

(b) *The Korean Questions*<sup>55</sup>

Note

Korea became part of Japan in 1910. In 1943, the Allied Powers agreed that it would become an independent state when the Second World War ended. In 1945, Japanese troops in Korea surrendered to the U.S.S.R. north of the 38th Parallel and to the United States south of it. As agreed at the Moscow Conference of December 1945, a Joint Commission composed of U.S.S.R. and U.S. representatives was then established to assist in the formation of a provisional Korean Government and, ultimately, of a Korean state. The Joint Commission soon found itself at loggerheads, and in September 1947, the question of Korea was submitted to the General Assembly by the United States. The U.S.S.R. denied the United Nations' competence to act on the ground that arrangements for Korea's future had been set in train by other means. Despite this, the General Assembly discussed the question and resolved that elections for a Korean national assembly should be held under supervision of the United Nations Temporary Commission on Korea which was established for this purpose. The Commission was not allowed into North Korea (i.e. north of the 38th Parallel) but it supervised and approved elections held in the South. A South Korean Government was established and, on December 12, 1948, approved by the General Assembly.

On June 25, 1950, North Korean armed forces crossed the 38th Parallel into South Korea and fighting broke out. The resulting crisis was immediately debated by the Security Council which adopted the following series of resolutions.

## SECURITY COUNCIL RESOLUTION OF JUNE 25, 1950

S.C.O.R., 5th Year, *Resolution and Decisions*, pp. 4-5

The Security Council,

Recalling the finding of the General Assembly in its resolution of 21st October 1949 that the Government of the Republic of Korea is a lawfully established government having effective control and jurisdiction over that part of Korea where the United Nations Temporary Commission on Korea was able to observe and consult and in which the great majority of the people of Korea reside; and that this Government is based on elections which were a valid expression of the free will of the electorate of that part of Korea and which were expressed by the Temporary Commission; and that this is the only such Government in Korea;

Mindful of the concern expressed by the General Assembly in its resolutions of 12 December 1948 and 21 October 1949 of the consequences which might follow unless Member States refrained from acts derogatory to the results sought to be achieved by the United Nations in bringing about the complete independence and unity of Korea; and the concern expressed that the situation described by the United Nations Commission on Korea in its report menaces the safety and well-being of the Republic of Korea and of the people of Korea and might lead to open military conflict there;

Noting with grave concern the armed attack upon the Republic of Korea by forces from North Korea,

Determines that this action constitutes a breach of the peace,

<sup>55</sup> See Bowett, *United Nations Forces* (1964); Chap. 3; Keisen, *Recent Trends in the Law of the United Nations* (1950), a supplement to the same author's *The Law of the United Nations*, Chap. 2; Kunz, 45 A.J.I.L. 137 (1951); Stone, *op. cit.* at p. 638, n. 1, above, pp. 228-237.

I. Calls for the immediate cessation of hostilities; and calls upon the authorities of North Korea to withdraw forthwith their armed forces to the 38th parallel;

III. Calls upon all Members to render every assistance to the United Nations in the execution of this resolution and to refrain from giving assistance to the North Korean authorities.<sup>66</sup>

## SECURITY COUNCIL RESOLUTION OF JUNE 27, 1950

S.C.O.R., 5th Year, *Resolutions and Decisions*, p. 5

The Security Council . . . .

Having noted from the report of the United Nations Commission for Korea that the authorities in North Korea have neither ceased hostilities nor withdrawn their armed forces to the 38th parallel, and that urgent military measures are required to restore international peace and security; and

Having noted the appeal from the Republic of Korea to the United Nations for immediate and effective steps to secure peace and security,

Recommends that the 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.<sup>67</sup>

## SECURITY COUNCIL RESOLUTION OF JULY 7, 1950

S.C.O.R., 5th Year, *Resolutions and Decisions*, p. 5

The Security Council, . . . .

1. Welcomes the prompt and vigorous support which governments and peoples of the United Nations have given to its Resolutions of 25 and 27 June 1950 to assist the Republic of Korea in defending itself against armed attack and thus to restore international peace and security in the area;

2. Notes that Members of the United Nations have transmitted to the United Nations offers of assistance for the Republic of Korea;

3. Recommends that all Members providing military forces and other assistance pursuant to the aforesaid Security Council resolutions make such forces and other assistance available to a unified command under the United States;

4. Requests the United States to designate the commander of such forces;

5. Authorizes the unified command at its discretion to use the United Nations flag in the course of operations against North Korean forces concurrently with flags of the various nations participating;

6. Requests the United States to provide the Security Council with reports as appropriate on the course of action taken under the unified command.<sup>68</sup>

<sup>66</sup> Adopted by 9 votes (China, Cuba, Ecuador, Egypt, France, India, Norway, U.K., U.S.A.) to 0 with 1 abstention (Yugoslavia). The U.S.S.R. was absent.

<sup>67</sup> Adopted by 7 votes (China, Cuba, Ecuador, France, Norway, U.K., U.S.A.) to 1 (Yugoslavia), with 2 members abstaining (Egypt, India). The U.S.S.R. was absent. India later accepted the resolution.

<sup>68</sup> Adopted by 7 votes (China, Cuba, Ecuador, France, Norway, U.K., U.S.A.) to 0 with 3 abstentions (Egypt, India, Yugoslavia). The U.S.S.R. was absent.