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# Withdrawal/Redaction Sheet

## (George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Memorandum	Case Number 205219 From Stephen Rademaker to Brent Scowcroft RE: Involving Congress in Our Persian Gulf Policy; Declaring War Against Iraq and the Alternatives (6 pp.)	12/11/90	(b)(1)	

**Collection:**

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**Series:** Subject File - General  
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**File Location:** Case Number 205219

<b>Date Closed:</b> 12/3/2004	<b>OA/ID Number:</b> 00002-001
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<b>AR Disposition:</b>	<b>MR Disposition:</b>
<b>AR Disposition Date:</b>	<b>MR Disposition Date:</b>

### RESTRICTION CODES

**Presidential Records Act - [44 U.S.C. 2204(a)]**

P-1 National Security Classified Information [(a)(1) of the PRA]  
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]  
P-3 Release would violate a Federal statute [(a)(3) of the PRA]  
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]  
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]  
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

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(b)(1) National security classified information [(b)(1) of the FOIA]  
(b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]  
(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]  
(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]  
(b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]  
(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]  
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]  
(b)(9) Release would disclose geological or geophysical information

Mr. Trygve Lie's appeal to the North Korean authorities to appeal to the Republic of Korea, suggesting that they use the services of the International Red Cross to insure implementation of the Geneva convention in the Korean conflict. The Chairman then said:

The Commission believes it will be failing in its duty if it does not make every possible effort to secure the adoption of these humanitarian measures in the present hostilities. It therefore makes a heartfelt appeal for action to be taken by the North Korean authorities and the Republic

of Korea to take the necessary steps. The Commission feels deeply that at all costs anything that will further embitter relations must be avoided. It is convinced that nothing is better calculated to keep alive hatred in Korea than cruel and barbarous acts contrary to the Geneva Conventions.

The Commission is in session on the soil of Korea and will wholeheartedly support any steps which might be taken by the International Red Cross, by the Republic of Korea or by the North Korean authorities to establish measures for the application of the Conventions.

The Chairman's message was broadcast from the Commission's headquarters in Korea.

## Authority of the President To Repel the Attack in Korea

### DEPARTMENT OF STATE MEMORANDUM OF JULY 3, 1950<sup>1</sup>

[Excerpts]

This memorandum is directed to the authority of the President to order the Armed Forces of the United States to repel the aggressive attack on the Republic of Korea.

As explained by Secretary Acheson to the press on June 28, as soon as word of the attack on Korea was received in Washington, it was the view of the President and of all his advisers that the first responsibility of the Government of the United States was to report the attack to the United Nations.

Accordingly, in the middle of the night of Saturday, June 24, 1950, Ambassador Gross, the United States deputy representative at the Security Council of the United Nations, notified Mr. Trygve Lie, the Secretary-General of the United Nations, that armed forces from North Korea had commenced an unprovoked assault against the territory of the Republic of Korea.

The President, as Commander in Chief of the Armed Forces of the United States, has full control over the use thereof. He also has authority to conduct the foreign relations of the United States. Since the beginning of United States history, he has, upon numerous occasions, utilized these powers in sending armed forces abroad. The preservation of the United Nations for the maintenance of peace is a cardinal interest of the United States. Both traditional international law and article 39 of the United Nations Charter and the resolution pursuant thereto authorize the United States to repel the armed aggression against the Republic of Korea.

<sup>1</sup>This memorandum also appeared in H. Rept. 2495, 81st Cong., 2d sess., p. 61.

### Constitutional Powers of the President

The President's control over the Armed Forces of the United States is based on article 2, section 2 of the Constitution which provides that he "shall be Commander in Chief of the Army and Navy of the United States."

In *United States v. Sweeney*, the Supreme Court said that the object of this provision was "evidently to vest in the President the supreme command over all the military forces,—such supreme and undivided command as would be necessary to the prosecution of a successful war."<sup>2</sup>

That the President's power to send the Armed Forces outside the country is not dependent on Congressional authority has been repeatedly emphasized by numerous writers.

For example, ex-President William Howard Taft wrote:

The President is made Commander in Chief of the Army and Navy by the Constitution evidently for the purpose of enabling him to defend the country against invasion, to suppress insurrection and to take care that the laws be faithfully executed. If Congress were to attempt to prevent his use of the Army for any of these purposes, the action would be void. . . . Again, in the carrying on of war as Commander in Chief, it is he who is to determine the movements of the Army and of the Navy. Congress could not take away from him that discretion and place it beyond his control in any of his subordinates, nor could they themselves, as the people of Athens attempted to carry on campaigns by votes in the market-place.<sup>3</sup>

Professor Willoughby writes:

As to his constitutional power to send United States forces outside the country in time of peace when this is deemed by him necessary or expedient as a means of preserving or advancing the foreign interests or relations of the United States, there would seem to be equally little doubt, although it has been contended by some that the exercise of this discretion can be limited by congressional statute. That Congress has this right to limit or to

<sup>2</sup>157 U.S. (1895) 281, 284.

<sup>3</sup>*Our Chief Magistrate and His Powers*, 1916, pp. 128-129.

forbid the sending of United States forces outside of the country in time of peace has been asserted by so eminent an authority as ex-Secretary Root. It would seem to author, however, that the President, under his powers as Commander in Chief of the Army and Navy, and his general control of the foreign relations of the United States, has this discretionary right constitutionally vested in him, and, therefore, not subject to congressional control. Especially, since the argument of the court in *Myers v. United States* with reference to the general character of the executive power vested in the President, and, apparently, the authority impliedly vested in him by reason of his obligation to take care that the laws be faithfully executed, it is reasonable to predict that, should the question be presented to it, the Supreme Court will so hold. Of course, if this sending is in pursuance of express provisions of a treaty, or for the execution of treaty provisions, the sending could not reasonably be subject to constitutional objection.<sup>4</sup>

In an address delivered before the American Bar Association in 1917 on the war powers under the Constitution, Mr. Hughes stated that "There is no limitation upon the authority of Congress to create an army and it is for the President as Commander-in-Chief to direct the campaigns of that Army wherever he may think they should be carried on." He referred to a statement by Chief Justice Taney in *Fleming v. Page* (9 How. 615) in which the Chief Justice said that as Commander in Chief the President "is authorized to direct the movements of the naval and military forces placed by law at his command."<sup>5</sup>

At the time the approval of the Treaty of Versailles was under consideration in the Senate, there was under discussion a reservation to article 10, presented by Senator Lodge, to the effect that "Congress . . . under the Constitution, has the sole power to declare war or authorize the employment of the military or naval forces of the United States." Senator Walsh of Montana stated in debate on November 10, 1919 that the statement was a recital of "What is asserted to be a principle of constitutional law." He said that if—

any declaration of that character should ever be made by the Senate of the United States, it would be singularly unfortunate. It is not true. It is not sound. It is fraught with the most momentous consequences, and may involve disasters the extent of which it is hardly possible to conceive.

The whole course of our history has been a refutation of such a declaration, namely, that the President of the United States, the Chief Executive of the United States, the Commander in Chief of the Army of the United States, has no power to employ the land or naval forces without any express authorization upon the part of Congress. Since the beginning of our Government, our Navy has been sent over the seven seas and to every port in the world. Was there ever any congressional act authorizing the President to do anything of that kind?

He stated that our Navy travels the sea "in order to safeguard and protect the rights of American citizens in foreign lands. Who can doubt that the President has no authority thus to utilize the naval and land forces of the United States?"

<sup>4</sup> *The Constitutional Law of the United States*, 1929, vol. III, p. 1567.)

Mr. Borah stated:

I agree fully with the legal or constitutional proposition which the Senator states, and I hope this [reservation] will be stricken out. It is an act of supererogation to put it in. It does not amount to anything. It is a recital which is not true.

It can not change the Constitution, and it ought not to be there. . . . It would simply be vain and futile and, if I may say so, with due respect to those who drew it, the doing of an inconsequential thing."<sup>6</sup>

Not only is the President Commander in Chief of the Army and Navy, but he is also charged with the duty of conducting the foreign relations of the United States and in this field he "alone has the power to speak or listen as a representative of the Nation."<sup>7</sup>

Obviously, there are situations in which the powers of the President as Commander in Chief and his power to conduct the foreign relations of this country complement each other.

The basic interest of the United States is international peace and security. The United States has, throughout its history, upon orders of the Commander in Chief to the Armed Forces and without congressional authorization, acted to prevent violent and unlawful acts in other states from depriving the United States and its nationals of the benefits of such peace and security. It has taken such action both unilaterally and in concert with others. A tabulation of 85 instances of the use of American Armed Forces without a declaration of war was incorporated in the *Congressional Record* for July 10, 1941.

### Purposes for Sending American Troops Abroad

It is important to analyze the purposes for which the President as Commander in Chief has authorized the despatch of American troops abroad. In many instances, of course, the Armed Forces have been used to protect specific American lives and property. In other cases, however, United States forces have been used in the broad interests of American foreign policy, and their use could be characterized as participation in international police action.

The traditional power of the President to use the Armed Forces of the United States without consulting Congress was referred to in debates in the Senate in 1945. Senator Connally remarked:

The historical instances in which the President has directed armed forces to go to other countries have not been confined to domestic or internal instances at all. Senator Millikin pointed out that in many cases the President has sent troops into a foreign country to protect our foreign policy, notably in Central and South America. That was continued, in order to keep foreign countries out of there—was not aimed at protecting any particular American citizen. It was aimed at protecting our foreign policy.

<sup>6</sup> 58 *Cong. Rec.*, pt. 8, p. 8195, Nov. 10, 1919, 66th Cong., 1st sess.

<sup>7</sup> *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 303, 56 S.Ct. 280, 76 L.Ed. 310 (1936).

To his remark that he presumed that by the Charter of the United Nations we had laid down a foreign policy which we could protect, Senator Connally replied that that was absolutely correct. He added:

I was trying to indicate that fact by reading the list of instances of intervention on our part in order to keep another government out of territory in this hemisphere. That was a question of carrying out our international policy, and not a question involving the protection of some American citizen or American property at the moment.<sup>8</sup>

During the Boxer Rebellion in China in 1900-1901, the President sent about 5,000 troops to join with British, Russian, German, French, and Japanese troops to relieve the siege of the foreign quarters in Peking and reestablish the treaty status.<sup>9</sup> This was done without express congressional authority. In defining United States policy at the time Secretary of State Hay said:

... The purpose of the President is, as it has been heretofore, to act concurrently with the other powers; first, in opening up communication with Peking and rescuing the American officials, missionaries, and other Americans who are in danger; secondly, in affording all possible protection everywhere in China to American life and property; thirdly, in guarding and protecting all legitimate American interests; and, fourthly, in aiding to prevent a spread of the disorders to the other provinces of the Empire and a recurrence of such disasters. It is, of course, too early to forecast the means of attaining this last result; but the policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire.<sup>10</sup>

After the opening up of Japan to foreigners in the 1850's through the conclusion of commercial treaties between Japan and certain Western powers, antiforeign disturbances occurred. In 1863, the American Legation was burned following previous attacks on the British Legation. The commander of the U. S. S. *Wyoming* was instructed to use all necessary force for the safety of the legation or of Americans residing in Japan. Secretary of State Seward said that the prime objects of the United States were:

First, to deserve and win the confidence of the Japanese Government and people, if possible, with a view to the common interest of all the treaty powers; secondly, to sustain and cooperate with the legations of these powers, in good faith, so as to render their efforts to the same end effective.<sup>11</sup>

In 1864, the Mikado, not recognizing the treaties with the Western powers, closed the straits of Shimonoseki. At the request of the Tycoon's government (opposed to the Mikado), American, British, French, and Netherlands forces, in a joint

operation, opened the straits by force. The object of the Western powers was the enforcement of treaty rights, with the approval of the government that granted them.<sup>11</sup>

Again, in 1868, a detachment of Japanese troops assaulted foreign residents in the streets of Hiogo. One of the crew of the *Oneida* was seriously wounded. The safety of the foreign population being threatened, naval forces of the treaty powers made a joint landing and adopted measures to protect the foreign settlement.<sup>12</sup>

Former Assistant Secretary of State James Grafton Rogers has characterized these uses of force as "international police action", saying:

They amounted to executive use of the Armed Forces to establish our own and the world's scheme of international order. Two American Presidents used men, ships and guns on a large and expensive scale.<sup>13</sup>

In 1888 and 1889, civil war took place in Samoa where the United States, Great Britain, and Germany had certain respective treaty rights for the maintenance of naval depots. German forces were landed, and the German Government invited the United States to join in an effort to restore calm and quiet in the islands in the interest of all the treaty powers. The commander of the United States naval forces in the Pacific was instructed by the Secretary of the Navy that the United States was willing to cooperate in restoring order "on the basis of the full preservation of American treaty rights and Samoan authority, as recognized and agreed to by Germany, Great Britain, and the United States." He was to extend full protection and defense to American citizens and property, to protest the displacement of the native government by Germany as violating the positive agreement and understanding between the treaty powers, but to inform the British and German Governments of his readiness to cooperate in causing all treaty rights to be respected and in restoring peace and order on the basis of the recognition of the Samoan right to independence.<sup>14</sup>

On July 7, 1941, The President sent to the Congress a message announcing that as Commander in Chief he had ordered the Navy to take all necessary steps to insure the safety of communications between Iceland and the United States as well as on the seas between the United States and all other strategic outposts and that American troops had been sent to Iceland in defense of that country. The United States, he said, could not permit "the occupation by Germany of strategic outposts in the Atlantic to be used as air or naval bases for eventual attack against the Western Hemisphere." For the same reason, he said, substantial forces of the United States had been sent to the bases ac-

<sup>8</sup> *Cong. Rec.*, 79th Cong., 1st sess., vol. 91, pt. 8, Nov. 26, 1945, p. 10967.

<sup>9</sup> John Bassett Moore, *A Digest of International Law*, vol. v, p. 482. See also Taft, *op. cit.* pp. 114-115; Rogers, *op. cit.* pp. 58-62.

<sup>10</sup> John Bassett Moore, *A Digest of International Law*, vol. v, pp. 747-748.

<sup>11</sup> John Bassett Moore, *A Digest of International Law*, vol. v, p. 750; S. Ex. Doc. 58, 41 Cong. 2d sess.

<sup>12</sup> *Report of the Secretary of the Navy*, 1868, p. xi.

<sup>13</sup> *World Policing and the Constitution*, published by the World Peace Foundation, 1945, pp. 66, 67.

<sup>14</sup> John Bassett Moore, *A Digest of International Law*, vol. I, pp. 545-546.

quired from Great Britain in Trinidad and British Guiana in the South to forestall any pincers movement undertaken by Germany against the Western Hemisphere.<sup>15</sup>

Thus, even before the ratification of the United Nations Charter, the President had used the Armed Forces of the United States without consulting the Congress for the purpose of protecting the foreign policy of the United States. The ratification of the United Nations Charter was, of course, a landmark in the development of American foreign policy. As noted above, Senator Connally and Senator Millikin agreed that the President was entitled to use armed forces in protection of the foreign policy represented by the Charter. This view was also expressed in the Senate debates in connection with the ratification of the Charter. For example, Senator Wiley made the following pertinent statement:

It is my understanding, according to the testimony given before the Foreign Relations Committee of the Senate, that the terms "agreement or agreements" as used in article 43 are synonymous with the word "treaty." On the other hand, I recognize that Congress might well interpret them as agreements brought about by the action of the Executive and ratified by a joint resolution of both Houses. These agreements would provide for a police force and the specific responsibility of each nation. But outside of these agreements, there is the power in our Executive to preserve the peace, to see that the "supreme laws" are faithfully executed. When we become a party to this charter, and define our responsibilities by the agreement or agreements, there can be no question of the power of the Executive to carry out our commitments in relation to international policing. His constitutional power, however, is in no manner impaired.<sup>16</sup>

An even fuller exposition of the point was made by Senator Austin, who stated:

Mr. President, I am one of those lawyers in the United States who believe that the general powers of the President—not merely the war powers of the President but the general authority of the President—are commensurate with the obligation which is imposed upon him as President, that he take care that the laws are faithfully executed. That means that he shall take all the care that is required to see that the laws are faithfully executed.

Of course, there are other specific references in the Constitution which show that he has authority to employ armed forces when necessary to carry out specific things named in the Constitution; but the great over-all and general authority arises from his obligation that he take care that the laws are faithfully executed. That has been true throughout our history, and the Chief Executive has taken care, and has sent the armed forces of the United States, without any act of Congress preceding their sending, on a great many occasions. I have three different compilations of those occasions. One of them runs as high as 150 times; another of them 72 times, and so forth. It makes a difference whether we consider the maneuvers which were merely shows of force as combined in the exercise of this authority—as I do—or whether we limit the count to those cases in which the armed forces have actually entered upon the territory of a peaceful neighbor. But there is no doubt in my mind of his obligation and authority to employ all the force that is necessary to enforce the laws.

<sup>15</sup> *Cong. Rec.*, 77th Cong., 1st sess., vol. 87, pt. 6, July 7, 1941, p. 5868.

<sup>16</sup> *Cong. Rec.*, 79th Cong., 1st sess., vol. 91, July 27, 1945, p. 8127-8128.

It may be asked, How does a threat to international security and peace violate the laws of the United States? Perhaps, Mr. President, it would not have violated the laws of the United States previous to the obligations set forth in this treaty. Perhaps we have never before recognized as being true the fundamental doctrine with which I opened my remarks. But we are doing so now. We recognize that a breach of the peace anywhere on earth which threatens the security and peace of the world is an attack upon us; and after this treaty is accepted by 29 nations, that will be the express law of the world. It will be the law of nations, because according to its express terms it will bind those who are nonmembers, as well as members, and it will be the law of the United States, because we shall have adopted it in a treaty. Indeed, it will be above the ordinary statutes of the United States, because it will be on a par with the Constitution, which provides that treaties made pursuant thereto shall be the supreme law of the land.

So I have no doubt of the authority of the President in the past, and his authority in the future, to enforce peace. I am bound to say that I feel that the President is the officer under our Constitution in whom there is exclusively vested the responsibility for maintenance of peace.<sup>17</sup>

Action contrary to the Charter of the United Nations is action against the interests of the United States. Preservation of peace under the Charter is a cornerstone of American foreign policy. President Truman said in his inaugural address in 1949:

In the coming years, our program for peace and freedom will emphasize four major courses of action.

First, we will continue to give unfaltering support to the United Nations and related agencies, and we will continue to search for ways to strengthen their authority and increase their effectiveness.

In the Korean situation, the resolution of the Security Council of June 25 determined, under article 39 of the Charter, that the action of the North Koreans constituted a breach of the peace and called upon "the authorities in North Korea (a) to cease hostilities forthwith; and (b) to withdraw their armed forces to the thirty-eighth parallel." It also called upon "all Members to render every assistance to the United Nations in the execution of this resolution." This is an application of the principles set forth in article 2, paragraph 5 of the Charter, which states: "All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter . . ." The Security Council resolution of June 27, passed after the North Korean authorities had disregarded the June 25 resolution, recommended "that Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area." This recommendation was also made under the authority of article 39 of the Charter.

The President's seeks to accomplish the objectives of both resolutions.

The continued defiance of the United Nations by the North Korean authorities would have meant that the United Nations would have ceased to

<sup>17</sup> *Cong. Rec.*, 79th Cong., 1st sess., vol. 91, July 26, 1945, p. 8064-8065.

exist as a serious instrumentality for the maintenance of international peace. The continued existence of the United Nations as an effective international organization is a paramount United States interest. The defiance of the United Nations is in clear violation of the Charter of the United Nations and of the resolutions adopted by the Security Council of the United Nations to bring about a settlement of the problem. It is a threat to international peace and security, a threat to the peace and security of the United States and to the security of United States forces in the Pacific.

These interests of the United States are interests which the President as Commander in Chief can protect by the employment of the Armed Forces of the United States without a declaration of war. It was they which the President's order of June 27 did protect. This order was within his authority as Commander in Chief.

**USE OF LAND AND NAVAL FORCES OF THE UNITED STATES FOR PROTECTION PURPOSES<sup>18</sup>**

The United States has used its land and naval forces in foreign territories during peacetime on

many occasions during the past hundred years. They have been landed, *inter alia*, for the protection of American citizens and American territory, as in the instance of the Spanish Floridas in 1817; for the protection of American citizens located in disturbed areas; for the suppression of piracy; for meting out punishment (in an early day) to lawless bands who had murdered American citizens; for the suppression of local riots and the preservation of order; for the purpose of securing the payment of indemnity; and to prevent massacre.

Although there may have been earlier instances, the first instance that has been drawn to my attention of the landing of United States troops occurred in 1812 when President Monroe sent forces to expel freebooters who had taken possession in the name of the Governments of Buenos Aires and Venezuela of Amelia Island, off the coast of Florida. Although the island belonged to Spain the measure was not taken in concert with the Spanish Government or the local authorities of Florida. I find that as late as 1932 American forces were sent to Shanghai owing to the Sino-Japanese conflict as a measure of protection for the lives and property of American citizens in that area.

A list of various landings of American forces and the occasions therefor follows:

Place	Year	Purpose
1. Amelia Island	1812	To protect Spanish island from foreign invasion or control.
2. Spanish Florida	1814	To expel the British.
3. Cuba	1823	To pursue and break up an establishment of pirates.
4. Puerto Rico	1824	To atone for insult to the flag and procure apology.
5. Falkland Islands	1831	To procure the release of certain vessels and their crews.
6. Island of Sumatra	1832	To punish natives for attack and seizure of American ship and murder of crew.
7. Fiji Islands	1840	To punish natives for an attack upon Americans.
8. Samoa	1841	To punish natives for the murder of a white man.
9. Island of Johanna	1851	To collect indemnity (display of force).
10. Japan	1853-54	To procure a commerical treaty.
11. China	1854	American and British forces acted jointly during civil war in China to protect American and British nationals.
12. Greytown	1854	To protect American property rights.
13. Fiji Islands	1855	To protect American life.
14. Uruguay	1855	To protect American consulate and American life and property.
15. China	1856	To prevent injury to American interests.
16. Egypt	1858	To secure protection of American citizens.
17. Uruguay	1858	To protect life and property of foreign residents; action taken at request of regular Government in conjunction with forces of other powers.
18. Fiji Islands	1858	To punish natives for murder of two Americans.
19. China	1859	To restore order in Shanghai.
20. Kisembo, Africa	1860	To prevent destruction of American property.
21. Panama	1860	To restore order during insurrection.
22. Japan	1863	To obtain redress for an unwarranted attack upon an American vessel.
23. Do	1864	To open the Straits of Shimonoseki in conjunction with other powers; action taken at request of the Tycoon's government.
24. Formosa	1867	To punish natives who had murdered the crew of a wrecked American bark.
25. Japan	1868	To protect American interests during local hostilities.
26. Uruguay	1868	To protect American interests at request of local authorities.
27. Korea	1871	To capture Korean forts after a surveying party which had been granted permission to make certain surveys and soundings in the interest of science and commerce had been treacherously attacked.
28. Honolulu	1874	To suppress riotous proceedings at request of local authorities.
29. Mexico	1876	To preserve order, pending arrival of regular Government forces after evacuation of revolutionists.

<sup>18</sup> Reprinted from H. Rept. 2495, 81st Cong., 2d sess., p. 67.

Place	Year	Purpose
30. Egypt	1882	To suppress riots and protect American interests.
31. Korea	1888	To protect American residents.
32. Samoa	1888	To establish a stable government; joint action by United States, Great Britain, and Germany.
33. Haiti	1888	To obtain the release of an American merchant vessel captured by a Haitian war vessel.
34. Navassa Island	1891	To protect American life and property.
35. Chile	1891	To protect American consulate at Valparaiso.
36. Hawaii	1893	To protect life and property at the time of the deposition of the Queen.
37. Brazil	1893	To protect American commerce in Brazilian waters during a revolt of the Brazilian Navy; it was reported that the insurgents had the assistance of certain European powers.
38. Korea	1894	To protect the American Legation.
39. Samoa	1899	To assist in settling controversy over succession to Samoan throne.
40. Nicaragua	1899	To protect life and property, upon petition of foreign merchants during insurrection.
41. China	1900	To protect life and property at time of Boxer uprising.
42. Dominican Republic	1903	To protect American interests.
43. Do	1903	To protect American lives and property and to prevent fighting within certain area.
44. Honduras	1907	To protect American consulate and American interests during hostilities between Honduras and Nicaragua.
45. Nicaragua	1910	To protect American life and property during revolution; to prevent the bombardment of Bluefields.
46. Honduras	1910-11	To protect American interests during revolutionary disturbances.
47. China	1911	To protect the consulate and property of American citizens of Foochow.
48. Do	1911	To protect American consulate and American citizens at Chinkiang.
49. Do	1911	To increase the guard of the American Legation at Peking.
50. Do	1912	To keep open the railroad from Peking to the sea.
51. Do	1912	To extend protection.
52. China, Swatow	1912	To save a woman and some children and conduct them to safety.
53. Cuba	1912	To quell uprising; to protect American life and property.
54. Honduras	1912	To protect an American-owned railroad.
55. Nicaragua	1912-13	To protect American property, at request of Government of Nicaragua.
56. Dominican Republic	1912-14	To protect Dominican customshouses, in conformity with the provisions of the treaty of 1907.
57. China, Chapei	1913	To prevent disorder and give protection.
58. China, Shanghai	1913	For protection.
59. Paris	1914	To act as a guard for the American Embassy.
60. Mexico, Veracruz	1914	To enforce demands for amends for affronts and indignities to an officer of the U. S. S. <i>Dolphin</i> and the crew of the whaleboat of the <i>Dolphin</i> .
61. Haiti	1914-1915	To protect American life and property during disturbed conditions.
62. China, Nanking	1916	To quell a riot.
63. Mexico	1916-17	To pursue Villa after his invasion of American territory.
64. Dominican Republic	1916-24	To suppress revolution; to establish military government.
65. Cuba	1917-19	To protect American consulate and American lives and property during insurrection and banditti fighting.
66. China, Chungking	1918	For protection during a political crisis.
67. Honduras	1919	To cooperate with the forces of Honduras in maintaining order in a neutral zone.
68. Panama	1919	To extend protection, at request of Panamanian Government.
69. China, Kiukiang	1920	To restore order during riot.
70. China, Youchow	1920	To guard American property.
71. Guatemala	1920	To protect the American Legation during local fighting.
72. Smyrna	1922	To protect American life and property during the advance of Turkish forces on that city.
73. China, Tungchow	1922	To protect against possible violence by retreating Fengtien forces.
74. China, Foochow	1922	To protect American nationals.
75. China, Masu Island	1923	To protect Americans against brigandage.
76. Honduras	1924	To protect American life and property during unsettled conditions; intermittent landing of forces.
77. Do	1925	To protect American property.
78. Panama	1925	To extend protection during unsettled conditions, at request of Panamanian Government.
79. Nicaragua	1926	To protect life and property during revolution.
80. China, Hankow	1927	To protect lives and interests of American citizens during mob-riot disturbances.
81. China, Shanghai	1927	To protect American lives and property.
82. China, Nanking	1927	To afford protection against looting and general disorder.
83. China, Chinkiang	1927	To extinguish fire on American property caused by gunfire.
84. China, Canton	1927	To aid in evacuation.
85. China, Shanghai	1932	To strengthen forces at Shanghai, as a measure of protection for the lives and property of American nationals.

*July 1, 1949:* Korean Military Advisory Group (KMAG) established.

*August 4, 1949:* North Korean forces launch a new and large-scale invasion of the Ongjin Peninsula, but are repulsed after heavy fighting.

*August 6, 1949:* Generalissimo Chiang Kai-shek arrives in Korea for talks with President Rhee on projected Pacific Pact.

*August 9, 1949:* North Korean radio calls for revolt against the government of Syngman Rhee in South Korea.

*August 23, 1949:* The Republic of Korea is formally admitted to membership in the World Health Organization as its sixty-fifth member.

*September:* The "Democratic People's Republic of Korea" falls to hold the all-Korea election called for in the manifesto issued on June 28, 1949, by the Communist-dominated Democratic Front for the attainment of unification of the fatherland. No explanation is given for the failure to carry out previously announced plans.

*September 9-20, 1949:* Extremely heavy guerrilla warfare commences across 38th parallel; heavy casualties are reported on both sides.

*September 22, 1949:* Steamship *Kimball Smith* defects to Chinnampo, North Korea, with ECA employees, Willis and Meschter, held captive by crew.

*September 28, 1949:* The United States Congress passes the Mutual Defense Assistance Act, which authorizes expenditure of \$27,000,000 for military aid to Iran, the Philippines, and the Republic of Korea.

*October 2, 1949:* The United States presents to the Soviet Foreign Office a note requesting that the U. S. S. R. assist in determining the location of the missing ship and ECA officials and facilitate their return.

Two hundred and forty-nine guerrillas are executed on Cheju Island with approval of President Rhee as a result of riots earlier in the year. Those executed include 1 officer and 20 enlisted men of Ninth Regiment, formerly stationed on Cheju.

*October 6, 1949:* "Democratic People's Republic of Korea" recognizes the People's Republic of China.

*October 10, 1949:* The President signed Public Law 343, the third deficiency bill appropriating \$30,000,000 for economic assistance to the Republic of Korea during the period July 1-October 15, 1949, and covering sums appropriated by Public Law 154 of June 30, 1949, which permitted spending on the basis of the annual budget estimate for 1 month ending July 30, 1949, and Public Law 196 approved August 1, 1949, permitting the continuation of spending on the same basis until August 16, 1949.

*October 12, 1949:* S. 2319 authorizing an appropriation of \$120,000,000 for economic assistance to the Republic of Korea passed by the Senate.

*October 14, 1949:* The U. S. S. R. rejects the request made in the American note of October 2, stating that the matter is within the province of the "Democratic People's Republic of Korea."

The Foreign Minister of the "Democratic People's Republic of Korea" sends a letter to the Secretary-General of the UN challenging the legality of UN activity in Korea and expressing determination to drive the UN Commission out of Korea.

North Korean forces begin a new offensive on the Ongjin Peninsula, and severe fighting continues for several days.

*October 22, 1949:* The UN General Assembly decides to continue the UN Commission on Korea (UNCOK) and to charge it to investigate developments "which might lead to or otherwise involve military conflict in Korea."

The Economic Commission for Asia and the Far East (ECAFE) admits the Republic of Korea as an associate member and rejects the application of the "Democratic People's Republic of Korea."

*October 25, 1949:* The Home Minister of the Republic of Korea announces that "SKLP (South Korea Labor Party) Extermination Week" will begin on November 1; those who wish to repent and join the National Guidance Alliance (an organization for converted ex-Communists) are urged to do so before that date.

*October 28, 1949:* The President of the United States signs Public Law 430, second supplemental appropriation bill, appropriating another \$30,000,000 for economic aid to the Republic of Korea during the period October 15, 1949 to February 15, 1950.

*October 29, 1949:* The United States presents to the U.S.S.R. a second note concerning the Steamship *Kimball Smith* and the two American officials of the Economic Cooperation Administration held in northern Korea.

*November 7, 1949:* The "Democratic People's Republic of Korea" recognizes the (East) German Democratic Republic.

*November 14, 1949:* The U.S.S.R., replying to the American note of October 29, agrees to inform the North Korean authorities, through the Soviet Ambassador in Pyongyang, of the United States request for information.

*November 15, 1949:* In a radio broadcast, the "Democratic People's Republic of Korea" acknowledges for the first time the presence of the two American officials in northern Korea and states that the authorities in the north are willing to turn them over to the American Government.

*November 23, 1949:* The Republic of Korea is admitted to membership in the UN Food and Agriculture Organization.

*November 24-25, 1949:* Village people's committees are elected in North Korea.

*November 26, 1949:* The new Secretary General of the UN Commission on Korea and other staff members arrive in Seoul.

*December 3, 1949:* Township people's committees are elected in North Korea.

*December 11, 1949:* Meschter and Willis, the two American officials of the Economic Cooperation Administration held in North Korea since September 22, are turned over to a representative of the American Embassy at the 38th parallel.

*December 14, 1949:* Kim Il Sung, Premier of the "Democratic People's Republic," and party leave North Korea for Moscow to participate in the celebration of Stalin's seventieth birthday.

*December 17, 1949:* Republic of Korea approved program discussed with them by MDAP Survey Team.

*December 26, 1949:* MDAP Survey Team arrives in Republic of Korea. Chung Paek, prominent and long-time Communist arrested in South Korea in late November on his return from North Korea, denounces the North Korean regime and pledges his allegiances to the Republic, lending prominence to the National Guidance Alliance and the South Korea "Voluntary Surrender Week."

*January 12, 1950:* Ambassador Philip Jessup speaks before the National Assembly of the Republic of Korea.

*January 18, 1950:* UN International Children's Emergency Fund (UNICEF) announces plans for a \$550,000 child welfare program in Korea; Dr. Clarence W. MacCharles, of Canada, is named director.

*January 19, 1950:* H. R. 5330 authorizing the appropriation of \$120,000,000 for economic assistance to the Republic of Korea defeated in the House of Representatives by a vote of 192-191.

*January 26, 1950:* The military defense assistance program and Korea Military Advisory Group (KMAG) agreements are signed.

*February 8, 1950:* The UN Economic and Social Council (ECOSOC) at Lake Success endorses the Republic of Korea's application by membership in the United Nations Educational, Scientific and Cultural Organization (UNESCO).

*February 9, 1950:* S. 2319 authorizing the appropriation of \$120,000,000 for economic assistance to the Republic of Korea for fiscal year 1950 with an amendment extending aid to China passed by the House of Representatives.

<sup>19</sup> Reprinted from H. Rept. 2495, 81st Cong., 2d sess., p. 69.

*February 10, 1950:* S. 2319, as amended by the House passed by the Senate; President Rhee hands foreign correspondents message of gratitude for passage of the aid bill.

*February 14, 1950:* President Rhee, accompanied by Foreign Minister, Director of Office of Public Information (OPI), Deputy Chief of Staff of Korean Army, and staff, departs for Tokyo for consultation.

*February 15, 1950:* Korea requests spare parts and ammunition for 10 AT6 planes, and State Department allocates money to Defense Department.

*February 17, 1950:* The World Health Organization grants the Republic of Korea \$750,000 for public health program for fiscal year 1950.

*February 24, 1950:* The Republic of Korea signs a contract with Japan for export of 100,000 metric tons of rice to Japan at \$142 per ton.

*February 27, 1950:* President Truman transmits to the United States Congress requests for appropriation of \$60,000,000 for aid to the Republic of Korea for fiscal year 1950 and for the authorization of \$100,000,000 for economic assistance for fiscal year 1951.

*March 3, 1950:* Headquarters of the Special Army-Police Joint Search Organ in South Korea announces arrest of 196-man "destruction party" led by Ch'oe Yung Ch'oo. The party allegedly was taking orders from the North Korean Vice Minister of Internal Security in order to stage a revolt in March.

*March 4, 1950:* The Secretary-General of the UN announces that, in compliance with a request from the UN Commission on Korea, eight observers are being sent to Korea to observe clashes along the 38th parallel.

*March 15, 1950:* Korean program submitted by Department of Defense to Department of State.

*March 20, 1950:* KMAG agreement ratified by Korean legislature.

*March 29, 1950:* Korean military aid program approved by State Department.

*March 30, 1950:* The South Korea Assembly ratifies the Korea Military Advisory Group and military defense-assistance program agreement by a vote of 90 to 1.

*March 31, 1950:* The United States House of Representatives passes H. R. 7797, authorizing the appropriation of \$100,000,000 for aid to the Republic of Korea during fiscal year 1951.

*April 3, 1950:* Korean Ambassador in Washington (John M. Chang) is handed United States aide-mémoire regarding financial situation in Korea and ECA assistance.

*April 4, 1950:* United States Ambassador to Korea (John J. Muccio) hands United States aide-mémoire to President Rhee. Ambassador Muccio is subsequently recalled for consultation regarding financial situation in Korea.

*April 11, 1950:* South Koreans request armament and ammunition for PC boats (sec. 408 (e) MDA Act).

*April 19, 1950:* The Office of Public Information of the Republic of Korea announces that a general election for members of the National Assembly is to be held on May 30.

*April 20, 1950:* Air Force directed to supply machine guns, spare parts, and ammunition to South Korea under section 408 (e) of the MDA Act on patrol craft sailing from west coast in May 1950.

*April 24, 1950:* The Foreign Minister of the Republic of Korea invites the United Nations Commission on Korea to observe general elections in the Republic. Allocation made by Department of State to Defense Department of funds to carry out supply action by Air Force.

*April 28, 1950:* Fulbright agreement between United States and Korea (ROK) is signed.

*May 5, 1950:* Senate passed S. 3304, authorizing the

appropriation of 100 million dollars for economic assistance to the Republic of Korea.

*May 15, 1950:* State Department authorizes additional Army and Coast Guard military assistance to South Korea.

*May 18, 1950:* House and Senate conferees agreed on H. R. 7797.

*May 23, 1950:* H. R. 7797 as reported by conference passed by House. Allocation by State Department to Defense Department of funds to carry out supply action.

*May 25, 1950:* H. R. 7797 as reported by conference passed by Senate. Joint Chiefs of Staff directed to program the additional Army and Coast Guard items authorized May 15, 1950.

*May 30, 1950:* National Assembly elections are held in the Republic of Korea. About 90 percent of the electorate votes, and the established political parties, including both the supporters of and the opposition to President Rhee, retain only a small percentage of their Assembly membership; over 65 percent of the seats go to independents.

*June 5, 1950:* President approves Foreign Economic Assistance Act of 1950 (Public Law 535), including authorization of \$100,000,000 economic aid to Korea.

*June 7, 1950:* The North Korea regime proposes a general all-Korea election on August 5, a meeting of a Supreme Korean Assembly on August 15, and the holding of a preliminary Joint North-South Conference near the 38th parallel. The proposal specifically forbids the participation of members of the UN Commission on Korea, President Rhee, Lee Bum Suk, and other co-called national traitors.

*June 19, 1950:* The new National Assembly of the Republic of Korea convenes for its first meeting. The final turn-over in Assembly membership is approximately 85 percent.

*June 20, 1950:* North Korea makes a second unification proposal, varying only slightly from original offer. This second proposal emanates from the North Korean Government directly rather than from the Democratic Front, the political instrument for unification propaganda.

*June 25, 1950:* The North Korea People's Army and border constabulary forces invade South Korea and launch amphibious landings, supported by air attacks on Seoul and other strategic locations. General MacArthur directed to send available MDAP equipment from stocks of the Far Eastern Command.

*June 25, 1950:* The United States sponsors resolution before UN Security Council that armed attack on Republic of Korea by forces from North Korea constitutes breach of the peace and calling for immediate cessation of hostilities. Resolution passes 9 to 0.

*June 27, 1950:* Statement by President of United States announcing he has ordered air and sea forces to give troops of Republic of Korea cover and support.

General MacArthur begins implementation of the President's order.

UN Security Council resolution adopted, calling upon members of UN to furnish such assistance to the Republic of Korea as may be necessary to repel armed attack. Adopted 7 to 1 (later changed to 8 to 1, when India on June 29 voted in favor).

*June 30, 1950:* Statement by President of United States that he has authorized General MacArthur to use certain supporting ground units, authorizing USAF to conduct missions on specific targets in northern Korea wherever militarily necessary, and ordering naval blockade of entire Korean coast.

As of this date, the following countries have announced they would assist in enforcing the UN Security Council's resolutions: The United Kingdom, Australia, New Zealand, China, and the Netherlands.

Some Presidential Authorities Available Under A Declaration of War

A declaration of war would satisfy the War Powers Resolution, trigger the Trading with the Enemy Act, permitting the seizure of enemy assets, permit the call-up of all reserves for the duration of the conflict plus 6 months, and suspend certain ceilings on the number of officers and enlisted personnel on active duty. In addition, the following authorities are among those that would be available to the President:

- Would grant wide authority to "recapture" real estate formerly part of military installations
- Would grant wide authority to direct that manufacturing plants meet military needs before other needs
- Would authorize arming of civilian ships and aircraft (war or determination by the President that the security of the United States is threatened)
- Would authorize the President to take control of any transportation system for purposes related to the emergency
- Would permit immediate condemnation of private property for certain identified war purposes
- Would permit suspension of laws governing retention and reappointment of CJCS, commissioned officers, reserve units, enlistments
- Would grant wide authority on control of travel by aliens (war or national emergency declared by the President) and the apprehension, restraint, or removal of enemy aliens
- Would grant wide authority to authorize military construction
- Would permit suspension of maximum rental or leases of building (war or national emergency declared by the President or by Congress)
- Would permit sale of war materiel to foreign governments on our side in war
- Would give government the right of first refusal on all natural resources
- Would permit suspension of leases on continental outer shelf (war or national emergency declared by the President or by Congress)
- Would grant wide authority with respect to communications (may suspend or amend regulations, close facilities or stations, authorize use by any department of any facility)

-- Would permit contracting for war materiel and enforcement of contracts through plant seizures

-- Would authorize contracts for war materiel, changing contracts, seizing plants, ships, and war material

-- Would suspend restrictions on CBW (war or national emergency declared by the President or by Congress)

-- Would authorize licensing use of enemy patents, trademarks, and processes

Bases: The President may suspend the normal procedures for closing military installation if he certifies to Congress that closure is necessary for reasons of national security or military emergency. (Note: This provision probably does not waive applicable provisions of the National Environmental Policy Act (NEPA).)

F3I - Congress } War

National Security Council  
The White House

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Bill Sittmann	<u>2</u>	<u>[Signature]</u>	<u>A</u>
Bob Gates	<u>3</u>	<u>[Signature]</u>	
Brent Scowcroft	<u>4</u>	<u>[Signature]</u>	
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A = Action    I = Information    D = Dispatch    R = Retain    N = No further Action

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FROM: RADEMAKER  
ROSTOW

DOC DATE: 11 DEC 90  
SOURCE REF:

KEYWORDS: IRAQ  
LEGAL ISSUES

KUWAIT  
CONGRESSIONAL

PERSONS:

SUBJECT: INVOLVING CONGRESS IN OUR PERSIAN GULF POLICY / DECLARING WAR  
AGAINST IRAQ & ALTERNATIVES

ACTION: NOTED BY SCOWCROFT W/ COMMENT DUE DATE: 14 DEC 90 STATUS: C

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