

Lore of the Corps

The Cease-Fire on the Korean Peninsula: The Story of the Judge Advocate Who Drafted the Armistice Agreement that Ended the Korean War

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Sixty years ago this year, on 27 July 1953, an armistice agreement ended the fighting between United Nations (UN) forces and Chinese and North Korean armies on the Korean peninsula. This armistice, or cease-fire agreement, had been drafted the year before by forty-four-year old Lieutenant Colonel (LTC) Howard S. Levie, a career judge advocate (JA) assigned to the UN Command Armistice Delegation. What follows is the story of how, while “dozens of voices . . . harangued more than nine months in trying to reach an armistice in Korea,” the pact itself was “written mostly by one man.”¹

The Korean War started on 25 June 1950 when about 10,000 North Korean People’s Army (NPKA) soldiers, supported by artillery, aircraft and tanks, crossed the 38th parallel into the Republic of Korea (ROK). While the ROK army was about the same size as the NPKA, its soldiers lacked combat experience. As a result, ROK resistance collapsed quickly and Seoul, the ROK capital, fell to the Communists on the third day of fighting.²

Under a UN Security Council Resolution, however, American air, naval and ground units joined the battle.³ After General Douglas MacArthur’s brilliant amphibious landings at Inchon, UN forces (now including Australian, British, Dutch, Turkish and many other UN member states) drove into North Korea, capturing the North Korean capital, Pyongyang, in October. By the end of 1950, however, Chinese Red Army troops had entered the war and, joining forces with the NPKA, drove the UN forces out of North Korea; the enemy re-captured Seoul. The Eighth U.S. Army, first commanded by Lieutenant General Matthew B. Ridgway and then by Lieutenant General James Van Fleet, pushed back against the Communists. Badly hurt by losses in both men and materiel, the Chinese and North Koreans suggested peace talks on 23 June 1951, and the UN accepted.⁴

In July 1951, then LTC Levie was serving in General MacArthur’s Far East Command in Tokyo. A Cornell law school graduate who had transferred from the Coast Artillery Corps to The Judge Advocate General’s Department in 1946, Levie had been the Chief, War Crimes Division, since September 1950. In this position, he supervised the review of records of trial in which a death sentence had been adjudged against a Japanese accused. One day, while reviewing a trial record, LTC Levie was informed that he was to report the following day to the UN Command Armistice Delegation, and that he would serve as a “Monitor” on the Delegation Working Group. His superiors—involved in the actual negotiations—included four Americans: Vice Admiral C. Turner Joy; Major General Henry I. Hodes; Rear Admiral Arleigh A. Burke; Major General Laurence C. Craigie; and one ROK officer, Major General Paik Sun Yup.⁵

Negotiations opened on 10 July 1951 in Panmunjom and when Levie arrived there, he learned that while the Communist and UN delegations would approve the principles to be contained in the truce agreement, it was going to be his job—as the only lawyer—to draft proposed provisions for the implementation of those principles. The result was that, over a nine-month period, while dozens of individuals argued about the principles to be contained in the cease-fire, Levie drafted the actual language for those provisions suggested by the UN Command.

After LTC Levie drafted each specific provision, he would “have an in-house review and discussion by the delegation and staff.”⁶ After any changes or modifications were agreed upon, the proposed Armistice provisions were “sent to Washington [D.C.] for approval.”⁷ After approval, the provisions were translated into Chinese and Korean. As Levie remembered,

in the beginning, it was thought that each side would draft the specific provisions; rarely did we receive a draft proposal from

¹ *Dozens Argue at Panmunjom, But One Man is Writing Pact*, EVENING STAR (Wash., D.C.), Apr. 14, 1952, at A7.

² CENTER OF MILITARY HISTORY, U.S. ARMY, KOREA—1950, at 9–10, 14 (1997).

³ S.C. Res. 82, U.N. SCOR, U.N. Doc. S/RES/82 (June 25, 1950). The resolution passed because the Soviet Union’s representative was boycotting that organization; had he been present, he could have vetoed the resolution.

⁴ JOHN MILLER, JR., OWEN J. CARROLL & MARGARET E. TACKLEY, KOREA 1951–1953, at 3–10, 115–17 (1997).

⁵ *Id.* at 115, 160.

⁶ Written Questions for Colonel Levie (n.d.) (*The Army News Service* provided a list of questions for Colonel Howard S. Levie to answer in order to publish a story about him in *The Army News Service* in December 2008.) (on file with Regimental Historian).

⁷ *Id.*

the Communists. We quickly learned that no matter how perfect the translation of a proposal would be, the Communists would never accept it without demanding some change or changes; changes that were frequently completely meaningless. We then adopted the practice of deliberately inserting a few more or less obvious errors. The Communists would insist on correcting those errors and would otherwise accept the document.⁸

This drafting job was without precedent, as no JA had previously been tasked with authoring a truce agreement. Lieutenant Colonel Levie, however, was familiar with the 1936 cease-fire agreement between Bolivia and Paraguay, and he borrowed paragraphs from this agreement for the Korean armistice.⁹ He also looked at “other armistice agreements of modern times on the paragraphs dealing with a demilitarized zone.”¹⁰

By April 1952, LTC Levie’s armistice agreement had “been overhauled seven times” and was “26 legal size typewritten pages containing 63 paragraphs, many with subparagraphs.”¹¹ Provisions in the document covered a variety of purely military topics, including the creation of a military demarcation line and demilitarized zone, the establishment of a military armistice commission, and specific details governing the implementation of the cease fire. When negotiations stalled over the issue of repatriating prisoners of war (POWs),¹² the original members of the delegation and staff departed Panmunjom in May 1952.

Lieutenant Colonel Levie left the following month but his precise, clear, grammatically correct agreement remained in place. Consequently, when negotiations resumed the following year—with an agreement on POW exchanges—what both sides signed on 27 July 1953 essentially was what Levie had written.¹³ It was a remarkable achievement by any measure. At the time, no one realized that this truce document would be so important, since there was every reason to believe that the parties subsequently would sign a formal peace treaty ending the Korean War. But this has never occurred and, as a result, Levie’s agreement—which required both sides to withdraw two kilometers from the truce line to establish a Demilitarized Zone—is what maintains a sometimes uneasy peace today.¹⁴

As for LTC Levie? After leaving Korea in July 1952, he returned to Japan until the following year when he departed for the United States. After briefly serving as the Staff Judge Advocate (SJA), Fort Leavenworth, Kansas, LTC Levie was transferred to the Pentagon, where he served as the first chief of the newly created International Affairs Division (IAD) in the Office of The Judge Advocate General. Promoted to colonel shortly after becoming the head of IAD, Levie remained in the Pentagon until 1958, when he was transferred to Europe. He served first as the SJA, Southern European Task Force, and subsequently as the Legal Advisor, U.S. European Command. After retiring in 1963, COL Levie began a second—and extraordinarily successful—career as professor of international law at St. Louis University and at the Naval War College.¹⁵

⁸ *Id.*

⁹ From 1932 to 1935, Bolivia and Paraguay fought a territorial war over the Gran Chaco region, an area over which both countries claimed ownership. At least 90,000 to 100,000 men died, and total casualties may have exceeded 250,000. For more on the Chaco War, which ended with a truce in January 1936, see A. DE QUESADA, *THE CHACO WAR 1932–1935: SOUTH AMERICA’S GREATEST CONFLICT* (2011).

¹⁰ *Supra* note 1.

¹¹ *Id.*

¹² The UN Command insisted on “voluntary repatriation”—insisting that every POW had the right to make a personal, voluntary decision to return to the country in whose armed forces he had been serving at the time of his capture. The Communists, however, were adamant that all Chinese and North Korean POWs must be returned to their control, regardless of their personal desires. Howard S. Levie, *How It All Started—And How It Ended: A Legal Study of the Korean War*, 35 *AKRON L. REV.* 205, 223 (2002).

¹³ The 27 July 1953 Armistice Agreement was signed by Lieutenant General William K. Harrison, Jr., Senior Delegate, UN Command Delegation and General Nam Il, Senior Delegate, Korean People’s Army and Chinese People’s Volunteers. For the full text of the Korean War Armistice Agreement, see <http://news.findlaw.com/cnn/docs/korea/kwarmagr072753.html> (last visited Aug. 15, 2013).

¹⁴ In the late 1990s, there were attempts to convene a conference in Geneva in order to negotiate a final peace treaty but nothing was achieved. Levie, *supra* note 10, at 225. In fact, starting in 1996, North Korea has announced its withdrawal from the Armistice Agreement on at least six occasions. *Chronology of Major North Korean Statements on the Korean War Armistice*, YONHAP NEWS, May 28, 2009, available at <http://english.yonhapnews.co.kr/northkorea/2009/05/28/46/0401000000AEN20090528004200315F.HTML>.

¹⁵ Richard J. Grunawalt, *Professor Howard Levie and the Law of War*, in MICHAEL N. SCHMITT & LESLIE C. GREEN (EDS.), *LEVIE ON THE LAW OF WAR*, at xv (1998), available at <https://www.usnwc.edu/getattachment/f70ec02c-8f8e-4f54-aa15-3c71030c6231/Professor-Howard-Levie-and-the-Law-of-War.aspx>.

Howard Levie's many writings on the Law of Armed Conflict—he wrote seven books and more than fifty articles and edited thirteen volumes—continue to be used by international legal scholars. The Corps recognized his many contributions when it made him a Distinguished Member of

the Regiment in 1995. But COL Levie has yet another unique place in our history: he is the first and only member of the Corps to reach the 'century' mark, and he later celebrated his 101st birthday on 19 December 2008. Levie died at his home in Rhode Island the following year.¹⁶

More historical information can be found at

The Judge Advocate General's Corps
Regimental History Website

Dedicated to the brave men and women who have served our Corps with honor, dedication, and distinction.

<https://www.jagcnet.army.mil/History>

¹⁶ Elizabeth M. Collins, *Armistice Author Turns 101*, ARMY NEWS SERV., Dec. 29, 2008.