

Sec. 2—Powers, Duties of the President Cl. 2—Treaties and Appointment of Officers

treaty-making power, not formally but in effect, as a determinative element in the field of foreign policy. The President's first important utilization of the executive agreement device took the form of an exchange of notes on November 16, 1933, with Maxim M. Litvinov, the USSR Commissar for Foreign Affairs, whereby American recognition was extended to the Soviet Union and certain pledges made by each official.⁴⁶⁰

The Hull-Lothian Agreement.—With the fall of France in June, 1940, President Roosevelt entered into two executive agreements the total effect of which was to transform the role of the United States from one of strict neutrality toward the European war to one of semi-belligerency. The first agreement was with Canada and provided for the creation of a Permanent Joint Board on Defense which would “consider in the broad sense the defense of the north half of the Western Hemisphere.”⁴⁶¹ Second, and more important than the first, was the Hull-Lothian Agreement of September 2, 1940, under which, in return for the lease for ninety-nine years of certain sites for naval bases in the British West Atlantic, the United States handed over to the British Government fifty over-age destroyers which had been reconditioned and recommissioned.⁴⁶² And on April 9, 1941, the State Department, in consideration of the just-completed German occupation of Denmark, entered into an executive agreement with the Danish minister in Washington, whereby the United States acquired the right to occupy Greenland for purposes of defense.⁴⁶³

The Post-War Years.—Post-war diplomacy of the United States was greatly influenced by the executive agreements entered into at Cairo, Teheran, Yalta, and Potsdam.⁴⁶⁴ For a period, the formal treaty—the signing of the United Nations Charter and the entry into the multinational defense pacts, like NATO, SEATO, CENTRO, and the like—re-established itself, but soon the executive agreement, as an adjunct of treaty arrangement or solely through presidential initiative, again became the principal instrument of United States foreign policy, so that it became apparent in the 1960s that the Nation was committed in one way or another to assisting over

⁴⁶⁰ Id. at 140–44.

⁴⁶¹ Id. at 391.

⁴⁶² Id. at 391–93. Attorney General Jackson's defense of the presidential power to enter into the arrangement placed great reliance on the President's “inherent” powers under the Commander-in-Chief clause and as sole organ of foreign relations but ultimately found adequate statutory authority to take the steps deemed desirable. 39 Ops. Atty. Gen. 484 (1940).

⁴⁶³ 4 Dept. State Bull. 443 (1941).

⁴⁶⁴ See *A Decade of American Foreign Policy, Basic Documents 1941–1949*, S. Doc. No. 123, 81st Congress, 1st Sess. (1950), pt. 1.