidelity to his political party:

A very great authority has told us, that “Tis worth no man’s time to serve a party, unless he can now and then get good jobs by it.” This, I can safely say, has been the constant principle and practice of every leading patriot, ever since I have been capable of observing publick transactions; the *primum mobile*, the alpha and omega of all their actions: They all professed to have in view only the publick good; yet every one shewed he only meant his own.”

These congressmen who hand over their authority to declare war don’t do so because they feel unqualified to make such a weighty decision or out of some sort of search for a “multitude of counsellors” in the consideration of whether to send citizens to their death in some foreign field. No, representatives and senators aren’t jealous of their power, and they rarely stand up to a president keen on combat because they do not want to be on the record as supporting the latest military operation should said operation prove unpopular.

By avoiding voting on war — or its approximates — congressmen retain the privilege of betting after the president’s cards have been shown.

In *War and the Rogue Presidency*, Eland examines why a president would want to possess a power considered by most lawmakers to be potentially fatal to their congressional careers.



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Eland begins the chapter on war's expansion of the power of the president by pointing out, "The executive branch now accounts for 99 percent of US government employees." With that in mind, it becomes clearer why waging war seems to be an addiction suffered by all occupants of the Oval Office for well over 100 years.

"War is also the health of executive aggrandizement at home," Eland reports, putting a finer point on the issue. Since the 20th century, wars — conventional and otherwise — have led to large increases in taxes, regulation, and government spending, both for the military and for unrelated domestic programs, Eland reports.

Constitutionalists could easily identify the influence of James Madison on Eland's explanation of executive excitement at the first whiff of war in the air. In truth, anyone who reads the book will encounter quotes from Madison on page after page, quotes Eland wisely weaves into his description of why the president should not be entrusted with the power to declare war.

In a statement that is as timely now as it was then, James Madison wrote that the power to declare war is "of a legislative and not an executive nature." He continued on that subject:

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

Madison was so strident in his insistence that the power to make war not be placed in the presidency, that he wrote a letter (called "Helvidius," No. 2) that began with the bold pronouncement that if any president were to presume the war-making power, "no ramparts in the constitution could defend the public liberty or scarcely the forms of republican government."

That's James Madison warning us that if we were to permit (I say "we" because ultimately we elect men and women to Congress who close their eyes to executive expansion of war) the president to exercise any power over the making of war, our liberty would be on life support.

To his credit, Eland quotes Madison in this chapter on the president's penchant for using the military to magnify his constitutional profile. The quote chosen by Eland is taken from an essay entitled "Political Observations," written on April 20, 1795. In that lengthy elucidation of his position on many political issues of the day, Madison includes the following lesson he'd learned through his study of history. "Of all the enemies to public liberty war is, perhaps, the most to be dreaded, because it comprises and develops the germ of every other [enemy of liberty]."

"As the first step towards a cure, the government itself must be regenerated. Its will must be made subordinate to, or rather the same with, the will of the community," Madison recommended.

What wise counsel! If, as Madison insists, war is an enemy to liberty, the best way to defeat that enemy is to keep the government under the watchful eye and in the complete control of the people whose sons and daughters would be sacrificed by the prosecuting of the war. This exercise of dominion is critical, Madison explains, because war is declared by people who will profit from it, but is fought by people who will suffer from it. Therefore, we cannot let the former segment of society be set free from the control of the latter, lest we see the waging of perpetual war and the ruination of liberty.

Unlike most contemporary critics of the never-ending wars, most of which are begun by the president,



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Ivan Eland not only diagnoses the disease, but he suggests a course of treatment that could, if followed faithfully, cure it.

After rehearsing the increase in the power of congressional leadership in the House and Senate, Eland writes, “Because congressional leadership is now powerful, it could more easily lead, if so inclined, the chambers to push back on executive power, especially in the crucial areas of war, treaties, and budget.”

Unfortunately, Ivan Eland’s exploration of the damage done to liberty by the establishment of an unrestrained executive and the president’s concomitant commitment to starting wars is marred by a significant shortcoming. In the final chapter, Eland recommends abolishing the Electoral College. He insists that the Electoral College “merely distorts the popular vote nationwide and erodes the legitimacy of US elections by deviating from the ‘one-person-one-vote’ principle.” He goes on to describe the constitutionally mandated method of electing the president as “antiquated.”

For a correct constitutional explanation and defense of the Electoral College, readers of The New American are directed to a series of articles on the subject I’ve written over the past few years. Suffice to say that following Eland’s call to eliminate the Electoral College would likely lead to preventing anyone committed to being faithful to the Constitution from ever being elected president.

Finally, Eland closes his mostly masterful survey of the rise of the war-making president by calling for a restoration of the federal arrangement that held sway in the days of the early Republic. “In the late 1700s and 1800s, the United States had a congressionally dominated federal government — a time of relative peace, prosperity, and liberty,” Eland writes.

“We must now restore this vision that the founders so presciently designed into the Constitution,” he adds in the last paragraph of his book.

And that is a call to action we can eagerly endorse.



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