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ENDINGS TO MODERN AMERICAN WARS

George J. Merklinger

Army War College
Carlisle Barracks, Pennsylvania

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20. ABSTRACT (Continue on reverse side if necessary and identify by block number) This essay deals with termination of conflict. It is limited to Modern American Wars starting with The Civil War. The thrust of this paper is three fold. First, it describes the statutory requirements governing the cessation of hostilities. Secondly, it provides a brief historical summary of the cessation of hostilities in modern American wars. Thirdly, it examines negotiations conducted by the United States and how they contributed to conflict termination. Data was gathered by			

means of a literature search of official histories, contemporary literary works, and current periodicals.

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by

Lieutenant Colonel George J. Merklinger
Ordnance

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INTRODUCTION

War is an ancient institution. Its causes are many. Throughout history it has been used by social groups both as an instrument of defense and as a method of trying to advance group interest. Modern wars have become extremely devastating and costly in terms of both wealth and human resources, with the result that a primary problem of modern times is devising a means whereby peoples of the world can live together in peace and harmony. When this fails, as it frequently does, war results.

We know from experience on the person to person level of human contact that war is more difficult to end than to begin. Man seems somehow deficient in the vital areas of understanding, empathy, and compromise. The same is true in the affairs of nations, only the problems faced are vastly more complex, and the adversaries are more likely to misunderstand the motives of each other.

War can end in a variety of ways ranging from the "unconditional surrender" of one side to a pseudo standoff which may or may not be preceded by a mutually agreed-to cease fire. In the distant past, wars tended to be clashes of arms with distinct starting points and identifiable ends. Mass capitulations were rare except for certain isolated instances which were windfalls rather than objectives of planned military operations.¹

Since 1945 wars have had the awful potential for mass nuclear destruction. Under these conditions there can probably be no winner in the classic sense because it is doubtful that either side has the capability to sustain a nuclear exchange and still be able to accept the surrender of the other.²

With this brief introduction, let us examine the endings to modern American wars with a view toward identification of means which facilitate the termination of conflict in whatever form it might take.

STATUTORY REQUIREMENTS

It is well to begin with an understanding of the statutory requirements for conflict termination for the United States. The Founding Fathers recognized the importance of conflict termination in the Declaration of Independence when they included the words: "Conclude Peace" in the series of functions which they enumerated as those "acts and things which Independent States may of right do."³ The function of concluding peace followed the act of levying war. Nevertheless, the importance of the function in the life of the United States was recognized, and specifically set forth to the world in the first Fourth of July Declaration.

The Constitution gives the power to conclude treaties to the President with the words, "He shall have power, by and with the advice and consent of the Senate to make treaties, provided two-thirds of the Senators present concur; . . ."⁴ The conclusion of peace treaties is not treated separately, but included with the making of treaties of whatever kind

might be necessary. Peace treaties are expressly exempted from legislative implementing action. When properly made, treaties, like statutes, become part of the supreme law of the land. The President is authorized to make treaties with foreign governments as the sole instrument of communication authorized by the Constitution. The Senate must content itself with approving treaties negotiated by the President. Both the Senate and the House can influence the actions of the President by their control of the budget, conducting investigations, and by hearings. They may, of course, also enact legislation to control actions of the President.

Conflict termination has come to be recognized as a formal event which logically follows the cessation of hostilities. Traditionally, peace was arranged by some relatively formal conference or period of negotiations which preceded the end of the conflict. In the classic sense, conflict means war which begins with a formal declaration of war. Conversely, what if the fighting just begins without the usual amenities being served? Is a country then at war? If not, how can or should the conflict be terminated? By law, only Congress can declare war, hostilities may be started by order of the President acting as Commander-in-Chief without prior Congressional approval. This has been done 73 times within the past 150 years.⁵ If the engagement is thought to be sufficiently serious, the President usually asks Congress to declare war immediately before or after the start of hostilities; but, if of a limited or local nature, as when President McKenley dispatched troops to Peking during the Boxer Rebellion in 1900, or when

President Wilson ordered troops into Mexico in 1913, no declaration may be requested. Even though the President asks Congress to make declarations, circumstances have usually reached such a critical state as to leave Congress with no alternative but to comply. Not until Congress acts, however, do the rules of war go into effect. Until Congress makes a formal declaration, a conflict, however, serious, is not legally "war" so far as our laws are concerned. So far as foreign states are concerned, international law permits them to recognize a state of war as existing prior to formal declaration by the contending parties. When this happens, the belligerents are considered to be at war and the international laws of war are applicable to them.

When the course of conflict has been run, war is terminated. In the normal war context, the President makes what he considers to be a good treaty. This is one which will be popular with the people and one consistent with the general appraisal of the performance of American men under arms. Under these conditions, war ends by negotiations which may be concluded within a short time, or extended over months or even years depending upon how complex, urgent or controversial the solution is. When the text of a treaty is finally acceptable to both countries, a time and place are fixed for signing of the treaty. The Senate merely gives advice and consent to ratification. When the Senate has been heard from, the President notifies the other party, whereupon ratifications are exchanged. The treaty is then published and proclaimed. At this time it becomes legally enforceable.

In summary, war can be ended in the formal manner just described, or can end with both sides simply withdrawing from conflict. Here no instrument of peace is prepared. There is a full range of possibilities between these two extreme alternatives.

HISTORY OF CONFLICT TERMINATION

The subject of conflict termination in this paper is limited to major modern American Wars. These include the War between the States, the War with Spain, World War I, World War II, Korea and Vietnam. These wars were fought for different reasons, on vastly different scales, and, as might have been imagined, were ended in different ways.

THE WAR BETWEEN THE STATES

"Your horrid war troubles anger me sometimes, the roar of it seems to clang in the blue sky. You poor mad things - what will become of you?"⁶ These are the words of the English social critic John Ruskin taken from a letter he wrote to an American friend in 1862. This expression of concern could well have been prompted by the new dimension in warfare General U. S. Grant brought to the world by his response to a note requesting terms from Brigadier General Simon B. Buckner, CSA, Commander at Fort Donelson. Grant wrote, "No terms except unconditional and immediate surrender can be accepted. I propose to move immediately upon your works."⁷ Implicit in the concept of unconditional surrender is the complete capitulation of one side to the other. Grant never lost sight of this objective. His actions for the remainder of the war were driven by

the need for total and complete destruction of his enemies. As Grant ascended to the position as commander of all Union land forces, and to the rank of Lieutenant General, he knew clearly that if the conflict was to end he must destroy Lee's Army. Grant pursued his goal from the great battles of the Wilderness, to Petersburg and finally to Appomatox.

In the end (February 1865) President Davis, CSA, sent his Vice President, Alexander A. Stephens to propose peace terms to President Lincoln. They met at Fort Monroe, off Hampton Roads, Virginia, aboard the steamer River Queen. Although eager to see the war end the President could not accept a divided nation. The talks were broken off leaving the issue to Grant and Lee for settlement on the field of battle. Lincoln set the tone for Grant's final action as the winning commander when he said in his second inaugural address, "With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right."

Grant must have had this in mind because he compassionately enticed Lee on 7 April 1865 to surrender. He did so with these words: "I -- regard it as my duty to shift myself from the responsibility of any further effusion of blood by asking you to surrender." Two days later Lee surrendered. The terms were generous and Lee speculated they would have a favorable affect on his army. Paroles to all officers and men. Arms, artillery and public property to be turned in. Officers could keep their horses and sidearms (later changed to allow all who claimed their own horse to keep it). There would be no trials for treason and Lee could keep his sword.⁸

THE SPANISH - AMERICAN WAR

"It has been a splendid little war; begun with the highest motives, carried on with the magnificent intelligence and spirit, favored by the fortune which loves the brave."⁹ With these words, the United States' Ambassador to England, Mr. John Hay, described the war with Spain. It is true, it was a "splendid little war," especially for the United States. American casualties totaled only 295 killed in action and 1533 wounded. The entire affair lasted less than four months, without fighting on American soil. Things were not so bright for Spain. She lost her fleet, a large part of her empire, and her national pride.

A protocol of peace was signed at Washington in August 1898. Negotiations were opened in Paris on 1 October and the treaty was signed on 10 December of the same year. By this treaty, Spain ceded Puerto Rico, Guam, and the Philippine Islands to the United States for a payment of \$20,000,000 and she relinquished her sovereignty over Cuba. The United States achieved their objective because Spain was not itself threatened, and the pain of losing colonial territory had none of the sting associated with a requirement for total capitulation.

WORLD WAR I

World War I came upon the world at a moment when technology was at a major crossroad. The airplane, the tank, and the machine gun became major factors in the conduct of a war which was anticipated with unusual gusto by the various participants. From 1914 until 1917, the

United States felt increasing pressure to enter the war in Europe on the side of the allies. Finally, reaction to German submarine attacks on American shipping swept the nation into war.

Throughout the build-up and ultimate commitment of American troops, President Wilson kept the attainment of peace foremost in his mind. He developed his "Fourteen Points" and addressed them to the Congress on 8 January 1918. He argued for open diplomacy, self-determination for the alien peoples in the German, Austria-Hungarian; and Turkish empires, freedom of the seas; and the reduction of armaments. It envisioned general association of nations, formed under specific covenants to include mutual guarantees of political independence and territorial integrity to great and small states alike.¹⁰ Wilson understood that the European allies did not share his views for a liberal peace except as a vague generality. He held out the hope that the allies would be so dependent on the United States for economic and military aid that the US could sell the concept of a proper peace to the warring nations. He guarded his independence of action by refusing to enter a formal alliance with the United Kingdom or France.¹¹

In March 1918, Germany launched a desperate offensive driving both the British and the French to the rear. In June, American forces joined the Allied counterattack, and helped stop the German onslaught. In July, the Germans made one more desperate effort which failed thus clearing the way for the final allied drive to victory.

By October, many Germans were urging their government to seek an armistice. On 12 October the German government under Prince Max of Baden, agreed to an armistice based on Wilson's Fourteen Points. Wilson demanded and got the abdication of the German Kaiser and, on 20 October, Germany accepted Wilson's terms. On 11 November Germany signed the Armistice bringing the long, exhaustive war to an end. The ideas advanced by Wilson were important, but it was fresh American troops on the battlefield that brought the adversaries to the conference table.

WORLD WAR II

The Second World War began on 1 September 1939 when Germany invaded Poland. German objectives were to throw off the restrictions placed on them by the treaty of Versailles, the reunion of the German State and the securing of "living space." This involved the domination of Eastern Europe, the destruction of France, and bringing Austria, Czechoslovakia, and Poland under German control.¹² Germany pursued these goals through five bloody years. In the Far East, Japan seized on the opportunity offered by the European conflict to press forward toward her goal of the domination of Asia. In early 1941, Germany, Italy and Japan signed a treaty promising mutual support if America should enter the war on the side of the allies. The attack upon Pearl Harbor on 7 December 1941 brought the United States into the war with a firm commitment to ultimate victory.

The military defeat of Germany was accompanied by a political collapse which paved the way for a general surrender. Hitler, trapped in the wreckage of Berlin, committed suicide on 30 April 1945.

A new government was announced with Admiral Doenitz at the head. After a few days of futile efforts to split the Western Allies from Russia, overtures were made for a cessation of hostilities. On 7 May 1945 German representatives signed the simple document which provided for unconditional surrender, and on 8 May the heads of the three German Armed Services affixed their signatures to a similar instrument in Berlin to bring the war in Europe officially to a close.¹³

By the time of Germany's surrender, the doom of Japan was rapidly approaching. The Autumn of 1944 found the Americans poised for the invasion of the Philippines. Carrier strikes against those islands and the supply bases along the China coast met with only moderate opposition. On 20 October, the Americans landed on Leyte after having been driven out three years previously.

As the War progressed, a series of high level conferences were held by the Chiefs of the Allied Powers. Their purpose was to plan the grand strategy and to determine how the spoils of the war would be divided. The first of these conferences took place at Casablanca on 15 January 1943 followed in rapid succession by conferences at Quebec on 19 August 1943, at Cairo on 23 November 1943, at Teheran on 29 November 1943, at London on 10 June 1944, again at Quebec on 13 September 1944, at Malta on 3 January 1945 and finally at Yalta on 4 February 1945. The Russians were present only at Teheran and Yalta and immediately began their press for concessions as the price of cooperation. At Yalta, President Roosevelt

agreed in large measure to the demands of Russians, and over the objections of Churchill agreed to the dismemberment of Eastern Europe.¹⁴

The Potsdam conference called for the surrender of Japan or risk annihilation. What lay behind this was revealed with terrible clarity on 6 August 1945 when the atomic age burst upon the world at Hiroshima. Three days later another bomb was dropped on Nagasaki and while Japan was still reeling from these blows, Russia declared war and launched her armies against the Japanese forces in Manchuria. On 14 August, Japan announced her acceptance of the Potsdam Declaration, and on 2 September the formal instrument of surrender was signed on the deck of the USS Battleship Missouri to bring World War II to a close.

The costs of victory were appalling. Twenty-seven nations had taken part in the war. Approximately 16,000,000 were killed and countless millions disabled. Civilian deaths are estimated to be as high as 30,000,000. This brief account of the war cannot even begin to describe the roles played by the lesser powers and how they contributed to the ending of the war. Perhaps Italy should be mentioned, however, that country failed to live up to military assessments of its power's potential.

From time to time, attempts were made to negotiate by both sides. The attempt on Hitler's life could have caused the end to occur short of the complete destruction of Germany and other similarly dramatic events had the potential to end the conflict. The plain truth is that the

leaders of both sides were unwilling to enter serious negotiations pointed toward the cessation of hostilities due to the commitment of monetary and human resources.

KOREAN WAR

Korea escaped damage during World War II. However, in 1945 Russia and the United States occupied the country from the north and south of the 38th parallel respectively. Following the intent of the Cairo declaration of 1943, the country should eventually become independent. The USA and Russia agreed to end the occupation as soon as a democratic government could be established. They were, however, unable to agree on the form the Korean government should take. This resulted in the establishment of two Koreas divided by the 38th parallel. Thus, the seeds were sown for the long American involvement in Korea.

The border between the two Koreas was a constant source of friction and erupted into open warfare in June 1950. The heavily armed forces of the North very quickly overran the lightly armed southern forces. On 27 June, President Truman ordered US aid and naval forces under General Douglas MacArthur to help South Korea repel the invaders. On the same day, the UN Security Council voted military sanctions against North Korea and put out a call for member nations to help South Korea. On 30 June, President Truman authorized the use of American ground forces in Korea. The initial commitment of US troops only slowed the communist advance. Troops

of other nations joined the US under the UN banner. In September 1950, the UN was able to begin a limited advance which, coupled with a highly successful amphibious landing at Inchon, drove the communists back across the 38th parallel into North Korea. Some UN forces reached the Manchurian border by November 1950. At this point, Communist China entered the war and forced the UN to retreat.

On 23 June 1951, Russia proposed an armistice in Korea. On 10 July 1951, military negotiations opened at Kaesong but were later moved to Pghmunjon. Months passed and progress was slow. In October 1952, the talks reached a deadlock and were recessed indefinitely. The principle problem involved the prisoners of war. The communists insisted on the forced repatriation of all prisoners. The UN forces held nearly 50,000 North Korean and Chinese who were unwilling to go home. As a result, the UN held out for voluntary repatriation. Meanwhile, the fighting continued, primarily as an air war. In the Spring of 1953, negotiations were resumed and an agreement was finally reached, but President Syngman Rhee at first refused to accept the truce. On 27 July 1953, he agreed to sign and the battle ended on a line closely approximating the 38th parallel. During the war, UN forces suffered about 455,000 military casualties while the communists losses were estimated at about 2,000,000. American casualties accounted for 25,604 dead and 8,529 missing. The prisoner issue, which had blocked the early attempt at cease fire was finally

solved by placing prisoners, refusing repatriation, under a neutral commission. The Korean War ended without a clear cut military victory and set the pattern for other cold war confrontations.

The Korean War added the terms, "limited war" and "police action" to the world vocabulary because the US was never legally at war as Congress failed to provide the formal declaration needed. As a result, no peace treaty has been signed, and the cease fire remains a fragile testament to negotiations conducted without the firm legal base Congress could have provided.

VIETNAM WAR

President Eisenhower sparked the United States involvement in the area when he supported the government in the South against the communist North. From there, the spiral of war increased in fury until by 1969 over 500,000 Americans were involved in Southeast Asia. The Vietnam experience was never really a war because here, as in Korea, Congress failed to provide the formal declaration of war. Ending the war was an extraordinary achievement for American diplomacy.¹⁵ President Johnson got the peace talks started, but he paid for them with the cessation of the bombing in 1968 and by the end of his administration. In November of 1969, President Nixon stated he would begin the gradual withdrawal of US forces as the capacity of the South Vietnamese to defend themselves increased, but he did not announce his schedule for this action. Nixon intensified the peace talks in an

effort to obtain a negotiated settlement. The US brought no conditions to the peace talks except that the South Vietnamese must be allowed to determine their own future. The peace talks dragged on without progress. The most promising aspect seemed to be the hope that if we could achieve a military standoff, the fighting would somehow fade away. This course of action would not guarantee prisoner repatriation, the same issue which held up the cease fire in Korea. Again President Nixon renewed his efforts at the peace table in Paris but in secret. Meanwhile, he continued the withdrawal of US troops and renewed limited bombing of the North. At the same time, the Administration achieved improved relations with China and Russia and used them to bring pressure to bear on North Vietnam. In the end it was the secret negotiations which paid off and, on 27 January 1973, a four power agreement was signed in Paris. To be sure, the agreement was less than the US had hoped for; that is, the agreement left the North Vietnamese Army in the South, and did not discuss the Viet Cong, yet the Saigon Government remained intact, and its military forces at last seem able to counter those of the North on the battle field.

NEGOTIATIONS

Warfare may be the logical extension of foreign policy. This idea is not palatable to most Americans because the awful brutality of war is inconsistent with the precepts of the Christian ethic. Wars are fought to

fulfill national goals either defensive or offensive. The idea is to convince the adversary that his policy is wrong and needs to be changed.

As we have seen in our earlier wars, American bargaining was simple and usually involved demands for surrender or armistice. In the American Civil War there was a continuous dialogue between the North and South via the press, but there was almost a total lack of official contact between the governments. Even Lincoln failed to understand that the mere issuing of unilateral proclamations does little to bring adversaries together. The same was true of the War with Spain, World War I, and World War II. In the World Wars, there were, limited attempts at negotiations but never between the highest levels of government, and in a setting which would be conducive to agreement. Korea and Vietnam are examples where negotiations in their proper perspective were conducted.

In his book *Arms and Influence*, Thomas C. Schelling identifies six possible topics of negotiations.¹⁶ The first is bargaining about the conduct of the war itself, that is, how will it be fought, with what weapons, what sanctuaries will be respected, etc. The second topic covers bargaining about a cease-fire, truce, armistice, surrender, or disarmistice. Thirdly, the political regime within the country itself is a topic for negotiations. That is, with whom should negotiations be conducted. A fourth subject for negotiations is the disposition of any theater in which war is being fought. This could involve a whole range of decisions regarding the region itself and

the way to handle the adversary forces. Fifth is how to develop a long term arrangement. This phase need not be completed to achieve a cease-fire, but can provide the framework within which major issues can be resolved. The final topic for negotiation is the political status of the adversaries themselves. This would include actions such as dismemberment of national or regional political arrangements. Each of these topics contributes in its own way to war termination. The relative value of each must be determined by the nature of the conflict itself, and the setting within the world or region of the adversaries. The degree to which the United States has structured its negotiations in the various conflicts has been driven by the imagination of the Administration, and coincides only coincidentally with the ideas advanced by Schelling.

When to begin negotiations is an issue which has troubled world leaders throughout history.¹⁷ There is perhaps a natural fear of a decline in morale at home caused by talking with the enemy while there is still fighting going on. The very stubbornness with which governments oppose negotiations while fighting is in itself detrimental to morale and does not foster a climate for constructive contacts. Negotiations must be carefully arranged to avoid loss of face by either party to the conflict. Both sides must be prepared for lengthy debate if the issues which caused the war are to be resolved. Korea and Vietnam were terminated by long and arduous negotiations. In the War with Spain, neither side was in danger of annihilation and Spain accepted US terms because they were considered to be generous, and they left the Spanish

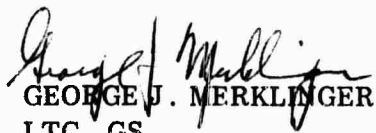
mainland untouched. Spain would no doubt have continued the war if the US had demanded home territory.

World War I was terminated by the French and the British with the US playing only a minor role. President Wilson's efforts toward the establishment of the League of Nations impacted only after the war was over. World War II was essentially fought until the axis powers were completely destroyed. Of course Japan could have defended her home islands but the threat of more nuclear bombs sobered even the war lords, and caused them to accept peace terms. Secret negotiations have produced the best results because the adversaries need not maintain image if the world press is not present. Negotiations must ultimately be conducted at the highest levels of government, however, low level contacts make possible the free exchange of ideas without placing national prestige on the trading block. Even low level negotiations have been more successful if conducted in secret.

Experience suggests negotiations should be begun as soon as possible because in the present world climate, military victory may not be possible or practical. In this case negotiations should begin as soon as the objectives of the adversaries are sufficiently well defined to permit their resolution. It is clear that war without a formal declaration is most difficult to terminate because without the declaration, the intentions of the adversaries cannot be properly adjudged. The formal declaration, if properly prepared, should prescribe scope or parameters for conflict, and could be a valuable aid in getting meaningful negotiations underway.

CONCLUSIONS

Examination of the information available on conflict termination permits one to conclude that unilateral public peace proclamations do little to end conflicts. Both sides must be a party to settlement, as the ingredients for conflict termination are closely governed by goals both sides feel are in their best interest. Early American attempts at negotiated settlements have lacked understanding of the complex national motives which govern the behavior of nations at war. Korea was the first American war experience to end with negotiations. In Korea, as in Vietnam, the lack of a formal Declaration of War made negotiations difficult because conflict parameters were not clearly defined. Negotiations should begin as soon as the objectives of the adversaries are clearly derived. Low level negotiations can be useful at the early stages of conflict, but they must ultimately be conducted at the decision level of government. Recent Military suggests that secret negotiations are more successful than those conducted in public.


GEORGE J. MERKLINGER
LTC, GS
US Army

FOOTNOTES

1. Paul Kecskemeti, Strategic Surrender, p. 1.
2. Thomas C. Schelling, Arms and Influence, p. 22.
3. John H. Ferguson and Dean E. McHenry, The American Federal Government, pp. 745-747.
4. Ibid., pp. 753-765.
5. Ibid., p. 379.
6. Robert Paul Jordan, The Civil War, p. 147.
7. Ibid., P. 80.
8. Ibid., p. 205.
9. Frank Freidel, The Splendid Little War, p. 2.
10. Norman A. Graebner, Gilbert C. Fite, and Philip L. White, A History of the American People, Volume II, p. 927.
11. Ibid., p. 945.
12. Ibid., p. 1097.
13. T. Dodson Stamps, and Vincent J. Esposito, A Military History of World War II, Volume I, p. 607.
14. John Toland, The Rising Sun, p. 717.
15. Henry Cabot Lodge, "How The Impossible Peace War Won," The Readers Digest, June 1973, pp. 70-74.
16. Thomas C. Schelling, Arms and Influence, pp. 215-220.
17. Fred Charles Ikle, Every War Must End, p. 86.

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