they confront him. Defying neat summarization, the considerations nevertheless merit at least an historical survey and an attempted categorization of the arguments.

***The Historic Use of Force Abroad.***—In 1912, the Department of State published a memorandum prepared by its Solicitor which set out to justify the *Right to Protect Citizens in Foreign Countries by Landing Forces*.[164] In addition to the justification, the memorandum summarized 47 instances in which force had been used, in most of them without any congressional authorization. Twice revised and reissued, the memorandum was joined by a 1928 independent study and a 1945 work by a former government official in supporting conclusions that drifted away from the original justification of the use of United States forces abroad to the use of such forces at the discretion of the President and free from control by Congress.[165]

New lists and revised arguments were published to support the actions of President Truman in sending troops to Korea and of Presidents Kennedy and Johnson in sending troops first to Vietnam and then to Indochina generally,[166] and new lists have been pro-

---

[164] J. Clark, *Memorandum by the Solicitor for the Department of State*, in RIGHT TO PROTECT CITIZENS IN FOREIGN COUNTRIES BY LANDING FORCES (1912).

[165] Id. (Washington: 1929; 1934); M. OFFUTT, THE PROTECTION OF CITIZENS ABROAD BY THE ARMED FORCES OF THE UNITED STATES (1928); J. ROGERS, WORLD POLICING AND THE CONSTITUTION (1945). The burden of the last cited volume was to establish that the President was empowered to participate in United Nations peacekeeping actions without having to seek congressional authorization on each occasion; it may be said to be one of the earliest, if not the earliest, propoundings of the doctrine of inherent presidential powers to use troops abroad outside the narrow compass traditionally accorded those powers.

[166] *E.g.*, H. REP. NO. 127, 82d Congress, 1st Sess. (1951), 55–62; Corwin, *Who Has the Power to Make War?* NEW YORK TIMES MAGAZINE (July 31, 1949), 11; *Authority of the President to Repel the Attack in Korea*, 23 DEPT. STATE BULL. 173 (1950); Department of State, Historical Studies Division, *Armed Actions Taken by the United States Without a Declaration of War, 1789–1967* (Res. Proj. No. 806A (Washington: 1967)). That the compilation of such lists was more than a defense against public criticism can be gleaned from a revealing discussion in Secretary of State Acheson's memoirs detailing why the President did not seek congressional sanction for sending troops to Korea. "There has never, I believe, been any serious doubt—in the sense of non-politically inspired doubt—of the President's constitutional authority to do what he did. The basis for this conclusion in legal theory and historical precedent was fully set out in the State Department's memorandum of July 3, 1950, extensively published. But the wisdom of the decision not to ask for congressional approval has been doubted. . . ."

After discussing several reasons establishing the wisdom of the decision, the Secretary continued: "The President agreed, moved also, I think, by another passionately held conviction. His great office was to him a sacred and temporary trust, which he was determined to pass on unimpaired by the slightest loss of power or prestige. This attitude would incline him strongly against any attempt to divert criticism from himself by action that might establish a precedent in derogation of presidential power