

Sec. 2—Powers, Duties of the President

Cl. 1—Commander-In-Chiefship

at his discretion.¹⁶⁹ Thus, Secretary of State Acheson told Congress: “Not only has the President the authority to use the armed forces in carrying out the broad foreign policy of the United States implementing treaties, but it is equally clear that this authority may not be interfered with by the Congress in the exercise of powers which it has under the Constitution.”¹⁷⁰

The Theory of Presidential Power.—The fullest expression of the presidential power proponents has been in defense of the course followed in Indochina. Thus, the Legal Adviser of the State Department, in a widely circulated document, contended: “Under the Constitution, the President, in addition to being Chief Executive, is Commander in Chief of the Army and Navy. He holds the prime responsibility for the conduct of United States foreign relations. These duties carry very broad powers, including the power to deploy American forces abroad and commit them to military operations when the President deems such action necessary to maintain the security and defense of the United States. . . .”

“In 1787 the world was a far larger place, and the framers probably had in mind attacks upon the United States. In the 20th century, the world has grown much smaller. An attack on a country far from our shores can impinge directly on the nation’s security. In the SEATO treaty, for example, it is formally declared that an armed attack against Viet Nam would endanger the peace and security of the United States.”

“Under our Constitution it is the President who must decide when an armed attack has occurred. He has also the constitutional responsibility for determining what measures of defense are required when the peace and safety of the United States are endangered. If he considers that deployment of U.S. forces to South Viet Nam is required, and that military measures against the source of Commu-

¹⁶⁹ For some popular defenses of presidential power during the “Great Debate,” see Corwin, *Who Has the Power to Make War?* NEW YORK TIMES MAGAZINE (July 31, 1949), 11; Commager, *Presidential Power: The Issue Analyzed*, NEW YORK TIMES MAGAZINE (January 14, 1951), 11. Cf. Douglas, *The Constitutional and Legal Basis for the President’s Action in Using Armed Forces to Repel the Invasion of South Korea*, 96 CONG. REC. 9647 (1950). President Truman and Secretary Acheson utilized the argument from the U.N. Charter in defending the United States actions in Korea, and the Charter defense has been made much of since. See, e.g., Stromseth, *Rethinking War Powers: Congress, the President, and the United Nations*, 81 GEO. L. J. 597 (1993).

¹⁷⁰ *Assignment of Ground Forces of the United States to Duty in the European Area: Hearings Before the Senate Foreign Relations and Armed Services Committees*, 82d Congress, 1st Sess. (1951), 92.