

Sec. 3—Legislative, Diplomatic, and Law Enforcement Duties of the President

erty, cannot be anticipated and provided for; and the protection, to be effectual or of any avail, may, not unfrequently, require the most prompt and decided action. Under our system of Government, the citizen abroad is as much entitled to protection as the citizen at home. The great object and duty of Government is the protection of the lives, liberty, and property of the people composing it, whether abroad or at home; and any Government failing in the accomplishment of the object, or the performance of the duty, is not worth preserving.”⁷⁵⁷

This incident and this case were but two items in the 19th century advance of the concept that the President had the duty and the responsibility to protect American lives and property abroad through the use of armed forces if deemed necessary.⁷⁵⁸ The duty could be said to grow out of the inherent powers of the Chief Executive⁷⁵⁹ or perhaps out of his obligation to “take Care that the Laws be faithfully executed.”⁷⁶⁰ Although there were efforts made at times to limit this presidential power narrowly to the protection of persons and property rather than to the promotion of broader national interests,⁷⁶¹ no such distinction was observed in practice and so grew the concepts which have become the source of serious national controversy in the 1960s and 1970s, the power of the President to use troops abroad to observe national commitments and protect the national interest without seeking prior approval from Congress.

Congress and the President versus Foreign Expropriation

Congress has asserted itself in one area of protection of United States property abroad, making provision against uncompensated expropriation of property belonging to United States citizens and corporations. The problem of expropriation of foreign property and the compensation to be paid therefor remains an unsettled area of international law, of increasing importance because of the changes and unsettled conditions following World War II.⁷⁶² It has been the position of the Executive Branch that just compensation is owed all United States property owners dispossessed in foreign countries and the many pre-World War II disputes were carried on between the President and the Department of State and the nation in-

⁷⁵⁷ 8 Fed. Cas. at 112.

⁷⁵⁸ See UNITED STATES SOLICITOR OF THE DEPARTMENT OF STATE, RIGHT TO PROTECT CITIZENS IN FOREIGN COUNTRIES BY LANDING FORCES (3d rev. ed. 1934); M. OFFUTT, THE PROTECTION OF CITIZENS ABROAD BY THE ARMED FORCES OF THE UNITED STATES (1928).

⁷⁵⁹ *Durand v. Hollins*, 8 Fed. Cas. 111 (No. 4186) (C.C.S.D.N.Y. 1860).

⁷⁶⁰ M. Offutt, *supra* at 5.

⁷⁶¹ E. Corwin, *supra* at 198–201.

⁷⁶² Cf. Metzger, *Property in International Law*, 50 VA. L. REV. 594 (1964); Vaughn, *Finding the Law of Expropriation: Traditional v. Quantitative Research*, 2 TEXAS INTL. L. FORUM 189 (1966).