

GREYTOWN, GREAT POWER POLITICS, AND HISTORY'S GREY AREAS—

A Book Review of Will Soper's "Greytown is no more!" *The 1854 Razing of a Central American Port, the U.S. Businesses Behind Its Demise, and the Lasting Foreign Policy Legacy* (McFarland & Company, Inc., Publishers; Jefferson, NC; 2023)

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I. INTRODUCTION

Will Soper's sweeping "*Greytown is no more!*" *The 1854 Razing of a Central American Port, the U.S. Businesses Behind Its Demise, and the Lasting Foreign Policy Legacy* sheds new light on an obscure but significant moment in American history.¹ This book is likely the most comprehensive treatment to date of this little-known incident of American legal and foreign-policy history. It is well-researched, well-sourced, and highly readable.² Soper's professional background as a journalist shows through in his first book; it reads like a story and transforms a relatively mundane period of nineteenth century history into a captivating narrative of political intrigue.

In *Greytown is no more!*, Soper has two principal aims: "to correct the official record as to the cause of Greytown's destruction" and to challenge the precedential value of the federal court case that followed, *Durand v. Hollins*.³ The bulk of this review will discuss the extent to which Soper accomplishes the twin goals of *Greytown is no more!* and the themes he brings out in attempting to do so. But first, a brief overview is helpful to provide context.⁴

II. BACKGROUND AND SUMMARY

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¹ See WILL SOPER, "GREYTOWN IS NO MORE!" THE 1854 RAZING OF A CENTRAL AMERICAN PORT, THE U.S. BUSINESSES BEHIND ITS DEMISE, AND THE LASTING FOREIGN POLICY LEGACY (2023).

² See *id.* at 197–235.

³ *Id.* at 4. See generally *Durand v. Hollins*, 8 F. Cas. 111 (C.C.S.D.N.Y. 1860) (No. 4186).

⁴ Soper has also written an op-ed and created a narrated slideshow on the subject. Both are nicely done and serve as helpful, concise introductions to the book. See Will Soper, *Can an Amateur Historian Rewrite History?*, HIST. NEWS NETWORK (Oct. 23, 2018), <https://perma.cc/43VM-G23J> [hereinafter OP-ED]; Will Soper, "*Greytown is no more!*" *The U.S. Navy's 1854 Razing of a Central American Port*, YOUTUBE (July 20, 2023) (posted under the username Hezekiah1812) [hereinafter YOUTUBE SLIDESHOW].

Greytown is no more! picks up in the late 1840s at the height of antebellum American imperialism in Central America.⁵ The U.S. federal government, private American companies, and various unsanctioned groups of American filibusters⁶ intervened militarily in Central and South America throughout the nineteenth century and into the early twentieth century.⁷ Some of this intervention was due to the national security concerns of a young and vulnerable United States.⁸ With a population and military still much smaller than France and Great Britain, the United States invoked the Monroe Doctrine to discourage European powers from interfering in the Americas.⁹ Other U.S. interventions were motivated by “Manifest Destiny” and related ideas of cultural superiority.¹⁰ At the same time, powerful American commercial interests frequently steered the foreign policy ship for their own benefit.¹¹ Soper presents “a revisionist history of the Greytown razing, exposing the insult-avenging explanation as a pretext or *casus belli*.”¹²

Greytown—otherwise known as San Juan del Norte—was founded by the Spanish in the sixteenth century as a small port city located on the southeast coast of modern-day Nicaragua near the Costa Rican border.¹³ In the early nineteenth century, the Spanish were ousted, and the semi-autonomous port city (rechristened “Greytown” after the British governor of Jamaica, Charles Edward Grey) came under nominal British control.¹⁴ By the 1850s, Greytown was a prosperous freeport with approximately 500 residents (many of them Americans) that served as the eastern terminus of a route that carried thousands of travelers across Central America during

⁵ See SOPER, *supra* note 1, at 5.

⁶ See *id.* at 48 (explaining that, in the nineteenth century, “filibustering” referred to American attempts “to take over countries at peace with the United States via privately financed military expeditions”).

⁷ See *id.*; see also MAX BOOT, *THE SAVAGE WARS OF PEACE: SMALL WARS AND THE RISE OF AMERICAN POWER* 41–46, 60–61, 129–204 (2003).

⁸ See *Monroe Doctrine*, ENCYCLOPEDIA BRITANNICA (Oct. 18, 2023), <https://perma.cc/MK6G-DMVC> (explaining that the Monroe Doctrine was drafted in 1823 while the United States did not have the military might to enforce it and was motivated by U.S. fears of European encroachment).

⁹ See *id.*; BOOT, *supra* note 7, at 44 (defining the Monroe Doctrine as a “pledge[] that America would not interfere with Europe’s existing possessions in the New World as long as no more were acquired”). “America’s early foreign policy was shaped by...the Monroe Doctrine, a not-always-successful attempt to post a Keep Out sign on the Western Hemisphere.” *Id.* at 39.

¹⁰ See SOPER, *supra* note 1, at 48 (defining “Manifest Destiny” as the “doctrine or belief that the expansion of the US throughout the American continents was both justified and inevitable” and linking it with filibusterism).

¹¹ Cf. Will Soper, *Revisiting Nineteenth-Century U.S. Interventionism in Central America: Capitalism, Intrigue, and the Obliteration of Greytown*, 18 AM. NINETEENTH CENTURY HIST. 19, 20 (2017) (“[Greytown] is an example of the lesser-known, extra-legal machinations taking place abroad during an era when U.S. political corruption and private aggrandizement went hand-in-hand . . . , especially in the realms of financial and land speculation.”).

¹² SOPER, *supra* note 1, at 3.

¹³ *Greytown*, ENCYCLOPEDIA BRITANNICA 592 (Hugh Chisholm ed., 12th vol. 1911), <https://perma.cc/3KXD-GUWQ>.

¹⁴ SOPER, *supra* note 1, at 5.

the California Gold Rush.¹⁵ Pre-Panama-Canal, “the Nicaragua Route” turned a dangerous three-to-four-month journey around Cape Horn into two days across Nicaragua via small boats, mules, and stagecoaches.¹⁶

During one of these journeys in May 1854, the captain of an American riverboat shot and killed a local man.¹⁷ “When a crowd of residents tried to arrest the captain, the U.S. minister to Nicaragua [Solon Borland] held them off at gunpoint. Locals then tried to apprehend [Borland], who was hit in the face by a thrown bottle, whereupon he returned to the United States and urged a strong American response.”¹⁸ In June 1854, the U.S. Navy Secretary—“In pursuance of the wishes of the President”—issued the following orders to Commander Hollins of the U.S. sloop-of-war USS *Cyane*:

Now, it is very desirable that these people should be taught that the United States will not tolerate these outrages and that they have the power and the determination to check them. It is, however, very much to be hoped that you can effect the purposes of your visit without resort to violence and the destruction of property and loss of life.¹⁹

When Hollins sailed into Greytown’s harbor on July 11th, he demanded an inordinate amount of money (\$716,000 in 2022) and an apology within twenty-four hours.²⁰ Having neither the money nor any government to issue an official apology (“the city council having resigned in protest after Borland prevented the arrest of the Nicaraguan’s killer”), neither demand was met.²¹ When Hollins’s deadline passed, the USS *Cyane* fired 177 rounds of solid cannon shot and explosive shells into the town.²² His cannonade having failed to destroy the town, Hollins sent a landing party of Marines ashore to burn the remaining buildings.²³ “Hollins gave residents opportunities to flee, so no one was killed, but the town [including American Calvin Durand’s property] was reduced to ashes.”²⁴

Six years later, in *Durand v. Hollins*, a federal court found Hollins not liable for destroying Durand’s property because he relied on the lawful orders of the President, which were within the President’s constitutional authority to issue.²⁵ There, Supreme Court Justice Samuel

¹⁵ See Soper, *supra* note 11, at 27, 32, 38 (explaining that the population of Greytown in 1854 was approximately 500 and included so many Americans that Greytown “was to all purposes an American town”).

¹⁶ *Id.* at 25; SOPER, *supra* note 1, at 8–9.

¹⁷ See SOPER, *supra* note 1, at 5–23 (detailing incident); see also Matthew Waxman, *Remembering the Bombardment of Greytown*, LAWFARE (July 13, 2019, 9:00 AM), <https://perma.cc/6JC6-GF83>.

¹⁸ Waxman, *supra* note 17.

¹⁹ *Id.* (quoting Secretary of the Navy James Dobbin to Commander Hollins).

²⁰ SOPER, *supra* note 1, at 58; Soper, *supra* note 11, at 31.

²¹ Soper, *supra* note 11, at 19–20.

²² *Id.* at 31; SOPER, *supra* note 1, at 59.

²³ SOPER, *supra* note 1, at 59–61; Soper, *supra* note 11, at 31.

²⁴ Waxman, *supra* note 17.

²⁵ *Durand v. Hollins*, 8 F. Cas. 111, 112 (C.C.S.D.N.Y. 1860) (No. 4186). Calvin Durand—a New York merchant—sued Hollins for \$14,000 (nearly \$500,000 today) under a theory of trespass to chattels for destroying his Greytown property. Soper, *supra* note 11, at 32; SOPER, *supra* note 1, at 83.

Nelson—“riding circuit” as a circuit justice sitting in New York—held that “[a]s the executive head of the nation, the president is made the only legitimate organ of the general government” and that “the whole executive power of the country is placed in his hands.”²⁶ Because whether to intervene against pirates and marauders (today’s “nonstate actors”) to protect Americans abroad is “a public political question,” Justice Nelson reasoned that the decision “must, of necessity, rest in the discretion of the president” under his Commander-in-Chief and Take-Care powers.²⁷ *Durand* still stands for the proposition that the President has the power to “deploy troops without initiating hostilities and to direct rescue and retaliation operations even where hostilities are a certainty” without congressional authorization.²⁸

Official accounts of Greytown’s destruction generally state that the U.S. Navy bombarded and burned the town to avenge an insult to and assault upon the U.S. minister to Nicaragua.²⁹ This is accurate but overly simplistic. Soper presents a comprehensive argument that the Borland incident was merely a pretext and that “actually, two groups of American businessmen bent on taking over Greytown, an independent city-state, inveigled Washington into destroying it.”³⁰ Soper weaves together seemingly disparate groups and events to make a compelling case that private commercial interests lobbied the highest levels of American government to destroy Greytown for economic gain.³¹

The details of Soper’s revisionist history will be left for readers to discover on their own, as they are beyond the scope of this review. However, in short, Soper makes the case that a group of American businessmen “ran the isthmian steamboat company and wanted to own the port, their Atlantic terminus [and that a] second group . . . wanted Greytown as the prospective capital of a new colony based on a huge, dubious Mosquito Coast land grant they owned.”³² Making this case—and getting the Congressional Research Service (C.R.S.) to amend their official record—is a primary aim of the book.³³

²⁶ *Durand*, 8 F. Cas. at 112.

²⁷ *Id.*; see also U.S. CONST. art. II, §§ 2–3.

²⁸ GEOFFREY S. CORN, JIMMY GURULE, JEFFREY D. KAHN, & GARY CORN, NATIONAL SECURITY LAW AND THE CONSTITUTION 274 (2d ed. 2021) [hereinafter NATIONAL SECURITY LAW]. These presidential powers have been exercised throughout American history, and retaining them was one of the primary reasons President Nixon vetoed the War Powers Resolution. See Letter from Richard Nixon, President of the U.S., to the House of Rep. (Oct. 24, 1973) reprinted in THE AMERICAN PRESIDENCY PROJECT, <https://perma.cc/X36M-SJ3Q>.

²⁹ See, e.g., NATIONAL SECURITY LAW, *supra* note 28, at 274, 278 (explaining that the bombardment was ordered “because the local authorities refused to pay reparations for an attack by a mob on the United States Consul” but elaborating that “[t]he incident grew out of a dispute between a U.S.-sponsored transportation company and a competitor”); Waxman, *supra* note 17; BARBARA SALAZAR TORREON & SOFIA PLAGAKIS, CONG. RSCH. SERV., R42738, INSTANCES OF USE OF UNITED STATES ARMED FORCES ABROAD, 1798–2023 4 (2023) (“Naval forces bombarded and burned San Juan del Norte (Greytown) to avenge an insult to the American Minister to Nicaragua.”).

³⁰ SOPER, *supra* note 1, at 170.

³¹ *Id.* at 4, 170; see also Soper, *supra* note 11, at 19.

³² SOPER, *supra* note 1, at 170.

³³ *Id.* at 4.

III. REVISITING AND REVISING HISTORY

As mentioned above, Soper seeks to do two things in *Greytown is no more!*—clarify the historical record and undermine the precedential value of *Durand v. Hollins*.³⁴ He largely accomplishes his first goal. This work is perhaps the most comprehensive description of antebellum U.S. imperialism, filibusterism, and land speculation in Central America since historian William O. Scroggs's 1916 book, *Filibusters and Financiers: The Story of William Walker and His Associates*.³⁵ Scroggs presented a detailed account of how two groups of Americans plotted against Greytown; his book is still considered an accurate and seminal work by modern historians.³⁶ But *Greytown is no more!* is the most detailed—indeed, perhaps the only—substantive description of these machinations in the last 100 years.³⁷

To be sure, Soper does not necessarily *rewrite* history. He more *revisits* it—all the while presenting plausible but not necessarily ironclad theories of what was happening behind the scenes. Soper quibbles with the C.R.S. report on Greytown, which succinctly states that “[n]aval forces bombarded and burned San Juan del Norte (Greytown) to avenge an insult to the American Minister to Nicaragua.”³⁸ While simplistic—and deceptively incomplete if one subscribes to Soper's theories—this description is technically correct. And it is understandable given the brevity of all the other C.R.S. use-of-force descriptions.³⁹ Indeed, the reason behind U.S. involvement in World War I is stated in one sentence as simply “precipitated by Germany's submarine warfare against neutral shipping.”⁴⁰ Obviously, there is a lot more to that story.⁴¹ But that does not make the description false.

There were no doubt various complex commercial, personal, and political interests at play, as Soper adeptly describes in his book.⁴² However, there is little solid support for the more extreme proposition that “the bombardment and destruction of Greytown was resolved upon” by nefarious actors at a D.C. dinner party and then submitted to President Franklin Pierce for approval.⁴³ Rather, it is more likely that the bombardment resulted from a combination of hot tempers, rash decisions, misperceptions, and a web of sometimes contentious relationships

³⁴ *Id.*

³⁵ Soper, *supra* note 11, at 22.

³⁶ *Id.*; YOUTUBE SLIDESHOW *supra* note 4, at 9:38 (quoting historian Ralph Lee Woodward's 2005 statement that “[f]ew works, in fact, have improved upon William O. Scroggs's *Filibusters and Financiers*”).

³⁷ *See* Soper, *supra* note 11, at 22.

³⁸ TORREON & PLAGAKIS, *supra* note 29, at 4.

³⁹ *See, e.g., id.* at 10–11 (describing U.S. entry into WWII in only two sentences).

⁴⁰ *Id.* at 9.

⁴¹ *See generally* BARBARA W. TUCHMAN, *THE GUNS OF AUGUST* (1962) (describing complex origins behind outbreak of WWI).

⁴² *See, e.g.,* SOPER, *supra* note 1, at 187–96 (describing the myriad players involved, the interests they represented, and their post-Greytown escapades).

⁴³ Soper, *supra* note 11, at 32 (quoting the New York Tribune from 1854).

among various British, American, and Nicaraguan entities in the region.⁴⁴ Still, even if the book does not strictly correct the historical record, it certainly clarifies it. While *Greytown is no more!* may not fully rebut official accounts, it does provide the most in-depth treatment of the Greytown incident to date, and it offers a fresh perspective—eminently plausible and well-sourced—on the socioeconomic and geopolitical motivations behind the destruction of Greytown.⁴⁵

But more important than whether *Greytown is no more!* rewrites history is *how* the book revisits history. In a word: vividly. Soper may not be a legal scholar or professional historian, but his decades as a journalist and graphic artist shine through in his first book.⁴⁶ In some ways even on par with great works of American popular history (think David McCullough's *John Adams and 1776*), Will Soper's *Greytown is no more!* brings American history to life in narrative form.⁴⁷ The book reads like a series of loosely connected newspaper articles or short stories—each detailing the ways in which different members of an enormous cast of characters are involved in a great conspiracy. While the format and scope of *Greytown is no more!* occasionally make it feel choppy and meandering, curious readers and history buffs will not lose interest. This is because—with each twist, turn, and detour—Soper unearths another gem of obscure nineteenth-century American history and connects it to his story arc about the destruction of Greytown.

Overall, *Greytown is no more!* accomplishes its author's goal of casting new light on the Greytown affair. Soper is a skilled writer and adept amateur historian. He revisits little-known facts, figures, and events and presents them in an accessible manner for the reader. He supports his contentions with a substantial number of reputable sources, and he takes the reader behind the curtain to present a plausible case that there is much more to the Greytown incident than most historians believe.

IV. UNDERMINING *DURAND V. HOLLINS* AND CHALLENGING THE BOMBARDMENT'S LEGALITY

Legal scholars and national-security practitioners may find that Soper is less successful in undermining *Durand v. Hollins* as an authoritative basis for what is known as the rescue power than he is in telling the story of Greytown. Although a skilled writer—who also proves himself

⁴⁴ Cf. SOPER, *supra* note 1, *passim* (describing economic competition, cultural clashes, personality conflicts, and rash decisions leading to “assault” on Borland and Hollins’s subsequent bombardment of Greytown); Tim Rogers, *Nicaragua’s Jungle Graveyard Gives Hints to Future*, BBC NEWS (Aug. 23, 2012), <https://perma.cc/8H5T-ZETJ> (“Greytown’s heyday, brought about by the curious combination of U.S. capitalists, British aristocrats, tenuous indigenous alliances and the occasional outlaw, was, as one might guess, short-lived.”); GREG CASHMAN, WHAT CAUSES WAR? AN INTRODUCTION TO THEORIES OF INTERNATIONAL CONFLICT 36–76 (1993) (detailing how human psychology, personal misperceptions, and political miscalculations can lead to armed conflict).

⁴⁵ See generally SOPER, *supra* note 1.

⁴⁶ See SOPER, *supra* note 1, at 1–2 (describing Soper’s professional background).

⁴⁷ See generally DAVID MCCULLOUGH, JOHN ADAMS (2001); DAVID MCCULLOUGH, 1776 (2005).

an adept historian—Soper is not a legal scholar.⁴⁸ The merits of *Durand* are addressed in detail in only one of twenty chapters, and it takes sixteen chapters to reach them.⁴⁹

Even if the facts behind the bombardment are different than those cited by the government at the time, it does not necessarily follow logically that Justice Nelson's legal reasoning in *Durand* is any less valid. On the contrary, if President Pierce made a purposeful foreign-policy decision to destroy Greytown for economic or political reasons, *Durand*'s endorsement of the decision seems to provide even more support for an expansive view of executive war powers. Regardless, the facts behind a case are distinct from a court's legal holding and reasoning in the case; the latter do not always depend on or flow directly from the former. Were the facts surrounding the bombardment as Soper presents them, it is still unclear whether Justice Nelson would have found for *Durand* or held the bombardment to be unconstitutional executive overreach. Equating undermining *Durand*'s facts with undermining its legal reasoning, Soper never argues *why* his version of the facts ought to lead to a different legal conclusion or how it destroys *Durand*'s precedential value.⁵⁰

However, Soper's efforts to "call into question the historical and legal validity of *Durand v. Hollins* as precedential law" do raise important questions about the separation of powers, international humanitarian law (IHL), and the use of force abroad.⁵¹ Many of Soper's criticisms of *Durand* echo modern critiques of bellicose and interventionist foreign policies, the Executive's usurpation of Congress's war-making authority, and unenthusiastic application of IHL (also referred to as the "law of armed conflict" or LOAC) to asymmetric warfare.⁵² Here, Soper provides much to ponder for legal practitioners and lay readers alike. Most of Soper's critiques can be divided into one of two categories: (1) objections to the bombardment itself as an unethical violation of international law and (2) objections to the Executive Branch usurping the constitutional authority of the Legislative Branch by using military force abroad without congressional authorization.

A. *Greytown, the Use of Force, and International Law*

Few will disagree that destroying Greytown would be illegal today. Under modern IHL, states may only use force in the territory of another by consent, under a United Nations Security Council resolution, in self-defense, or—in limited circumstances—to protect their own citizens

⁴⁸ Indeed, mastering both history and law is a tall order even for professional scholars. As Daniel Schoeni recently highlighted in his excellent book review for this journal, "[t]oo few law professors know history, and too few history professors know law." Daniel E. Schoeni, *A Bellicose Founding Charter: The U.S. Constitution and Providing for the "Common Defence"—A Book Review of Akhil Reed Amar: The Words That Made Us: America's Constitutional Conversation, 1760–1840* (Basic Books, New York, 2021), 13 J. NAT'L SEC. L. & POL'Y 509, 511 (2023) (quoting Amar).

⁴⁹ See SOPER, *supra* note 1, at 147–67 (discussing *Durand v. Hollins* in Chapter 17).

⁵⁰ See *id.* (discussing *Durand v. Hollins* but neglecting to make this argument).

⁵¹ *Id.* at 4.

⁵² See GEOFFREY S. CORN, VICTOR HANSEN, RICHARD B. JACKSON, CHRIS JENKS, ERIC TALBOT JENSEN, & JAMES A. SCHOETTLER, JR., *THE LAW OF ARMED CONFLICT: AN OPERATIONAL APPROACH* xxiii (2d ed. 2019) [hereinafter *THE LAW OF ARMED CONFLICT*] (explaining that IHL, LOAC, and law of war are synonymous).

or intervene in a humanitarian crisis.⁵³ There was no United Nations (U.N.) in 1854, and the United States did not have the consent of the Nicaraguans or the British to use force within their territory.⁵⁴ Insofar as Greytown was a sovereign political community, as Soper argues, it certainly did not consent to its own destruction—as it was not even able to negotiate effectively with its city council having earlier resigned in protest.⁵⁵

Article 51 of the U.N. Charter gives states the right to use force in self-defense, and states often stretch the definition of self-defense to include collective and preventive self-defense.⁵⁶ Yet, even so, the United States would be hard pressed to justify the destruction of Greytown under Article 51 because the action violated all three principles governing self-defense actions: necessity, proportional response, and timeliness.⁵⁷ This is true whether Greytown was more analogous to nonstate actors like terrorists and pirates—as the Pierce Administration argued—or to a sovereign city-state recognized by the U.S. government.⁵⁸

Whether considered part of Article 51's right of self-defense or "part of the customary 'inherent' right that survives outside the [U.N.] Charter provisions,"⁵⁹ protecting U.S. nationals abroad is the most plausible justification for the destruction of Greytown. Still, this was no "non-combatant evacuation operation."⁶⁰ While the United States has certainly justified force this way before (*e.g.*, its 1983 invasion of Grenada), the disproportionality and time delay make the bombardment of Greytown "look more like revenge or a reprisal" than any kind of protective or defensive action.⁶¹ In any case, the way in which the bombardment was conducted would violate

⁵³ *Id.* at 15–31. The United States places protection of U.S. nationals within the Article 51 right of self-defense, but it does not recognize "a right to intervene within the territory of another State (without that State's consent, and without UNSC authorization) in order to prevent certain large-scale atrocities" or to respond to humanitarian crises. *Id.* at 28–31.

⁵⁴ *Cf. id.* at 18–19; SOPER, *supra* note 1, at 59 (describing how the captain of a much smaller British warship in the harbor—who ostensibly had jurisdiction over Greytown—formally protested to Commander Hollins before the bombardment).

⁵⁵ See SOPER, *supra* note 1, at 53–54, 57, 88, 148, 150–51.

⁵⁶ THE LAW OF ARMED CONFLICT, *supra* note 52, at 20–28.

⁵⁷ *Cf. id.* at 21–23; NATIONAL SECURITY LAW, *supra* note 28, at 278–79 ("[Greytown] predated the U.S. ratification of the U.N. Charter If the U.N. Charter had been in force at the time of this incident, how would you have advised a President who sought to punish the 'Greytown mob' for the affront to a U.S. diplomat?").

⁵⁸ Compare Franklin Pierce, President of the U.S., Second Annual Message (Dec. 4, 1854) reprinted in THE AMERICAN PRESIDENCY PROJECT, <https://perma.cc/T9JD-HMPK> (calling Greytown "a piratical resort of outlaws or a camp of savages" and a "pretended community . . . of blacks and persons of mixed blood"), with SOPER, *supra* note 1, at 150–51 (arguing Greytown was a sovereign city-state recognized by the United States and Britain).

⁵⁹ THE LAW OF ARMED CONFLICT, *supra* note 52, at 28 (citing U.S. Department of Defense Law of War Manual).

⁶⁰ See *id.* at 28–29.

⁶¹ *Id.* at 22.

IHL for many reasons—not the least of which is that it constituted “extensive destruction and appropriation of [civilian] property, not justified by military necessity.”⁶²

To be sure, perhaps it is unfair to judge a military action in 1854 by the LOAC standards of 2023. Nevertheless, the United States likely lacked justification under ancient *jus ad bellum* principles as well because the bombardment was a disproportionate response not conducted for a just cause (*i.e.*, to restore peace) or as a last resort (bombing commenced only twenty-four hours after an unreasonable demand of a defenseless town with no political leadership).⁶³

Nor—even if there was adequate justification—was the action conducted in compliance with traditional *jus in bello* principles.⁶⁴ The intentional bombardment and burning of a civilian town in retaliation for the alleged minor crimes of a small group (*i.e.*, theft and simple assault) months earlier likely violated *every* LOAC principle: military necessity, humanity, distinction, and proportionality.⁶⁵ Although the destruction of Greytown was pre-Civil War and thus pre-Lieber Code, these principles have existed in one form or another since at least Thomas Aquinas and Hugo Grotius.⁶⁶ And Hollins likely violated every one; although he should get credit for adhering to the precautions principle by giving advanced notice and thereby avoiding casualties.⁶⁷ Hollins’s destruction of Greytown was likely both immoral and illegal, and it was recognized as such by several newspapers and government officials at the time (despite their later justifications).⁶⁸

⁶² *Id.* at 547 (quoting Article 147 of the Fourth Geneva Convention).

⁶³ *Cf.* PAUL CHRISTOPHER, *THE ETHICS OF WAR & PEACE: AN INTRODUCTION TO LEGAL AND MORAL ISSUES* 82–87 (3d ed. 2004) (listing the *jus ad bellum* principles articulated by Hugo Grotius in the seventeenth century—some of which were also advanced by Augustine and Thomas Aquinas previously—as just cause, proportionality, reasonable chance of success, public declaration, legitimate authority, and last resort).

⁶⁴ *Cf. id.* at 91–98 (discussing Grotius’s articulation of *jus in bello* principles).

⁶⁵ *THE LAW OF ARMED CONFLICT*, *supra* note 52, at 49–60 (defining and discussing these principles); *NATIONAL SECURITY LAW*, *supra* note 28, at 340–45 (defining and discussing these principles).

⁶⁶ *See THE LAW OF ARMED CONFLICT*, *supra* note 52, at 42–46 (discussing historical foundations of *jus ad bellum* and *jus in bello* principles); CHRISTOPHER, *supra* note 63, at 8–98 (tracing development of Just War Theory from antiquity through the seventeenth century).

⁶⁷ *See THE LAW OF ARMED CONFLICT*, *supra* note 52, at 59–60 (arguing that “precautions in the attack” are “vital civilian risk mitigation tools” that complement the principles of distinction and proportionality); *id.* at 144 (discussing prohibition on attacking civilians); *id.* at 267–68 (“The attack or bombardment of towns, villages, dwellings, or building that are undefended is prohibited.”).

⁶⁸ *See SOPER*, *supra* note 1, at 65–71 (discussing several federal officials and newspapers condemning the attack within weeks); Waxman, *supra* note 17 (“There is strong evidence suggesting that Pierce considered [disavowing the attack on Greytown].”). Secretary of State William Marcy stated—in a private letter to then Minister to the United Kingdom James Buchanan—“The occurrence at Greytown is an embarrassing affair. The place merited chastisement, but the severity of the one inflicted exceeded our expectations.” *SOPER*, *supra* note 1, at 63. Buchanan responded that “Hollins had exceeded his instructions and had no authority to proceed to such extremities I await with confidence [the act’s] disavowal by the Government.” *Id.*

Soper alludes to Constructivist/Identity Theory explanations behind the incident.⁶⁹ Most notably, he points out that President Pierce justified the bombardment as right retaliation against “a piratical resort of outlaws or a camp of savages . . . composed for the most part of blacks and persons of mixed blood.”⁷⁰ But surprisingly, Soper seems to be a reluctant Realist—even if he wishes he were a Liberal.⁷¹ He lays out in great detail how U.S. political and commercial interests plotted against Greytown for reasons of pure economic gain and *realpolitik*.⁷² He laments the destruction of Greytown as the brutal act of a bully and describes in detail the misunderstandings, soured relationships, and failed negotiations that contributed to the situation.⁷³ Nevertheless, Soper appears to acknowledge that this is regrettably the way of things.⁷⁴ Perceptive readers may draw parallels between Soper’s account of Hollins’s “negotiations” with the Greytowners and Thucydides’s account of Athens’s dialogue with the Melians.⁷⁵ Both authors seem to conclude (the former more lamentably than the latter) “that right, as the world goes, is only in question between equals in power, while the strong do what they can and the weak suffer what they must.”⁷⁶

⁶⁹ See, e.g., SOPER, *supra* note 1, at 155 (“The phrase ‘gunboat diplomacy’ is generally associated with a later era, but its fundamental source—condescension toward those regarded as less civilized than ourselves—was already well established in the middle of the nineteenth century.”). See generally SCOTT BURCHILL, JACK DONNELLY, TONI HAASTRUP, ANDREW LINKLATER, TERRY NARDIN, MATTHEW PATERSON, CHRISITAN REUS-SMIT, ALINA SAJED, & ANDRE SARAMAGO, THEORIES OF INTERNATIONAL RELATIONS (Richard Devetak & Jacqui True eds., 6th ed. 2021) (discussing major and minor international relations theories); HENRY R. NAU, PERSPECTIVES ON INTERNATIONAL RELATIONS: POWER, INSTITUTIONS, AND IDEAS (7th ed. 2021) (discussing Realist, Liberal, and Identity interpretations of geopolitical events).

⁷⁰ SOPER, *supra* note 1, at 87–88.

⁷¹ Soper’s central thesis is that Greytown was destroyed due to a conspiracy between a U.S. government interested in expanding its influence in the region and its control over the Nicaragua Route and American businessmen interested in owning Greytown. See, e.g., Soper, *supra* note 11, at 19. Soper’s contention—that desire for money and power were at the root of Greytown’s demise—is quintessentially Realist. See also, SOPER, *supra* note 1, at 25 (discussing why a monopolized Nicaragua Route “was rightly predicted to become a strategic boon to the United States”); *id.* at 69 (discussing practical consequences of bombardment for U.S. influence in the region).

⁷² See SOPER, *supra* note 1, *passim*. See generally, HENRY KISSINGER, DIPLOMACY 137, *passim* (1994) (discussing applications of *realpolitik*—“foreign policy based on calculations of power and the national interest”—in world politics).

⁷³ See SOPER, *supra* note 1, at 68, *passim* (describing the regrettable factors leading to Greytown’s destruction and appearing to agree it was an “act of savage cruelty, committed under the deliberate instructions of the United States Government upon a helpless isolated village”).

⁷⁴ See, e.g., SOPER, *supra* note 1, at 171–72 (lamenting that the U.S. government refuses to change its official narrative of Greytown).

⁷⁵ See *id.* at 58–59; THUCYDIDES, THE HISTORY OF THE PELOPONNESIAN WAR 338–46 (Richard Crawley trans., Barnes & Noble 2006) (c. 404 B.C.).

⁷⁶ THUCYDIDES, *supra* note 75, at 340.

Not only was the destruction of Greytown illegal and unethical, it was also ineffective and unwise foreign policy.⁷⁷ The United States was fortunate to not provoke an already suspicious Great Britain—whose navy was ten times larger than the United States' at the time—to a military response for the destruction of a town located in a British protectorate.⁷⁸ “Because bilateral relations were improving at the time, and Britain was occupied by the Crimean War, Britain was willing to let this incident go.”⁷⁹ Still—because it was vying for influence in the region with Britain and other European powers—Soper chastises the United States for foolishly destroying a place that “was to all purposes an American town, with an American constitution, and a predominant American influence governing the feelings of its population.”⁸⁰ Destroying Greytown did not transform it into the capital of a new U.S. colony or the terminus of a U.S.-monopolized transcontinental canal; ironically, it reduced American influence in the region and created a temporary power vacuum filled by the British.⁸¹ Thus, it was counterproductive to the Monroe Doctrine's goal of excising European influence from the region.

Further—as Soper points out—the United States' violation of international law at Greytown has stymied it from invoking the same law on its own behalf.⁸² For example, when Japanese forces destroyed American property in China prior to the U.S. entry into WWII, Japan did “not hesitate[] to call to the attention of American officials the celebrated Greytown case,” and American officials were forced to concede that Japan “had several potent American precedents to back her up.”⁸³ Here, Soper alludes to another sobering foreign-policy lesson: “lawfare” is an indiscriminate weapon.⁸⁴ The United States must consider the second- and third-order effects of violating international law (e.g., America's adversaries invoking U.S. legal theories to delegitimize U.S. actions or justify their own IHL violations). This is especially true in a post-Cold War era where we have essentially shaped the liberal world order to our own

⁷⁷ See SOPER, *supra* note 1, at 69 (quoting the New York Tribune) (“The first practical result of this great warlike exploit . . . is to restore to its full vitality the British Mosquito protectorate, which had been virtually abandoned. . . . Instead of [an American town], we now have a British force in occupation of the bay, while the town is rebuilding under British protection.”). See also Soper, *supra* note 11, at 32.

⁷⁸ See Waxman, *supra* note 17 (“[The bombardment] could have had major diplomatic consequences. Britain—whose navy was still about 10 times larger than the United States's—was seeking to maintain its power over parts of Central America, and Greytown was, at that time, located within a British protectorate.”); SOPER, *supra* note 1, at 12 (describing “delicate Anglo-American negotiations regarding the region” at this time); *id.* at 28 (“The aggressive movement of the United States towards the southwest, accompanied by the talk of ‘manifest destiny,’ had given the British good reason to suspect the Americans of designs upon the territory of the isthmus, and to fear that they might attempt to monopolize the Nicaragua Route.”).

⁷⁹ Waxman, *supra* note 17.

⁸⁰ SOPER, *supra* note 1, at 69 (quoting New York Tribune).

⁸¹ *Id.*; see also Soper, *supra* note 11, at 32.

⁸² SOPER, *supra* note 1, at 159–60.

⁸³ *Id.* at 160 (quoting the Boston Globe).

⁸⁴ See generally Charles J. Dunlap, Jr., *Yes, There is Consensus that ‘Lawfare’ Exists...But America Still Needs a Strategy for it*, DUKE UNIV.: LAWFIRE (Sept. 23, 2021), <https://perma.cc/M4SJ-7X38> (discussing modern concept of “lawfare”); Charles J. Dunlap, Jr., *Lawfare Amid Warfare*, WASH. TIMES (Aug. 3, 2007), <https://perma.cc/PAC6-TDG6> (discussing modern concept of “lawfare”).

benefit. Violating international norms when necessary may have made sense for a younger, more vulnerable United States in the multipolar nineteenth century; it no longer does. Even from a Realist perspective, it now behooves the United States to follow international law out of purely rational self-interest. We should do so not only because we are bound by treaty and moral imperative but to reinforce post-WWII democratic norms and institutions—norms and institutions largely of our own creation that facilitate American military, economic, and cultural hegemony.

B. Greytown, Separation of Powers, and Presidential War-Making Authority

Soper assigns Greytown a key role in the lamentable inception of “the erosion of congressional control over the war power [that] began in the nineteenth century, when the executive was permitted to undertake military actions against such nongovernmental entities as bandits and pirates.”⁸⁵ *Greytown is no more!* echoes Schlesinger’s *The Imperial Presidency* in arguing that President Pierce and Justice Nelson inaccurately characterized Greytown as “an irresponsible and marauding community” to counter widespread accusations of presidential usurpation of Congress’s express powers to declare war and authorize reprisals.⁸⁶ As Schlesinger’s classic critique of executive excess argued, even though Greytowners were characterized as nonstate actors at the time, the “generally wretched episode was cited in later years by lawyers in desperate search of constitutional justification for presidential war against sovereign states.”⁸⁷

Indeed, “the Justice Department and scholars frequently cite [*Durand v. Hollins*] to support expansive presidential powers.”⁸⁸ The Department of Justice’s Office of Legal Counsel used it in 1970 to justify incursions into Cambodia during the Vietnam War and again in 2014 to justify strikes against the Islamic State.⁸⁹ *Durand* was also invoked to justify the failed rescue mission during the Iran hostage crisis.⁹⁰ Many legal scholars call *Durand* “the most commonly cited authority for [the] assertion” that the President has unilateral authority “to direct rescue *and retaliation* operations.”⁹¹ But scholars also ask: “Should operations of rescue be equated with those of retaliation? Does the inherent authority to use military force to rescue Americans abroad necessarily equate to an inherent authority to order military action to ‘punish’ an opponent?”⁹² Given the U.N. Charter’s limitations on the use of force and the Constitution’s grant of authority to *Congress* to “grant letters of marque and reprisal,” the answer today is likely no.⁹³

⁸⁵ SOPER, *supra* note 1, at 150.

⁸⁶ *Id.*; see U.S. CONST. art. I, § 8, cl. 11.

⁸⁷ SOPER, *supra* note 1, at 150 (quoting ARTHUR M. SCHLESINGER, JR., *THE IMPERIAL PRESIDENCY* 56 (1973)).

⁸⁸ Waxman, *supra* note 17.

⁸⁹ *Id.*

⁹⁰ NATIONAL SECURITY LAW, *supra* note 28, at 274–75.

⁹¹ *Id.* at 278 (emphasis in original).

⁹² *Id.*

⁹³ See *id.*; U.S. CONST. art. I, § 8, cl. 11.

Soper offers salient critiques of modern presidents' expansive war-making powers. Nevertheless, he goes a bit too far in two ways: (1) his estimation of *Durand's* exceptionality and influence and (2) the degree to which he would have the President seek congressional approval.

Of course, Soper is correct that *Durand v. Hollins* remains important precedent today. Indeed—in both 2007 and 2013—the C.R.S. described *Durand* as the only federal case that “has clearly held that in the absence of congressional authorization, the President has authority to deploy military forces abroad to protect U.S. persons (and property).”⁹⁴ Nevertheless, *Durand* is no outlier. Its holding and legal reasoning fit squarely within a group of seminal national-security cases that all grant the President broad authority to act unilaterally in foreign affairs.

Long before *Durand*, the Supreme Court held it permissible to wage war for limited purposes and to use force without an official declaration of war (albeit with congressional authorization).⁹⁵ The Court also held long before *Durand* that, in the absence of clear congressional action or expression, the President likely has broad authority to issue executive orders relating to the use of force.⁹⁶ Just two years after *Durand*, in *The Prize Cases*, the Supreme Court held that the President may use force against both state and nonstate actors to protect the country without waiting for congressional approval.⁹⁷ And *Durand* is not even the only case used to specifically justify the President's protection of U.S. citizens abroad; *In Re Neagle* is often invoked to argue that the President's powers under the Take Care Clause combine with his inherent foreign-affairs powers to enable him to protect not only federal judges on American soil, but also U.S. citizens abroad.⁹⁸

⁹⁴ JENNIFER K. ELSEA ET AL., CONG. RSCH. SERV., R41989, CONGRESSIONAL AUTHORITY TO LIMIT MILITARY OPERATIONS 9 (2013); SOPER, *supra* note 1, at 165.

⁹⁵ *Bas v. Tingy*, 4 U.S. (4 Dall.) 37, 45 (1800) (“An imperfect war, or a war, as to certain objects, and to a certain extent, exists between [France and the United States]; and this modified warfare is authorised by the constitutional authority of our country.”).

⁹⁶ *Little v. Barreme*, 6 U.S. (2 Cranch) 170, 177–78 (1804) (suggesting that, in the absence of a statutory limitation by Congress, the President may “without any special authority for that purpose” order the seizure of merchant ships during an armed conflict); *see also* NATIONAL SECURITY LAW, *supra* note 28, at 264–66.

⁹⁷ *The Prize Cases*, 67 U.S. (2 Black) 635, 668 (1862) (“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.”). Interestingly, despite deferring to the President in *Durand v. Hollins* two years earlier, Justice Nelson dissented in *The Prize Cases*. *Id.* at 693 (Nelson, J., dissenting) (“Congress alone can determine whether war exists or should be declared; and until they have acted, no citizen of the State can be punished in his person or property, unless he has committed some offence against a law of Congress.”).

⁹⁸ *See In re Neagle*, 135 U.S. 1, 81–85 (1890) (arguing “the president's duty to take care that the laws be faithfully executed” extends to laws enacted under the Necessary and Proper Clause and—when combined with the shared treaty power—gives him a “broad grant [of foreign-affairs powers] mak[ing] enumeration of particular powers unnecessary”); *see also* SOPER, *supra* note 1, at 163–64.

To illustrate the large sphere of powers self-executing and independent of statutes claimed to be vested in the executive, reference is made to the continually recurring cases of the president's interference for the protection of our foreign born and naturalized citizens on a visit to their

More generally, the Supreme Court has prominently held that “the President [i]s the sole organ of the federal government in the field of international relations” and that, while he is still bound by the Constitution, his foreign-affairs powers are broad and wholly independent from Congress.⁹⁹ The President’s powers are at their zenith—constituting both his own powers and Congress’s—when acting under an express *or implied* grant of power from Congress.¹⁰⁰ And, naturally, when the President seeks to act contrary to the will of Congress, he may only rely on the enumerated powers specifically granted him by the Constitution.¹⁰¹ But when operating in the “twilight zone” of congressional silence, the President is afforded broad latitude to act, especially as Commander in Chief in the international sphere.¹⁰² Thus, while important, *Durand* is far from the only federal case to support broad presidential powers to unilaterally use military force abroad. Nor is it even the most seminal.¹⁰³

Likewise, Soper reasonably holds that the President ought not be able to commit U.S. troops to full-scale armed conflict without congressional authorization.¹⁰⁴ After all, the Constitution gives Congress the power “to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.”¹⁰⁵ And even Founders like Alexander Hamilton—certainly no opponent of national power—held a narrow view of the President’s war-making power.¹⁰⁶ But what about projecting force abroad for diplomatic purposes, conducting direct-action missions against nonstate actors, or rescuing American citizens? Surely the

native country . . . [S]uch action of the government was justified because it pertained to the foreign relations of the United States, in respect to which the federal government is the exclusive representative and embodiment of the entire sovereignty of the nation.

In re Neagle, 135 U.S. at 84–85.

⁹⁹ *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 319–20 (1936); *see also* NATIONAL SECURITY LAW, *supra* note 28, at 126–36 (providing context and commentary about *Curtiss-Wright*).

¹⁰⁰ *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635–37 (1952) (Jackson, J., concurring).

¹⁰¹ *Id.* at 637–38.

¹⁰² *See id.* at 637 (“[T]here is a zone of twilight in which [the President] 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.”).

¹⁰³ *See, e.g., Bas*, 4 U.S. 37; *Little*, 6 U.S. 170; *The Prize Cases*, 67 U.S. 635; *In re Neagle*, 135 U.S. 1; *Curtiss-Wright*, 299 U.S. 304; *Youngstown*, 343 U.S. 579.

¹⁰⁴ *See* SOPER, *supra* note 1, at 170–71 (criticizing presidents’ use of *Durand* “to sanction American military interventions undertaken without seeking the prior congressional approval required by the Constitution’s provision that only Congress can declare war.”); *Dellums v. Bush*, 752 F. Supp. 1141, 1145–46 (D.D.C. 1990) (disputing the President’s ability to skirt congressional authorization by simply not calling offensive military operations “wars” and refusing “to read out of the Constitution the clause granting to the Congress, and to it alone, the authority ‘to declare war’”).

¹⁰⁵ U.S. CONST. art. I, § 8, cl. 11. *But see* NATIONAL SECURITY LAW, *supra* note 28, at 67–68 (arguing all three branches of government “have overlapping jurisdictions of competing kinds” over the U.S. Armed Forces).

¹⁰⁶ THE FEDERALIST NO. 69, at 416 (Alexander Hamilton) (Clinton Rossiter ed., 2003) (arguing the President’s war powers would be “in substance much inferior to . . . the British King, [whose power] extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies; all which by the Constitution under consideration would appertain to the Legislature”) (emphasis in original).

President—as Commander in Chief, “the sole organ of the nation in its external relations, and its sole representative with foreign nations”—should have the authority to defend Americans and conduct limited military actions abroad.¹⁰⁷

Soper objects to all “U.S. foreign military interventions ordered by executive fiat, without consulting Congress.”¹⁰⁸ While he does not delve into specifics, Soper seems to paint with too broad a brush. For example, even most ardent doves, isolationists, and strict constructionists would be unlikely to object to the President ordering special operations forces to rescue a U.S. citizen from terrorists or pirates.¹⁰⁹ Even fewer would oppose unilateral executive action to evacuate U.S. citizens from a natural disaster or civil unrest abroad.¹¹⁰ Thus, while his critiques of unilateral presidential war making are valid, Soper owes it to readers to clarify where he himself would draw the line. If Soper’s line is no military force whatsoever without explicit prior authorization from Congress, he will not have much company.

Still, one need not agree with all the finer points of Soper’s arguments to hold that—both as a matter of constitutional law and foreign policy wisdom—the War Powers Resolution should be respected and congressional approval obtained before embroiling the United States in war. Both left-leaning “doves” (as Soper seems to be)¹¹¹ and right-leaning libertarians will sympathize with Soper’s lament that *Durand* led to a “basic ‘position creep’ [that] transformed *Durand* from a mechanism for simply rescuing individual Americans and their property in overseas predicaments into a powerful instrument for effecting political change in foreign polities with unbridled executive war making.”¹¹² When one looks at how the post-9/11 AUMFs (which Soper calls “the legislative successors to their judicial equivalent, *Durand v. Hollins*”) “were used by Presidents George W. Bush, Obama, and Trump to justify multiple military interventions beyond the laws’ original scope,” it is hard to disagree.¹¹³ Soper is right to question the argument “that repeated past usage of broad presidential authority without objection from Congress gives constitutional validity to continued similar usage.”¹¹⁴ The concept of “historical gloss” as a justification for broad executive powers—which stems from *Curtiss-Wright* and Justice

¹⁰⁷ *Curtiss-Wright*, 299 U.S. at 319.

¹⁰⁸ SOPER, *supra* note 1, at 164, 170–71.

¹⁰⁹ *Cf.*, e.g., Adam Goldman, *3 Shots, 3 Kills? SEALs Rescue in 2009 Not so Tidy*, AP NEWS (Oct. 11, 2013, 2:08 PM), <https://perma.cc/PW2S-SHAZ> (describing U.S. military rescue of American merchant ship captain from Somali pirates); Barbara Starr & Ryan Browne, *US Special Operations Forces Rescue American Citizen Held Hostage in Nigeria*, CNN (Oct. 31, 2020, 3:34 PM), <https://perma.cc/566U-4362> (describing U.S. military rescue of American hostage in Nigeria); Abdi Sheikh, *U.S. Commandos Free Two Hostages in Daring Somalia Raid*, REUTERS (Jan. 25, 2012, 1:11 AM), <https://perma.cc/99E9-T5WK> (describing U.S. military rescue of American hostage in Somalia).

¹¹⁰ *Cf.* TORREON & PLAGAKIS, *supra* note 29, *passim* (listing dozens of U.S. military evacuations of American citizens from foreign countries).

¹¹¹ *Cf.* SOPER, *supra* note 1, at 168 (stating Soper attempted to work with only “progressive members of Congress”).

¹¹² *Id.* at 165.

¹¹³ *Id.* (discussing the War Powers Resolution and Authorizations for Use of Military Force, or “AUMFs”).

¹¹⁴ *Id.* at 166.

Frankfurter's concurrence in *Youngstown Sheet & Tube*—certainly has some validity and analytical utility.¹¹⁵ Nevertheless, ultimately the fact “that an unconstitutional action has been taken before surely does not render that same action any less unconstitutional at a later date.”¹¹⁶

V. CONCLUSION

In sum, this review highly recommends *Greytown is no more!*. Attorneys, legal scholars, national-security practitioners, historians, and casual readers alike will benefit from Soper's thorough historical expositions and accessible style. While Soper does not always hit the bullseye on matters of constitutional and international law, this is not unexpected. He is not a legal scholar or national-security practitioner. He is a journalist and a historian, and he shines as both in his first book.

Even so, Soper raises several important legal and political issues and presents a sobering reminder of the dangers of unbridled executive authority. One does not have to think hard to conjure myriad recent instances of executive overreach by presidents of both parties. The modern disregard for checks and balances and dangerous expansion of the Executive are concerning indeed. But they are nothing new. Despite the Founders' attempts to constrain executive power, presidents have frequently used military force for their own benefit and even taken the country to war for personal, rather than national, reasons.¹¹⁷ As John Jay recognized in Federalist No. 4, “monarchs will often make war . . . for purposes and objects merely personal, such as a thirst for military glory, revenge for personal affronts, ambition, or private compacts to aggrandize or support their particular families or partisans.”¹¹⁸ Such may have been the case with the destruction of Greytown. *Greytown is no more!* should remind lawyers and laypeople alike of the value of the Constitution's separation of powers and the importance of congressional and judicial oversight.

¹¹⁵ See *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 322–29 (1936) (holding that a “uniform, long-continued, and undisputed legislative practice” can help define the contours of the Executive's authority); *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 610–11 (1952) (Frankfurter, J., concurring); Geoffrey S. Corn, *Clinton, Kosovo, and the Final Destruction of the War Powers Resolution*, 42 WM. & MARY L. REV. 1149, 1155–64 (2001).

It is an inadmissibly narrow conception of American constitutional law to confine it to the words of the Constitution and to disregard the gloss which life has written upon them. In short, a systematic, unbroken, executive practice, long pursued to the knowledge of the Congress and never before questioned, engaged in by Presidents who have also sworn to uphold the Constitution, making as it were such exercise of power part of the structure of our government, may be treated as a gloss on ‘executive Power’ vested in the President by s 1 of Art. II.

Youngstown, 343 U.S. at 610–11.

¹¹⁶ SOPER, *supra* note 1, at 166 (quoting *Powell v. McCormack*, 395 U.S. 486, 546–47 (1969)).

¹¹⁷ BRUCE BUENO DE MESQUITA & ALASTAIR SMITH, *THE SPOILS OF WAR: GREED, POWER, AND THE CONFLICTS THAT MADE OUR GREATEST PRESIDENTS* 239 (2016).

¹¹⁸ THE FEDERALIST NO. 4, at 40 (John Jay) (Clinton Rossiter ed., 2003); see also BUENO DE MESQUITA & SMITH, *supra* note 117, *passim* (arguing U.S. presidents have often used military force for personal and partisan reasons even when contrary to the national interest).

Admittedly, perhaps due to its vast scope, *Greytown is no more!* can occasionally feel disjointed and repetitive. Sometimes reading like a series of separate articles or stories, it could benefit from better chapter headings and transitions to sew themes and events together. Likewise, a concluding chapter that ties the book together and succinctly reiterates Soper's theses before the epilogue would be a welcome addition. Still, both the breadth and depth of *Greytown is no more!* are nothing short of impressive. Historians and history hobbyists will find an engaging read chock-full of valuable "nuggets" of nineteenth-century American history seldom discussed elsewhere. And Soper has an engaging writing style evocative of accomplished history authors like David McCullough and Stephen E. Ambrose. In *Greytown is no more!*, he brings Greytown and the machinations behind it to life.

Greytown is no more! may be the single most comprehensive examination of the incident to date. For those in the market for a more succinct account, Soper has also written an excellent 2017 journal article—in the peer-reviewed *American Nineteenth Century History*—and created a helpful 2023 YouTube lecture on the subject.¹¹⁹ However, for those interested in learning all the details behind this curious and critical moment in history, only the book will suffice. Whether or not one ultimately agrees with his theories and insinuations, Soper is to be commended for writing what will likely become *the* popular history book about Greytown. This reader highly recommends *Greytown is no more!*.

¹¹⁹ See YOUTUBE SLIDESHOW, *supra* note 4; OP-ED, *supra* note 4; Soper, *supra* note 11.