

1339

44
.F 76/2
V 67/11

2014
F96/2
V67/11
42

SUBMISSION OF THE VIETNAM CONFLICT TO THE UNITED NATIONS

GOVERNMENT

Storage

HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS

UNITED STATES SENATE

NINETIETH CONGRESS

FIRST SESSION

ON

S. Con. Res. 44

PROVIDING THAT IT IS THE SENSE OF THE CONGRESS THAT THE PRESIDENT SHOULD SUBMIT A RESOLUTION TO THE UNITED NATIONS FOR FINAL AND BINDING IMPROVEMENT OF PEACE IN SOUTHEAST ASIA IN ACCORDANCE WITH THE APPROPRIATE ARTICLE OF THE UNITED NATIONS CHARTER

S. Res. 180

A SENSE OF THE SENATE RESOLUTION SEEKING UNITED STATES INITIATIVE TO ASSURE UNITED NATIONS SECURITY COUNCIL CONSISTENCY OF VIETNAM CONFLICT

KANSAS STATE UNIVERSITY LIBRARIES

OCTOBER 26, 27, AND NOVEMBER 2, 1967



Printed for the use of the Committee on Foreign Relations

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1967

85-837

KSU LIBRARIES



581526 925185 ✓
A11900 0061TA

Box 20
11/20/54
47

11/20/54
47

SUBMISSION OF THE VIETNAM CONFLICT
TO THE UNITED NATIONS

HEARINGS

COMMITTEE ON FOREIGN RELATIONS

COMMITTEE ON FOREIGN RELATIONS

J. W. FULBRIGHT, Arkansas, *Chairman*

JOHN SPARKMAN, Alabama
MIKE MANSFIELD, Montana
WAYNE MORSE, Oregon
ALBERT GORE, Tennessee
FRANK J. LAUSCHE, Ohio
FRANK CHURCH, Idaho
STUART SYMINGTON, Missouri
THOMAS J. DODD, Connecticut
JOSEPH S. CLARK, Pennsylvania
CLAIBORNE PELL, Rhode Island
EUGENE J. McCARTHY, Minnesota

BOURKE B. HICKENLOOPER, Iowa
GEORGE D. AIKEN, Vermont
FRANK CARLSON, Kansas
JOHN J. WILLIAMS, Delaware
KARL E. MUNDT, South Dakota
CLIFFORD P. CASE, New Jersey
JOHN SHERMAN COOPER, Kentucky

CARL MARCY, *Chief of Staff*
ARTHUR M. KUHLMAN, *Chief Clerk*

U.S. GOVERNMENT PRINTING OFFICE
1954 O - 200,000

CONTENTS

Statements by—	Page
Atwater, Elton, professor of political science, Pennsylvania State University.....	102
Bingham, Hon. Jonathan B., U.S. Congressman from New York....	38
Cohen, Benjamin V., Washington, D.C.....	3
Goldberg, Hon. Arthur J., U.S. Representative to the United Nations.....	149
Gross, Ernest A., partner, Curtis, Mallet-Prevost, Colt & Mosle, New York, N.Y.....	70
Potter, Neal, acting president, United World Federalists.....	145
Wright, Quincy, professor emeritus of international law, University of Chicago and the University of Virginia.....	112
Yost, Charles W., New York, N.Y.....	46
Insertions for the record:	
Text of Senate Concurrent Resolution 44.....	1
Text of Senate Resolution 180.....	2
Biographic sketch of Benjamin V. Cohen.....	3
Committee staff memorandum on opinion in the United Nations on the Vietnam conflict and United Nations involvement.....	32
Committee staff memorandum on U.S. statements on the need for United Nations involvement in certain international crises.....	35
Letter from Ambassador Goldberg to the president of the Security Council, dated January 31, 1966.....	36
Letter from Ambassador Goldberg to the president of the Security Council, dated January 31, 1966, containing the text of U.S. resolution of 1966.....	37
Statement of Hon. Herbert Tenzer, Member of Congress (N.Y.).....	60
Letter to Senator Morse from Charles W. Yost, October 2, 1967.....	62
Letter to Senator Morse from Philip M. Klutznick, October 2, 1967.....	62
Letters to Senator Morse from Charles Fahy, October 12, 1967 and October 13, 1967.....	63
Letter to Senator Morse from Francis T. P. Plimpton, October 17, 1967.....	64
Letter to Senator Morse from Hon. Sidney R. Yates, U.S. Congressman from Illinois, October 23, 1967.....	65
Letter to Senator Morse from Francis O. Wilcox, October 24, 1967.....	67
Letter to Sen. Morse from Francis E. Willis, November 6, 1967.....	68
Biographic sketch of Ernest A. Gross.....	69
Letter to Senator Fulbright from Arthur S. Flemming, president, National Council of the Churches of Christ, November 2, 1967.....	98
Biographic sketch of Dr. Elton Atwater.....	101
Biographic sketch of Dr. Quincy Wright.....	111
Prepared statement of Dr. Quincy Wright.....	124
"Legal Aspects of the Vietnam Situation," article by Quincy Wright, in the American Journal of International Law, October 1966.....	131
Biographic sketch of Neal Potter.....	145
List of delegates from the Congress of Guatemala (in attendance at meeting October 27).....	147
Letter from the president of the Security Council, Akira Matsui, to the Secretary General, February 26, 1966.....	155
Summary of comments of Hanoi, Peking, and National Liberation Front on U.N. involvement in Vietnam.....	159
Membership of Geneva conferences of 1954 and 1962.....	166
Membership of U.N. Security Council, 1967.....	167
Letter from Ambassador Goldberg to the Secretary General, January 4, 1966.....	168
Correspondence between Department of State and Senator Fulbright, May 9, 18, 25, and June 9, 1967.....	191
Letter to Senator Fulbright from Hon. William B. Macomber, Jr., Assistant Secretary of State, November 10, 1967.....	198
Summary Index.....	203

CONTENTS

Page	Title
1	Introduction
15	Chapter I. The History of the United States
35	Chapter II. The Constitution of the United States
55	Chapter III. The Executive Department
75	Chapter IV. The Legislative Department
95	Chapter V. The Judicial Department
115	Chapter VI. The States and Territories
135	Chapter VII. The Federal Government
155	Chapter VIII. The National Government
175	Chapter IX. The State Government
195	Chapter X. The Local Government
215	Chapter XI. The Municipal Government
235	Chapter XII. The County Government
255	Chapter XIII. The City Government
275	Chapter XIV. The Town Government
295	Chapter XV. The Village Government
315	Chapter XVI. The Hamlet Government
335	Chapter XVII. The Township Government
355	Chapter XVIII. The Precinct Government
375	Chapter XIX. The Ward Government
395	Chapter XX. The Block Government
415	Chapter XXI. The Street Government
435	Chapter XXII. The Alley Government
455	Chapter XXIII. The Lane Government
475	Chapter XXIV. The Court Government
495	Chapter XXV. The Jail Government
515	Chapter XXVI. The Prison Government
535	Chapter XXVII. The Asylum Government
555	Chapter XXVIII. The Hospital Government
575	Chapter XXIX. The School Government
595	Chapter XXX. The Church Government
615	Chapter XXXI. The Synagogue Government
635	Chapter XXXII. The Mosque Government
655	Chapter XXXIII. The Temple Government
675	Chapter XXXIV. The Shrine Government
695	Chapter XXXV. The Sanctuary Government
715	Chapter XXXVI. The Tabernacle Government
735	Chapter XXXVII. The Temple Government
755	Chapter XXXVIII. The Shrine Government
775	Chapter XXXIX. The Sanctuary Government
795	Chapter XL. The Tabernacle Government
815	Chapter XLI. The Temple Government
835	Chapter XLII. The Shrine Government
855	Chapter XLIII. The Sanctuary Government
875	Chapter XLIV. The Tabernacle Government
895	Chapter XLV. The Temple Government

SUBMISSION OF THE VIETNAM CONFLICT TO THE UNITED NATIONS

THURSDAY, OCTOBER 26, 1967

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to recess, at 10:30 a.m., in room 4221, New Senate Office Building, Senator Mike Mansfield presiding.
Present: Senators Mansfield, Morse, Lausche, Clark, Pell, Hickenlooper, Aiken, Case, and Cooper.

Senator MANSFIELD. The meeting will come to order.

The Committee on Foreign Relations is meeting this day to begin a series of hearings on Senate Concurrent Resolution 44, which urges the United States to submit the Vietnam issue to the United Nations. This resolution has been submitted by the distinguished senior Senator from Oregon, Senator Morse, who, to the best of my knowledge, has been urging for at least 2 and possibly 3 years, that the matter of Vietnam be taken to the United Nations, and has been most consistent in that respect.

Yesterday, 54 Senators also introduced a resolution to the same subject.

(S. Con. Res. 44 and S. Res. 180 follow:)

[S. Con. Res. 44, 90th Cong., first sess.]

CONCURRENT RESOLUTION

Whereas the United States is now fighting a major land war in Southeast Asia which threatens to widen into world war III and a nuclear holocaust which could destroy civilization; and

Whereas the primary purpose of the United Nations is to maintain international peace and security and to take collective measures to remove threats to world peace; and

Whereas in ratifying the charter of the United Nations the United States undertook a solemn treaty commitment to settle international disputes by peaceful means; and

Whereas under the charter the Security Council has primary responsibility for the maintenance of peace, which devolves to the General Assembly when the Council is unable to act; and

Whereas the United States has failed to take effective steps to bring about United Nations involvement which would bring an end to the conflict in Southeast Asia: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that:

1. The President should request an emergency meeting of the United Nations Security Council to consider all aspects of the conflict in Vietnam and to act to end the conflict, pledging the United States in advance to accept and carry out any decision on the matter by the Council, in accordance with article 25 of the charter.

2. If the Security Council is unable to act, the United States should take all steps necessary to assure action on the issue by the General Assembly.

3. The United States objectives in the United Nations should be to obtain—
(a) support for an immediate cessation of hostilities by all parties, and

(b) recommendations for appropriate measures, such as the convening of an international conference, for reaching a permanent settlement which will assure a lasting peace for Southeast Asia.

[S. Res. 180, 90th Cong., first sess.]

RESOLUTION

Whereas the question of the Vietnamese conflict is a matter of which the Security Council of the United Nations is seized by action previously taken by the Council in connection with a letter of the Permanent Representative of the United States dated January 31, 1966, submitting a resolution seeking a settlement of the hostilities, and

Whereas more than one hundred members of the United Nations through their Chiefs of State or Foreign Ministers or Permanent Representatives have expressed their deep concern with the continued hostilities and their desire for a peaceful and honorable settlement of the Vietnamese conflict, therefore be it

Resolved, That it is the sense of the Senate that the President of the United States consider taking the appropriate initiative through his representative at the United Nations to assure that the United States resolution of January 31, 1966, or any other resolution of equivalent purpose be brought before the Security Council for consideration.

OPENING STATEMENT

Senator MANSFIELD. The Chair believes that as we begin the discussion of the role the United Nations should or could play in the settlement of the war, we should bear in mind the charter of the U.N. and the solemn undertakings it contains. The charter states that the peoples of the United Nations will strive "to establish conditions under which justice and respect for obligations arising from treaties and other sources of international life can be maintained."

The charter also provides that it is the purpose of the United Nations "to maintain international peace and security."

I suggest that these are not mere words. They involve the most solemn of commitments. Unfortunately, they are all too often forgotten or overlooked. I realize that there are those who contend that the United Nations can have no part in the settlement of the Vietnam war. It is the purpose and intention of Senator Morse's resolution, however, that the United Nations not only can, but must, play a significant role in the resolution of this war. I think it would be well at this point to consider not only the cost to the United Nations if it should attempt to bring the Vietnamese war to a conclusion and fail, but also the consequences for the future of the United Nations if it does not act at all.

Secretary General U Thant has said many times that it is not the charter of the U.N. that has failed the international community; it is the international community that has failed to live up to its responsibilities under the charter.

I suggest that the international community has thus far tragically failed its responsibilities to contribute to an honorable peace in Southeast Asia.

We meet this morning to take a careful look at the U.S. record in bringing this most dangerous of issues before the United Nations. We also look to the question of whether the United Nations can long survive if it does not live up to its responsibilities of maintaining international peace and security.

The first witness today is a man who needs no introduction to this committee. Mr. Cohen, it is a pleasure to have you take the witness chair and to make your presentation as you see fit.

(The biographic sketch of Mr. Cohen follows:)

BIOGRAPHIC SKETCH OF MR. BENJAMIN V. COHEN, OF WASHINGTON, D.C.

Born.—September 23, 1894, Muncie, Indiana.

Education.—University of Chicago, Ph.B. degree, 1914, and a J.D. degree, 1915; Harvard, S.J.D. degree, 1916.

Experience.—1916-17—Secretary to U.S. Circuit Judge; 1917-19—Attorney, U.S. Shipping Board; 1919-21—Counsel, American Zionists, Peace Conferences, London and Paris; 1922-33—Private practice in New York City; 1933-34—Associate General Counsel, Public Works Administration; 1934-41—General Counsel, National Power Policy Commission; 1941—Adviser, American Ambassador to Great Britain; 1942-43—Assistant to Director, Office of Economic Stabilization; 1943-45—General Counsel, Office of War Mobilization; 1945-47—Counselor of the Department of State.

Conferences Attended and Other Activities.—Legal Adviser, International Monetary Conference, Bretton Woods, New Hampshire, 1944; Member, American Delegation, Dumbarton Oaks Conference, 1944; Berlin Conference, 1945; Council of Foreign Ministers, London, 1945, Moscow, 1945 and 1947, Paris, 1946, New York City, 1946; Paris Peace Conference, 1946; Senior Adviser to American Delegation to United Nations General Assembly, London, New York City, 1946; Member of American Delegation to United Nations General Assembly, Paris 1948 and 1951, New York City, 1949, 1950 and 1952; U.S. Representative before International Court of Justice, The Hague, 1950; U.S. Representative on United Nations Disarmament Commission, 1952.

Memberships and Clubs.—Member, Phi Beta Kappa.

Publications.—"The United Nations Constitutional Development Growth and Possibilities," 1961.

STATEMENT OF BENJAMIN V. COHEN, WASHINGTON, D.C.

MR. COHEN. Chairman Mansfield, I appear here on the invitation of Chairman Fulbright and Senator Morse to give the committee my views on Senator Morse's proposed resolution and the role that the United Nations might play in the settlement of the Vietnam conflict.

Since being invited here and since preparing my remarks on the Morse resolution, a very important event occurred yesterday. That was the resolution introduced by Senator Mansfield which bore the sponsorship of 55 Senators, including Democrats, Republicans, Administration supporters, Administration dissenters. I think that resolution commanding the support of varied and opposing groups, all in uniting to find a U.N. solution of the Vietnam situation is one of the most important events that has occurred since the sad beginning of the Vietnam war.

UNITING OF ALL VIEWPOINTS

Throughout the war period, we have had too many splintered opinions, too much going it alone, and too little effort to seek a reconciliation of viewpoints nationally and internationally that could bring an end to the war. While it is not for me to determine the legislative strategy of the committee in dealing with the two resolutions, I myself would like to regard the Mansfield resolution as a prelude and not an alternative to the Morse resolution. I think nothing can be more helpful and conducive to U.N. action than a resolution coming

from Congress, uniting all elements in Congress, calling upon the Administration and the United Nations for action under the charter to end the war in Vietnam.

The resolution is a clarion call for action. It unites elements that have not been united for years, and it opens the possibility of our ceasing to go it alone in Vietnam, and of our sharing our responsibilities there as we should share them with the United Nations in accordance with the terms of the charter.

I hope, therefore, my remarks on Senator Morse's resolution, will not detract from your giving prompt and urgent support to the Mansfield resolution. The Morse resolution may later serve as valuable guidelines in the carrying out of the Mansfield resolution.

PURPOSES OF RESOLUTIONS

It would seem to me, that the Mansfield resolution like the Morse resolution serve two purposes:

In the first place, the resolution may remove doubts and misunderstanding on the part of other members of the United Nations which may account for the failure of the executive council to act on the matter on Vietnam at our request, and the resolutions may therefore enable the United Nations even at this late date to open ways toward a cease-fire, and peaceful negotiation and settlement. In the second place, they may serve to bring home to us our need of working with and through the United Nations and not alone in meeting the great problems in the international field under modern conditions.

DECLINE IN USE OF THE UNITED NATIONS FOR PEACEFUL SETTLEMENTS

Having worked on the charter when it was being drafted, I have been deeply concerned by the perceptible decline in the use of the United Nations for the peaceful settlement or containment of international conflicts. The great powers seem content in many instances to use the United Nations as a diplomatic weapon in the cold war, but not as a means for finding peaceful solutions or accommodations of situations which threaten international peace. It is tragic that so little attention has been given in recent years to building up the peaceful settlement functions of the United Nations, particularly the mediating, conciliatory, factfinding processes of the United Nations. Difficult peaceful settlements cannot be achieved even in the United Nations by exclusive reliance on partisan debate and partisan voting. There has consequently been a growing tendency on the part of member states to take the law into their own hands and use or threaten to use force unilaterally without resort to the United Nations and in disregard of the charter limitations on the use of force.

TAYLOR-ROSTOW REPORT ON VIETNAM

Early in 1962, following the Taylor-Rostow report on Vietnam which first lead to the United States taking a limited but active role in the use of force in Vietnam, I was part of a small delegation from the American Association of the United Nations, consisting of Mrs. Roosevelt, Herman Steinkraus, Arthur Larsen, Norman Cousins, Clark Eichelberger, and myself, which came to the White House to urge the submission of the Vietnam question to the United Nations.

Mr. McGeorge Bundy with whom we spoke on some disarmament problem referred us to the State Department where in the absence of high officials we spoke with some of the desk officers.

We came away quite depressed feeling that the Department had come to the conclusion that the United Nations could not or would not deal effectively with Vietnam, and we could better handle the matter by going it alone.

Mr. COHEN. Despite the glowing words in President Kennedy's inaugural message about extending the writ of the United Nations, our fears that we would not go to the United Nations in the case of Vietnam were confirmed when some weeks later we read the interview of Mr. Rostow, then Counselor of the State Department and Chairman of the Policy Planning Council, an interview with the U.S. News & World Report in early May 1962 in which he could see no part for the United Nations in Vietnam, and seemed unaware of any responsibility under the charter to refrain from the use of force contrary to the purposes and principles of the charter without at least going in advance or soon, if possible, to the United Nations.

Until the President's Baltimore speech in April 1965 our official position seemed to be that no peace talks were necessary. All that was required was that Hanoi leave its neighbor alone, and observe the Geneva agreement.

PRESIDENT'S SPEECH IN SAN FRANCISCO

Before the President's speech in San Francisco in the summer of 1965, suggestions to enlist the aid of the United Nations were frowned upon. State Department officials in briefings suggested it might be a disservice to the United Nations to attempt to involve it in Vietnam. Efforts of U Thant in the fall of 1964 to bring the principals together, were considered unhelpful as were his subsequent efforts to stop the bombing of the north as a possible prelude to talks.

Not until January 1966 was the question of Vietnam placed on the Security Council agenda, at our request. It has not been called up for further discussion or action because apparently informal consultations among the members have not developed a possibility of agreement on a useful course or program.

I recite these facts not to raise controversy, but to cast light on some of the difficulties confronting us in part due to our failure to resort to the United Nations before the war escalated, and positions and passions hardened. We should recognize how greatly the task of the United Nations has been complicated by the failure of its members to invoke its intervention before the fighting escalated from local skirmishes to a major war.

U.S. INITIATIVE FOR A CESSATION OF BOMBING OF NORTH

From the speeches of the delegates at the United Nations, I gathered many, if not the majority, feel that there must be at least a cessation of the bombing of the north without an accompanying threat of renewal as U Thant has suggested if Hanoi is to be brought to the conference table.

I take it that section 1 of the proposed Morse resolution urging that the United Nations agree in advance to accept and carry out any decisions of the Security Council is intended to say to the Council, "If you ask us to stop bombing the north we will comply." If that is intended, the language of the resolution should be broadened to state not only that we will carry out any decision in the matter by the Council, but that we will refrain from casting a negative vote on any proposed decision if the effect of our negative vote would operate as a veto. Article 27 requires a party to a dispute to refrain from voting in decisions under chapter 6, but a decision or order to stop bombing or to cease hostilities would come under chapter 7, articles 39 and 40, and would, therefore, be subject to the veto and in a legalistic sense it would never become a decision if the United States voted "No." That is only a technical matter which might be considered by your committee's draftsmen if it should become necessary.

There may be a feeling on the part of some members of the Council of the United Nations that it is not enough for the United States at this stage to sit back and wait to be ordered to stop bombing the north, but that the United States on its own responsibility should indicate that it now is stopping the bombing of the north in order to assist the United Nations to bring the controversy to the conference table.

As you may be aware in the past, it has been difficult for the United Nations to get Hanoi to come to the conference table because it is not a member of the United Nations, and probably feels, rightly or wrongly, that it will be in a position inferior to the members.

ATTITUDES OF MEMBERS OF UNITED NATIONS

Members who have suggested that the bombing be stopped may hesitate to vote to order the United States to stop bombing if the United States continues to insist that that is an unfair demand. Some states may express disagreement with it, and still because of their various other relationships with the United States, would not be willing to vote to direct us to stop the bombing against our will.

Possibly if the Congress were of the opinion that there should be a stop to the bombing, to get Hanoi to the conference table, it would be helpful if the resolution so stated.

But in light of what I said at the beginning about the unifying effect of the Mansfield resolution, obviously it may not be good strategy to raise some of these points involved in the Morse resolution prematurely. We should strive to make the Mansfield resolution a clarion call on the part of a united Congress for action by the United Nations to stop the war in Vietnam.

But to consider the problems that may later arise if the Congress is not willing to go so far as to suggest at this time that the bombing stop, the resolution might state that if the United States is reliably informed that the bombing of the North must stop as a condition precedent to action by the Security Council or General Assembly, it is the sense of Congress that such condition should be met.

COOPERATION BETWEEN CONGRESS AND THE EXECUTIVE BRANCH

But there are other considerations of equal if not greater importance which bear on the effectiveness of the Morse resolution and also on the effectiveness of the Mansfield resolution; that is, the need of active cooperation on the part of the executive branch if the action urged by the proposed resolutions is to be successfully carried through. Nothing should be more helpful in securing that cooperation than a resolution of the Congress supported by an overwhelming vote of all parties, calling for a United Nations solution.

I not only think such action by the Congress will help us get the ungrudging cooperation of the Administration, but I think it should help us to get renewed and more sympathetic consideration from other members of the United Nations.

It is not, I should make clear, sabotage or anything like that that I would fear from the executive branch, but the lack of sufficient faith in the recommended procedures to enable the executive branch to carry the procedures through to success against what are undoubtedly formidable obstacles that are in the way. For there seems to be some suspicion, however warranted, in the United Nations circles that we carry on peace offensives to lay the basis for further escalation of military activity when they fail. That suspicion must be thoroughly squelched and I don't know anything that would serve to squelch it more thoroughly than a resolution passed by an overwhelming vote of the Congress, calling for United Nations action to bring an end to the war in Vietnam.

ABSENCE OF CLEAR STATEMENT OF U.S. PEACE AIMS

This brings me to the second consideration bearing on the effectiveness of the proposed resolution, the absence of a clear statement of our peace aims, particularly as concerns our willingness to recognize the Vietcong as a belligerent, and their right to a voice in the peace. It makes an enormous difficulty whether we are aiming for a peace based on an agreed accommodation with the Vietcong or a peace based on the suppression of the Vietcong as a political movement.

While it is said that we should not be expected to disclose our peace terms before the bargaining begins, there is reason to doubt whether there is any real agreement within the executive branch itself upon peace terms.

I recall, for example, Senator Lodge, before he resigned his post, in a TV interview, indicated that he did not think a peace conference at this time would be helpful. He thought that the terms we would be obliged to ask from Hanoi would be regarded by Hanoi as humiliating or involving loss of face, and, therefore, he thought it better, with an improved military situation that would convince Hanoi that it could not win, to let the war fade out, as he thought it would.

Some of the news reports from Saigon at the time indicated that that view was not an isolated view in our political and military missions in Vietnam. It is not necessary to define in advance in great detail what our peace terms are, but there should be some indication,

if we want a negotiated peace, that it is a peace that allows for some accommodation with the Vietcong that takes into account existing military and political realities in Vietnam.

In any event, it is doubtful whether we will be able to have any meaningful discussions with Hanoi or the Vietcong in the reasonably near future if our terms involve the suppression of the Vietcong as a political movement. Indeed our ability to activate the Security Council may turn out to depend on a clarification in this respect of our peace aims.

I would, therefore, suggest that the committee include in the statement of the U.S. objectives in section 3 some language which I would hope could be worked out in cooperation with the Administration, to indicate that we are seeking a peace of accommodation with the Vietcong and not a peace that calls upon the Vietcong to surrender.

CEASE-FIRE ARRANGEMENTS

It also will be helpful if section 3(a) of the resolution listing as a U.S. objective in the United Nations support for an immediate cessation of hostilities by all parties could be expanded somewhat. It is highly important that if a cease-fire is obtained it should not break down because of conflicting claims of belligerents of the right to patrol or exercise civilian authority in given areas. For that reason, I would suggest that section 3(a) be broadened to read:

Support for the immediate cessation of hostilities by all parties to be accompanied or followed at the earliest possible date by stand-fast arrangements to be effective during the cessation of hostilities ensuring that the de facto authority of the respective belligerents in areas under their respective control and domination shall not be disturbed and providing for agreed or neutralist control of doubtful or particularly sensitive areas."

Senator Mansfield has on occasion, as I recall, spoken of standfast arrangements in connection with a cease-fire. I should think that some such arrangements were important not only to prevent a breakdown of a cease-fire, but to create conditions favorable to a negotiation of a peaceful settlement among the contending groups and factions in South Vietnam.

Indeed, I think a review of the recent electoral developments in South Vietnam would indicate that the people in South Vietnam want peace, and would favor negotiation with the Vietcong if we and the military were not thought to stand in the way. If we can stop the fighting, I think there is good chance of the parties in the south coming together and making an honorable peace which we can accept and Hanoi perforce will accept. At least I think we should encourage that effort and not stand in the way.

Indeed, it seems to me that the chances perhaps of starting the making of peace in the south may be better than bringing in more countries which introduce different ideas and different viewpoints. But I don't think there is any one royal way to peace. I don't think we should exclude any effort and any plan which in the day-to-day administration of our work opens up prospects of peace.

Even in the absence of a formalized peace, so long as the fighting is stopped and is not resumed, autonomous areas in South Vietnam might develop into a loose confederation along the lines recently suggested by a research paper of the Rippon Society, and an article by Robert Shaplen in the current issue of Foreign Affairs.

POSSIBLE UNILATERAL OFFER FOR ACTION

If our efforts to activate the United Nations do not succeed at first, we might attempt, as a prelude to getting United Nations action, to inaugurate ourselves such a cease-fire as I have suggested. We could, for example, announce after a certain date we would not only cease bombing the north, but also cease bombing and all offensive hostilities in the south, and discontinue all other hostilities except in self-defense. That is not unilateral action, but it is a unilateral offer for action, and sometimes a unilateral offer which can be accepted by acts rather than words facilitates agreement and avoids acrimonious debate.

At the same time we could announce that we hope Hanoi and the Vietcong would similarly cease all offensive hostilities in the south and discontinue all other hostilities except in self-defense. This is an offer of a cease-fire and would become effective by action of both sides. We could also request a meeting with Hanoi and the Vietcong within 10 days after the cease-fire becomes effective to work out standfast arrangements to safeguard the cease-fire pending negotiations for a peaceful settlement. A proposal somewhat along these lines was recently made by General Shoup, retired head of the Marine Corps. With some variations, somewhat similar proposals have been made by U Thant, Senator Clark, Senator Symington, General Gavin, and George Kennan. Even though the cease-fire could not be put into effect in all areas at once, a beginning of deescalation, bringing decreased casualties and lessened devastation could help create an environment conducive to United Nations mediation and direct negotiations.

CONGRESS TO CALL FOR U.N. ACTION

I have dwelt on the difficulties we have faced in getting Hanoi and the Vietcong to accept a cease-fire and come to a peace conference. It is important to understand these difficulties in order to overcome them, but they should not stand in the way of our own progress toward peace. None of these difficulties should stand in the way of congressional action. It is time, indeed it may be later than we think, for Congress to call for United Nations action to stop the war in Vietnam before its ever-increasing escalation precipitates world conflict beyond mankind's power to control. When there is such a threat to the peace of the world the United Nations cannot stand by and survive. The very least the Congress can do is to express the wish, the hope, the prayers of the American people that the United Nations act to restore peace in Vietnam.

Senator MANSFIELD. Thank you, Mr. Cohen.

PRESIDENT'S INTEREST IN USE OF THE UNITED NATIONS

I think for the record, before I call on the distinguished Senator from Iowa, Mr. Hickenlooper, that it ought to be made clear that the President has expressed a personal and intense interest in the use of the United Nations as a means of considering negotiations which would lead to an honorable settlement in Vietnam.

Speaking personally, I can think of at least five occasions in which he has indicated that interest, and there are other Senators who can corroborate what I have said in whole or in part. I think it is a good

thing to have a statement of this nature in the record to indicate the President's desire to find a way to the negotiating table, and his deep, intense, and personal interest in the use of the United Nations in that respect.

Senator Hickenlooper?

Senator HICKENLOOPER. Thank you, Mr. Chairman.

HAS THE U.N. LIVED UP TO HOPES AND ASPIRATIONS?

Mr. Cohen, I know you have had a vital interest in the United Nations ever since you took part in the formation of the charter. Has the United Nations lived up to the hopes and aspirations you had at the time the charter was adopted?

Mr. COHEN. In some ways, yes, in other ways, no. Probably as U Thant pointed out and as Chairman Mansfield quoted him, it is not so much the United Nations, but the members of the United Nations that have failed to meet their responsibilities. The United Nations is not an autonomous organization or a self-operating mechanism.

Senator HICKENLOOPER. The United Nations is an organization that is made up of the component parts of its members, is it not?

Mr. COHEN. That is right.

Senator HICKENLOOPER. And the fundamental purpose of the United Nations is to prevent aggression and contribute to the maintenance of peace in the world. Do you agree with that?

Mr. COHEN. Yes, assuredly.

Senator HICKENLOOPER. Has it succeeded in that basic objective?

Mr. COHEN. It has not succeeded. It has made a contribution to our struggle for peace.

Senator HICKENLOOPER. Do you have any reason to think that its past experience would indicate that it could be more successful in the future than it has been in the past?

Mr. COHEN. I think particularly with a concerted effort on the part of the great powers it could become very much more effective.

I think we went through the period where the great powers gave more effort to waging the cold war in the United Nations than they gave to developing procedures for peaceful settlement in the United Nations.

UNITED STATES CONTRIBUTION TO THE UNITED NATIONS

Senator HICKENLOOPER. Has there been any member nation of the United Nations that has done more to support the United Nations by money and submission of problems to it than has the United States during the history of the U.N.?

Mr. COHEN. I do not believe there are any. I think probably some nations—I have not got the figures before me—like Canada, in light of their resources, probably have made a comparable contribution.

Senator HICKENLOOPER. I understand your statement this morning to be an indictment of the United States as a pariah in the United Nations organization.

Mr. COHEN. Not at all, not at all. At first we led in giving strength and support to the United Nations. Gradually as other countries became less sensitive of their responsibilities to the United Nations

and as working at times through the United Nations became more difficult for us, we have not been doing as much as we might. But I am far from indicting. I think we have a very good record. Of course we always expect more from those who do well than we do from those that do less well.

Senator HICKENLOOPER. I see. In other words, is it the "turn the other cheek" philosophy to some extent?

Mr. COHEN. Well, you may call it "turn the other cheek," philosophy if you like, Senator. I think it has a good deal of realistic value in the world we live in today. I think sometimes we think military power may achieve more than it can achieve. I am far from urging that we go unarmed in an armed world, but I would not underrate the power of reason and good conduct even in the world today.

SHOULD THE UNITED STATES DISARM IN VIETNAM?

Senator HICKENLOOPER. Are you not advocating that we disarm ourselves in effect in South Vietnam by stopping all military activity there without any concessions or agreements on the part of the enemy—

Mr. COHEN. That is not—

Senator HICKENLOOPER. May I finish my question, please?

Mr. COHEN. I beg your pardon, sir.

Senator HICKENLOOPER (continuing). Without an agreement on the part of the enemy to come to the conference table, without any indication on the part of North Vietnam that they will even talk about this, if we do those things? Are you not suggesting that we disarm ourselves?

Mr. COHEN. Not at all. We are better armed if we are protecting areas that we clearly control than when we engage in aggressive search-and-destroy operations. We have not bound ourselves to continue in a defensive position if our overture for a cease-fire is not observed by the other side.

If they come and fire at us, it is they who have broken the peace, but we have not disarmed ourselves in any way.

Senator HICKENLOOPER. But what do we do if they do attack us, as they have in the past when we have on several occasions stopped the bombing?

Mr. COHEN. Obviously we have to defend ourselves if they do not observe the proffered truce. Then you reach the question whether we are not better able to defend ourselves by holding the positions we have or whether we gain anything by search-and-destroy operations and by bombing that seems to harden the enemy's resistance to the making of peace rather than breaking down that resistance.

OVERTURES MADE BY THE UNITED STATES

Senator HICKENLOOPER. I think you probably are aware, are you not, of the score or more overtures, officially and otherwise, which we have made through intermediary countries to North Vietnam to stop this military operation, to come to a conference table to discuss, as the President has often said, without condition, the situation there. We have received absolutely no indication of any willingness on the part of the North Vietnamese to talk. In fact, we have received nega-

tive replies; that is, they make statements that the conversations will not take place. They will make no agreement whatsoever. We must just disarm ourselves and get out and leave apparently South Vietnam to their tender mercies.

Mr. COHEN. Well, there are a good deal of dialectical questions involved on both sides. Apparently it is a position—I am not trying to defend it—of North Vietnam that we have broken some unwritten rules of limited warfare when we carry the war to the north. From their point of view—

Senator HICKENLOOPER. What do they do when they carry the war to the south?

Mr. COHEN. They say we carry the war to the south. They say under the Geneva treaties we had no right to increase the forces in the south. I am only trying to explain it. I do not think it helps to get into an argument by trying to make me defend their position. I am only trying to explain it.

Senator HICKENLOOPER. I do not want to force you into any position. I could not do that if I wanted to. You are not a man who will be forced into a position very easily that does not suit you. I understand that.

But you are attempting, as I read your statement to force the United States into an untenable position here, and that is the thing that I question. Maybe I am wrong about my interpretation of your whole statement.

Mr. COHEN. I do not believe that I am pushing the United States into an untenable position. I am raising the question whether escalating the war, as far as we have escalated it, has not produced, from our own point of view, negative results, and that deescalation, even if it does not bring about an immediate end to the war, would cause less loss of lives and treasure on our side and increase the possibilities of achieving an honorable peace.

Senator HICKENLOOPER. Is my memory correct that the President has repeatedly stated publicly in speeches, the Secretary of State has stated publicly in speeches, that we are willing to go to the conference table—I think the words are “tomorrow or next week” without conditions, to talk about this only upon the condition that the north stop their activities in the south, and we will stop our bombing in the north. But we get no reply from North Vietnam.

Mr. COHEN. Well, again it is a question of viewing it from North Vietnam's point of view, from however wrong you may think they are. They say, “We are asked to stop our activities in the south in order that you should stop your activities in the north. You are not stopping your activities in the south. There is a war in the south, you are extending it into the north.” In the North Vietnamese view this is wholly unwarranted. They say they are not extending the war into the U.S. territory.

RESOLUTION BEFORE U.N. SECURITY COUNCIL

Senator HICKENLOOPER. With regard to these resolutions, it is a fact, is it not, that the question of the Vietnam situation at our request has been inscribed on the agenda of the Security Council?

Mr. COHEN. That is true.

Senator HICKENLOOPER. That was inscribed last year, was it not?

Mr. COHEN. That is true.

Senator HICKENLOOPER. Is it ready to be taken up?

Mr. COHEN. I do not know, but as I gather, the best information one can obtain is that the members of the Security Council feel that they have little or no chance of getting Hanoi to come to the conference table on their request unless we first stop the bombing of the north. There has been considerable expression of opinion, not merely by the East, but by some of our own friends expressing the hope that we would stop the bombing and then one infers, without having any definite promise, that then the United Nations may act.

Senator HICKENLOOPER. On that theory, they want promises out of us which completely bind us. But it would seem they are not willing to give any promises themselves in order to bring this matter to an issue.

Mr. COHEN. Well, when you say "they," do you refer to members of the Security Council or North Vietnam?

Senator HICKENLOOPER. I am not talking about North Vietnam.

Mr. COHEN. From the point of view of North Vietnam, our extending the war in the south by bombing in the north is not part of their conception of fairplay. We say they have no right in the south, and they say we have no right in the south, but they apparently concede that there is a war in the south which they will accept as something that requires negotiation. They say they are merely helping the Vietcong, as we are helping the Saigon Government. But that is their point of view.

I am only trying to indicate the obstacles that stand in the way of United Nations action because people ask, "Why does the U.N. not act?" You may not agree that these obstacles should stand in the way. But I have tried to explain the difficulties in order that you understand them. There is a difference of opinion, among military people as to the value of deescalation as against the value of escalation. I quoted some respectable military authority who have themselves suggested deescalation along the lines I proposed, as being helpful, in their view, in our own national interest even though our efforts toward peaceful settlement are not within a reasonable time successful, they believe that we are better off taking a defensive position than continuing to search and destroy in the south and escalate in the north.

You may have heard over "Meet the Press" last Sunday—Prime Minister Lee, of Singapore, say the thing that concerned him most was whether we were exerting sufficient caution in the north because there was a point where there would be increased participation by China and Russia.

Senator HICKENLOOPER. Yes, I had the privilege of hearing Prime Minister Lee at length on two different occasions while he was here. I am very thoroughly schooled in his attitude, and I do not say that critically one way or the other, but I did hear his views expressed.

DISAGREEMENT WITH WITNESS' PHILOSOPHY

Well, Mr. Cohen, I will have to say that I am in substantial disagreement with the philosophy in your statement. I feel that it is a document of surrender. I do not mean to say that you intend that we surrender, but I feel that that is bound to be the net effect. If what you advocate in this paper were adopted as a policy of the United

States, I would fear for the future influence and success of the United States in most of the world for some generations to come. I think it would be abject and complete surrender, and utter defeat for America and the principles of self-determination and freedom which we are advocating for the people of South Vietnam.

Mr. COHEN. Those are not the consequences that I would foresee or the consequences that many eminent military authorities would foresee. You have to consider that if one says there is to be no peace of accommodation but a peace of surrender, the termination of this war may be very distant and the limitations that we now operate under may be disregarded by others coming in.

I am very much disturbed myself—we talk about the risks of others coming in—that we may be facing a situation of what one might call creeping intervention on the part of Russia and the Chinese. They are already giving more sophisticated weapons, which means they will have advisers there. That brings now more devastation, more loss of property, and more loss of lives on both sides. We failed to realize in 1962 how far we were committing ourselves to active military participation when we sent advisers to help direct the fighting in the battlefields. Now the participation of Russia and China is coming very near that. I do not think they want to go further, nor do we. But unless something is done to stop the drift, we may say, Senator, we have not surrendered but we may not save ourselves from a fate worse than retreat.

AN ACCOMMODATION ON BOTH SIDES

Senator HICKENLOOPER. Just one more observation. The accommodation which you seem to be asking is an accommodation on our side, that we make all the accommodation. Others have suggested that there be a mutual accommodation on the part of North Vietnam. We have stated repeatedly that we are willing to give an equal accommodation, and that we will stop the bombing. We will stop the hostilities if they do, and agree to come and talk without preconditions.

Mr. COHEN. Accommodation means accommodation, not surrender. I scarcely thought it necessary to elaborate that I think the real problem is dealing with the situation in the south. The Saigon government that we support is not controlling, even with all our aid and participation, large sections of the country, and the longer the war goes on, the more doubtful it is what the people of South Vietnam want except they want to be free of all of us. But they are as helpless as we are in knowing how to stop the war. That was one reason why I have suggested with U.N. aid, if available, and without it if need be, that we give more attention to the development of peace among the people of South Vietnam. I fear while we are fighting the war against the Vietcong we naturally consider those who want to try to make peace with the Vietcong as fellow travelers or as subversives.

Consequently we, with the best of intentions, have thrown our weight in favor of the military and those who have a vested interest in continuing the war, and, therefore, the longer the war goes on the harder it becomes to bring these poor people in South Vietnam together. But to bring them together is not, in my view, to surrender to accomplish our purpose of bringing peace, well-being, and freedom to the people of South Vietnam.

Senator HICKENLOOPER. I thank you, Mr. Cohen.

I thank you, Mr. Chairman. I apologize for taking so much time. Senator MORSE (presiding). Senator Mansfield has asked me to preside until his return.

Before I ask a few questions, Mr. Cohen, I have a little committee housekeeping to take care of.

Let me have the attention of the official reporter. I would like to have inserted at the beginning of the hearing the resolution, Senate Concurrent Resolution 44, and Senator Mansfield's resolution, Senate Resolution 180. (See pp. 1 and 2.)

AMBASSADOR GOLDBERG'S TESTIMONY

I also would like to have the record show that, as Senator Mansfield suggested, Henry Cabot Lodge was asked to testify and he deferred to Ambassador Goldberg. He wanted to testify and would have, but, as he told me over the telephone yesterday, Security Council meetings make it necessary for him to postpone his testimony for a few days. But he made clear that he desires very much to present his viewpoints on resolutions involving possible United Nations consideration of the Vietnam issue which are before this committee.

It is the plan of the committee to call Ambassador Goldberg just as soon as he can appear.

BACKGROUND OF MR. COHEN

I would like to also have inserted in the record before the testimony of Mr. Cohen a biographic sketch of his professional services. (See p. 3.) I will read only a part of it because I think the public at the time this hearing is conducted ought to be aware of the exceptionally high qualifications of this witness in the field of international law and in service to this country in a great many official positions to which he has been assigned in the field of foreign policy.

Mr. Cohen was legal adviser to the International Monetary Conference at Bretton Woods in 1944; a member of the American delegation, Dumbarton Oaks Conference, 1944; Berlin Conference, 1945; Council of Foreign Ministers, London, 1945, Moscow, 1945 and 1947, Paris 1946. New York City, 1946; Paris Peace Conference, 1946; senior adviser to the American delegation to the United Nations General Assembly, London, New York City, 1946; member of the American delegation to the United Nations General Assembly, Paris, 1948 and 1951, New York City 1949, 1950, and 1952; U.S. representative before the International Court of Justice, The Hague, 1950; U.S. representative and United Nations Disarmament Commission, 1952. He has published in the field of international law and constitutional law, and is recognized as one of the most brilliant of international lawyers in this country.

I will not read but will insert it in the record his other assignments in legal capacities in behalf of our country. Of course, he was one of our top advisers in San Francisco at the time the United Nations Charter itself was drafted.

GETTING BACK WITHIN THE FRAMEWORK OF THE U.N.

I want to say, Mr. Cohen, that I think you have presented another brilliant paper for the record in your testimony this morning. I find myself not only in agreement with its objectives and its major premise, but I think the country should be greatly indebted to you for the contribution you have made. For it is my view, known by my colleagues, of course, that unless our country gets back within the framework of the United Nations and makes a much greater attempt than it has to date vis-a-vis the South Vietnam crisis to have the United Nations take jurisdiction and enforce a peace in that troubled area of the world, the most serious question that may confront us is whether or not we will survive along with many other nations in the centuries ahead. As is well known, I do not share the view that we can at one time continue our military posture and what amounts to our military dictation in Southeast Asia with the danger that it will expand to the rest of Asia, and, in the long run, still survive in history.

I think we have reached a point where we have to decide whether or not we are going to practice the rule of law or seek to impose at our will the jungle law of military force in Vietnam elsewhere.

I have introduced my resolution, may I say, because I think the procedures that it outlines are within our obligations under the United Nations.

You spoke about the position that some have had to take as loners as we have pleaded for the adoption of the objectives of the resolution that I have introduced. There is nothing new about those objectives in our presentation to the Congress. I verify what Senator Mansfield has said in regard to the interest that at least the President of the United States has shown to some of us in recent weeks as we have conferred with him at length in regard to a United Nations approach. I want to make perfectly clear I do not speak for him, and I want to make perfectly clear that he has made no commitment. But the fact that he has expressed the interest and initiated the conferences for a discussion of the point of view that Senator Mansfield, I, and others hold in regard to the importance of having a United Nations intervention, satisfies me that the President will await with great interest whatever action the Congress takes in respect to any expression of support for a United Nations role in Vietnam.

UNITY OF ACTION URGED

May I quickly stress that I am delighted in my absence from Washington that Senator Mansfield introduced his resolution and obtained the broad support that its sponsors indicated he received. For I, too, am for unity of action, and it is much more important that a resolution such as Senator Mansfield's should be adopted with a broad-based support in the Congress. If it is possible to obtain that support, and be sent to the President, then it is squarely upon the shoulders of the President of the United States to make the executive decision as to what our policy shall be before the United Nations. That is why I think it is so important that we have the testimony of the Ambassador of the United States to the United Nations. I think we should also have the testimony of the Secretary of State irrespective of his indica-

tion in written communication of hesitancy on his part to appear in public before the Foreign Relations Committee to testify in regard to the Vietnam problems—I think that is an unfortunate mistake on the part of the Secretary of State—but if we can obtain congressional approval for the major premises of the Mansfield resolution, that is a great step forward. At least it puts the President in a position where he can say to the country whether or not he wants to call upon the Security Council to take jurisdiction.

LIMITED VIETNAM RESOLUTION BEFORE SECURITY COUNCIL

I make one other comment before my first question because you made a comment about it, and comments have been raised in the hearings about it. Of course we sent up a resolution some years ago to the Security Council. As Senator Mansfield has pointed out, it is just an invitation, in effect, to the Security Council to put the issue on the agenda. And they have put it on the agenda and that is where it is going to stay, in my opinion, until there goes along with it a commitment on the part of the United States that it will support the U.N. assumption of jurisdiction. That is why my resolution is worded as it is.

You made some suggestion for modification of some of the language to be more specific as to what we would be willing to do if they took jurisdiction. You made mention in your statement about the veto that we would have. Well, I would take it for granted that being one of the parties over which the United Nations would take jurisdiction, we would not in that instance reserve the right to exercise a veto. Of course, if the United Nations followed a course of action that transgressed upon the sovereignty of the United States, which is an entirely legal proposition, the Senator from Oregon would be among the first to insist that we withdraw from participation under such circumstances. But it is a far cry from what my resolution calls for. It calls for a commitment that we will accept the jurisdiction of the Security Council or the General Assembly, if they veto it in the Security Council, for them to seek to use the peacekeeping procedures for enforcement of peace under the charter itself.

CONGRESSIONAL TEAMWORK WITH THE PRESIDENT

That is all I seek to accomplish. I am perfectly willing to waive it if we can have the Mansfield resolution with a broad-based congressional support, and may I say also that I think it probably would be the most appropriate type of resolution to send to the President, for, after all, this ought to be a teamwork play. We ought to team with the President in trying to get a different type of intervention on our part through the Security Council and then the General Assembly for a United Nations jurisdiction.

I think I owe it to my resolution, and my friends in the Senate who have been kind enough to talk to me many times about the resolution prior to this meeting, to make perfectly clear to them that I am willing to go along with this other approach as the next step. If that does not work, I still think that the American people are entitled to have their Congress stand up and be counted on the proposition as to whether

or not we think we ought to pass a resolution in which we call upon the executive branch of Government to make the commitment that is called for in the Morse resolution.

NORTH VIETNAMESE CHARGE AGAINST THE UNITED STATES

We have been talking about accommodation. You pointed out that accommodation means concessions and agreements and understandings on both sides. Of course, my view is that you need a third party to get accommodation, because there is an unexpressed condition precedent to any of the offers we have ever made for negotiations, and this we do not say much about. That is, that we are willing to negotiate any time, anywhere, with the unexpressed condition that the enemy surrenders, that they yield to our dictates. Is it not the position of the North Vietnamese that we are in violation of both the United Nations charter and the Geneva treaty by our military intervention, from the beginning in South Vietnam?

Mr. COHEN. I so understand. I do not really recall whether they have spoken about the United Nations charter, because they seem a little wary of recognizing the charter. It may be that they have—some of their friends have said we are violating the charter. I simply do not know specifically what Hanoi itself has said, but they undoubtedly accuse us of violating the Geneva pact.

Senator MORSE. Some of their intermediaries, such as Russia, France and other countries have made very clear that that is the charge.

Mr. COHEN. Yes.

NORTH VIETNAMESE DEMANDS FOR NEGOTIATION

Senator MORSE. Does not the North Vietnamese position in many respects add up to the demand on their part that we surrender first and that we come to a bilateral negotiation table with our asking them, in effect, to take over the negotiations?

Mr. COHEN. That is true. They want us to recognize the Vietcong as the sole representative of the South Vietnamese people and we go pretty far in pretending that we want them to regard the Saigon government as the sole representative of the people of South Vietnam. So there is a somewhat comparable clash in the statements on both sides.

MULTILATERAL APPROACH TO A SETTLEMENT

Senator MORSE. Do you think there is any merit—and you may qualify my viewpoint to whatever degree you think it should be qualified—to the position I have taken now for nigh unto four years that a negotiated settlement in Southeast Asia cannot be obtained by any bilateral negotiation between the United States and the enemy, that a truce can only be obtained by that approach provided they are willing to surrender? Is not a multilateral procedure needed whereby the representatives of the noncombatant nations, working under the United Nations charter, with an expanded Geneva conference organization added to it, could reach a settlement in South Vietnam that offers some hope for permanent peace in that part of the world.

Mr. COHEN. I agree most fully; and I should, however, point out that I think if we had gone earlier, before the fighting got out of

hand, it would have been much more readily arranged. While I am all for the reconvening of the Geneva conference to do what you suggest I do not want to exclude, however, other avenues toward peace. I would urge that we bend our efforts to encourage the different factions in South Vietnam to make peace among themselves. If we could bring about peace among the warring groups in South Vietnam, then we could bring before the Geneva treaty powers the need for neutralization of the area and common guarantee of that neutrality by the Geneva treaty powers.

Bringing in China or Russia at this time before the South Vietnamese have agreed among themselves on terms for bringing the conflict in the south to an end, may not necessarily make agreement easier.

In other words, I think all we can do to pave the way for peace among the factions in the south will help greatly to make a Geneva conference successful.

I think in dealing with our own people, if we had an agreement satisfactory to all elements in South Vietnam it would prevent re-priminations at home. I think it would also be saving face for Hanoi if the Vietcong made satisfactory arrangements for themselves with their rivals in South Vietnam.

That leaves the program of unification, which would be part of a revised Geneva treaty, to good faith negotiations between the two governments, Hanoi and a reconstituted South Vietnam government.

I think a number of the members of this committee have pointed out, we made a grave mistake in encouraging Diem to repudiate the treaty of Geneva.

Senator MORSE. Thank you very much.
Senator Cooper?

U.S. ACTION TOWARD REACHING A SETTLEMENT

Senator COOPER. As I understand it, Mr. Cohen, your statement is directed toward finding a way to a settlement. First, you suggest through the U.N., and, second, if the U.N. will not act, then you suggest the courses that might be followed by the United States to reach a settlement, is that correct?

Mr. COHEN. That is true. I think if we move on both directions at the same time, we make the task easier for the U.N. and easier for ourselves.

Senator COOPER. That is correct.

Mr. COHEN. Because if we seem to be moving for peace satisfactory to the people of South Vietnam, it eases the U.N. task and it eases our task.

Senator COOPER. As this issue is now on the agenda of the Security Council, what procedural steps would be required to actually bring it before the Council for action?

Mr. COHEN. I think we could ask that an emergency session be called to consider the Vietnam item which is already on the agenda. The meeting could be adjourned if the majority did not want to consider the item. The Council could avoid considering the item, but we could at least compel the Council to take again responsibility for the adjournment.

Senator COOPER. It would require a majority vote which would not be subject to a veto.

Mr. COHEN. That is right.

Senator COOPER. Then, as you said—

Mr. COHEN. But again I would hope—and I think we are all agreed on it—that our success in the U.N. depends on the vigor and resourcefulness of the U.S. cooperation with the U.N. Council. Congress can be of great help to the Administration, in its efforts to activate the Security Council.

Senator COOPER. I know that.

SUPPORT OF THE ADMINISTRATION NEEDED

You have served at the U.N., and you know its workings very well. There are many negotiations before any vote occurs. That would mean to get a favorable vote and place it for action upon the agenda, you would have to have the strong support of the Administration.

Mr. COHEN. Undoubtedly. On the other hand, the Administration, as I point out in my prepared statement, has probably been informed, and I think some of the Council members have virtually said as much, that until we are ready to meet Hanoi's condition on bombing they think it is fruitless to take it up.

Now, I have a feeling however, that if the simple Mansfield resolution could go through with the support of all, virtually all, elements in the Congress with—as both Senator Mansfield and Senator Morse have indicated—with the wholehearted approval of the President, that that would probably create a new situation and members of the Council would be much more eager to see whether things could not be done.

Senator COOPER. I would agree.

I would like to turn to the suggestion you made to ease the way for favorable U.N. action, and also to the steps the United States might take if the U.N. does not act.

I have to disagree with my colleague, Senator Hickenlooper, because as I read and studied your proposal, I did not think that it in any way called for a surrender by the United States.

Mr. COHEN. None at all.

U.S. POWER IF BOMBING CEASED

Senator COOPER. If the United States should cease bombing of North Vietnam, we would still retain the same firepower that is being used today, would we not, except that it might be applied in a more limited area?

If the United States ceased bombing or took the other steps that you proposed, and after a reasonable time it became evident that the North Vietnamese were tending to destroy, if they could, the U.S. forces, the President would still have the power to take whatever steps he deems necessary to secure our troops, would he not?

Mr. COHEN. I agree. I think it is better not to say anything about what we will or will not do if we stop the bombing. Without words we retain our freedom to deal with the unforeseeable future. But the moment we talk about our freedom we run the risk of a dialectical discussion that we have made a threat or condition.

DETERMINING POSSIBILITY OF NEGOTIATION AND SETTLEMENT

Senator COOPER. The Administration has said, according to a statement by Secretary Rusk, that it is a matter of protecting our security against China. But if we leave that factor out, the position of the Administration has been simply that this is a limited war. We are just fighting it to enable the people of South Vietnam to determine their own future, both politically and socially. Other statements have been made by some of the military people—and I think also by some of the political people—that we would bomb until the North Vietnamese Government considered it so unacceptable that they would have to come to the conference table. Now, that is a call for surrender, is it not?

Mr. COHEN. Particularly when we have not outlined what our attitude toward the Vietcong will be. It is possible to construe our remarks, although we have not perhaps said so expressly, that when we say Hanoi must leave her neighbor alone, that she must leave her supporters, the Vietcong, to the mercies of the Saigon Government, aided by the United States. So we might continue to treat them, as subversive, and that would seem to be pretty much a surrender on the part of Hanoi.

Senator COOPER. You have stated that you think it would be very difficult to come to negotiations if either the United States insists upon conditions which would amount to a call for surrender or if Hanoi insists upon conditions which would be a call for surrender upon our part. So I would consider your recommendations as a means to determine if there is a possibility of negotiation and settlement.

Mr. COHEN. Exactly.

Senator COOPER. And that is the purpose of your testimony.

Mr. COHEN. Exactly.

Senator COOPER. I agree with you. I certainly—well, I agree with what you have said.

PRAISE FOR BACKGROUND OF WITNESS

I would like to make a brief statement: I had the honor of knowing Mr. Cohen for many years. I have not seen you lately, I am very sorry to say, but I served with him for three years in the U.N. and during the time of the Korean War. I believe that history will record that Mr. Cohen's services to our country have not been surpassed by many in this generation.

I am finished.

Senator MORSE. Senator Lausche?

Senator LAUSCHE. Yes.

IS CESSATION OF BOMBING PREREQUISITE TO NEGOTIATION?

Mr. Cohen, I want to take up first the subject of your proposal that the bombing be stopped.

Is it your opinion that stopping the bombing is one of the essential prerequisites to the achievement of the Vietcong or Ho Chi Minh going to the negotiating table?

Mr. COHEN. That is the indication you get from some of the statements of the members of the Security Council, and I think it is fair to say that is the impression one gets from the Canadians who have been on the International Control Commission.

Senator LAUSCHE. That view has been held rather broadly during the last three years, but what importance do you ascribe to the fact that the people of the United States, through their Government, stopped the bombing five times on these dates? These are May 13 and May 17, 1965, December 24, 1965 to January 31, 1966—37 days; December 24 to December 26, 1966; December 31 to January 2, 1967; February 8 to February 14, 1967.

In what way did that mellow the heart of Ho Chi Minh or in any way influence him to relent in his purpose to carry this war to an end?

Mr. COHEN. Well, that is the construction given to the suspension of bombing by us. There has always been a dialectical discussion as to whether we unconditionally stopped the bombing or whether we started it again when there was some indication that Hanoi was giving thought to coming to a conference. I myself have not sufficient knowledge of what was going on behind the scenes to have an opinion. But certainly one gathers the feeling that some of the U.N. people have never thought that there has been a clear test.

Senator LAUSCHE. All right.

INDICATIONS FROM HO CHI MINH OF DESIRE TO MEET WITH U.S.

Was there ever any indication from Ho Chi Minh that he wanted to meet with our Government to try to reach an accommodation?

Mr. COHEN. I don't know that directly.

Senator LAUSCHE. All right. You don't know.

Mr. COHEN. Yes.

Senator LAUSCHE. Now, you talk about what our Government should do, and I humbly regret to say that I am disappointed in your failure to point out anything that the Communists or the Ho Chi Minh government should do. You indicate that we did not make a bona fide offer by stopping of the bombing.

Mr. COHEN. I said there was a dispute on it. I don't purport to know all the details. I haven't had the opportunity. I don't believe the details would be available but I haven't had the opportunity to examine them if they were.

Senator LAUSCHE. All right.

DEMANDS OF PHAM VAN DONG

I now want to read what was said by Pham Van Dong, Premier of the Hanoi government, in 1965. These are the demands upon the United States that he made, speaking for his government:

Recognition of the basic national rights of the Vietnamese people—peace, independence, sovereignty, unity and territorial integrity.

That sounds very appealing and inspiring.

According to the Geneva Agreements, the United States Government must withdraw from South Vietnam United States troops, military personnel, weapons of all kinds, dismantle all United States military bases there, and cancel its military alliance with South Vietnam.

Does that make a demand that is equivalent to unconditional surrender?

Mr. COHEN. I would not call it unconditional surrender. There are some things that are not spelled out. In various addresses before the U.N., Ambassador Goldberg has indicated when a satisfactory peace is secured we will withdraw.

FURTHER STEPS TO DEMONSTRATE UNCONDITIONAL SURRENDER

Senator LAUSCHE. What further steps could we take to demonstrate unconditional surrender than to pull out everything we have there?

Mr. COHEN. Well, so far, if I am not mistaken, we have not dealt with how we secure a peace in the south. But we have said if peace on the basis of self-determination is secured and peace established, we will get out. That is, I understand, the substance of an address of Ambassador Goldberg. So the problem is the terms on which we negotiate our withdrawal, not whether we do or not withdraw, unless you differ, as you may, with what seems to me to be the administration's point of view.

Senator LAUSCHE. My question was what further—

Mr. COHEN. I don't speak for them.

Senator LAUSCHE. What further steps could we take to disclose unconditional surrender than to carry into effect what Ho Chi Minh is demanding? What further steps would we take? Please identify them.

Mr. COHEN. If I understand you, Senator, you say some of the terms we are proposing are; that is, the terms the Administration is proposing involve unconditional surrender. I would not agree. But certainly in speeches of Ambassador Goldberg in the U.N. this year and the year before, he has indicated we intend no permanent base in South Vietnam.

Senator LAUSCHE. You still haven't answered my question. I will not press it.

Mr. COHEN. Well, I don't think we surrender when we don't claim the right to establish troops in countries all over the world.

Senator LAUSCHE. Let me go a step further. In this same statement of April 13, 1965, Pham Van Dong, outlining what Ho Chi Minh wanted, said in subparagraph 3:

"The internal affairs of South Vietnam must be settled by the South Vietnamese people themselves"—That is very euphonious and very inspiring. But I now want to read the condition he attached to it—"in accordance with the program of the National Liberation Front of South Vietnam without any foreign influence."

The people must settle it but in accordance with the program of the Communists of South Vietnam. Are you familiar with that statement of his?

Mr. COHEN. I am not advocating that we accept that. On the other hand, there are comparable statements made before you get to the peace conference, by the Saigon government that they will not allow Communist candidates or neutralist candidates to stand for office. One of the most popular, well-known figures in South Vietnam, General Minh, was disqualified as a candidate. We cannot consider these ex parte statements on either side as acceptable.

Senator LAUSCHE. I concur with that.

Mr. COHEN. The thing is one wants to try to get to a peace conference and see if there is any common ground.

NO CRITICISM OF SOUTH VIETNAM

Senator LAUSCHE. I concur with what you said but the reason I am asking these questions is because your paper is completely devoid

of any criticism of North Vietnam, and replete with condemnation of the United States.

Mr. COHEN. I don't agree that it is replete.

Senator LAUSCHE. Will you point out in your paper one favorable word that you have spoken about the United States, point out one favorable word, and I will point out every page filled with condemnation of our country.

Mr. COHEN. I think outlining the way to peace and raising questions as to the wisdom of certain acts are not condemnations of our country. The proposals I make, are made by me, in the interest of our country.

Senator LAUSCHE. Now you urge that we take the step of stopping the bombing. What have you urged that North Vietnam should do as a reciprocal act toward achieving peace?

Mr. COHEN. I ask that they make the same proposal that I suggest we make; that is, that they will undertake no further offensive hostilities or any hostilities, and we engage in a cease-fire, which to be effective, must be mutual.

Senator LAUSCHE. You do say that, but only after the United States yields on everything. Then you propose that while there is a cessation that there be reservation of peace except that violence can be used on a defensive basis.

Mr. COHEN. I am speaking to people who I think may influence U.S. policy. I haven't been invited to speak to North Vietnam.

PEACE OBJECTIVES OF HO CHI MINH

Senator LAUSCHE. Now, I get to the point where you suggest that the resolution be amended to clearly state the peace objectives of the United States. Have you suggested that there be a clear statement of the peace objectives of Ho Chi Minh?

Mr. COHEN. I trust my Government to deal with Ho Chi Minh's demands. I am only concerned to get our position in shape to create a possibility of getting Ho Chi Minh to the peace conference. I have not suggested that we let Ho Chi Minh write his ticket.

Senator LAUSCHE. You are talking about reaching a state of accommodation where both sides will yield and make concessions, but you ask in advance that the United States clearly set forth its peace objectives.

Mr. COHEN. Because I think that strengthens our position.

Senator LAUSCHE. But you do not make any mention of any gesture or any word that should come from the Communists with respect to this subject.

Mr. COHEN. We are preparing our program for peace, and if the Communists do not respond to it there will be no peace.

EXTENT OF DISCONTINUING THE FIRING

Senator LAUSCHE. Now then I get down to the final part of my questioning: In your statement you say, "If our efforts to activate the United Nations do not succeed at first, we might * * * attempt to inaugurate ourselves such a cease-fire * * *."

Isn't that surrender and unilateral disarmament?

Mr. COHEN. Not at all. It is what in the law they call a unilateral offer, but is not acting on it unilaterally unless it is accepted and correspondingly acted on by the other side.

Senator LAUSCHE. How far would you go in a complete discontinuance of the firing?

Mr. COHEN. Well, I have tried, without getting into detail, to indicate in my paper that one of the reasons I make that proposal is to try to get around what is thought by some to be a threat to us in stopping the bombing in the north while Hanoi may strengthen its fighting position in the south. So I suggest we try to move towards a general cease-fire so that there be no fighting and no lives lost and no bombing in the north or in the south. If we are ever going to get the peace, we must realize it is hard to negotiate peace when we are fighting. It is not impossible, but it does not contribute to progress. As long as fighting goes on, we are likely to think and say the other side is taking advantage and the other side will say and think we are taking advantage. I am concerned as I am sure the committee is concerned with the soundness of our policies. I certainly do not accept all the programs, or even parts of them, of those that we are fighting.

Senator LAUSCHE. Yes, I understand that you are interested in our policy.

VILIFICATION OF THE UNITED STATES

Do I understand you correctly that if the United Nations will not take jurisdiction you then recommend stopping the bombing of the north, stopping all fire in the south and then waiting to see what will happen?

Mr. COHEN. I suggest we indicate that if the other side observes the general cease-fire that we meet in a peace conference within a very short period of time. I think—it is not a suggestion made only by me. It was made over ABC-TV on August 5 by General Shoup, retired Marine Corps commander, and I think Senator Clark made a similar proposal about a year ago. And U Thant, after Senator Clark's speech, adopted it. There may be some other parties guilty by association. [Laughter.]

Senator LAUSCHE. I am a sponsor of this resolution.

Mr. COHEN. I was happy to observe you are a sponsor, Senator.

Senator LAUSCHE. I want the United Nations to take jurisdiction, but I have faith in my country. I don't want it vilified while the Communists are being edified, and I think the vilification and the slander and the libel that has been heaped upon our Nation and the absolute merciful sparing of the misdeeds of the Communists have prolonged this war.

I will support this measure. I think the United Nations should take jurisdiction. They should see if there cannot be found an area of accommodation. But you will never get anywhere by the daily libels and the slanders that are spoken about our country that has leaned over backwards in trying to achieve peace in Vietnam.

Mr. COHEN. I don't believe you will find any libel or slander in my statement.

Senator LAUSCHE. If you will objectively read your paper, Judge, you will find that it is loaded. I was a judge and I think I have some understanding about special pleading. Your paper condemns the United States and spares the Communists. I concur with you that the matter should go to the United Nations.

EVALUATION OF WITNESS' STATEMENT

Senator MORSE. The chairman, in fairness to the witness, just wants to join the witness in complete rejection of the evaluation of the paper by the Senator from Ohio.

Senator Cooper.

Senator COOPER. Mr. Chairman, I would just like to say with all due respect to my colleague and friend from Ohio, that I don't agree. Mr. Cohen was asked here to suggest means by which the United Nations might take jurisdiction. He also has suggested ideas by which the war might be brought to a settlement. I think he has come in the most patriotic sense and he is expressing the greatness of our country by suggesting that our country can do things that other countries or the Communist countries won't do.

Senator LAUSCHE. Senator Cooper, may I say I have urged that the bombing be stopped and I was hoping that in the December religious season there would be a stopping of the bombing. I suggested that we stop the bombing without any condition so as to put Ho Chi Minh to the test to see whether he really wants to negotiate.

Mr. COHEN. There has been some indication in the papers the last few days that your proposal is being considered and worked on in South Vietnam by the military authorities.

Senator LAUSCHE. I have no word, but I intuitively felt that inasmuch as there was a stopping of the bombing during every religious season in the December month it probably would continue in 1967. That is all I have.

Senator MORSE. Senator Clark.

Senator CLARK. Don't go, Frank, I want to say a word about you and I want you to hear it. [Laughter.]

I think we all ought to remember that whether we like it or not, and I don't particularly like it, this hearing is being televised, and I am afraid that the Senator from Ohio, I am sure, entirely inadvertently, has indirectly cast aspersions upon the patriotism and loyalty to his country of the witness. I am sure he did not mean to and I would now like to give him a chance to say that he thinks Mr. Cohen is just as loyal an American as he is.

Senator LAUSCHE. Yes; I recognize that, but I say that the paper criticizes the United States and edifies by implication, communist Ho Chi Minh.

Senator CLARK. But the Senator did not mean to imply that Mr. Cohen was anything other than a loyal American, did he?

Senator LAUSCHE. Not at all. But a reading of the paper will demonstrate that the onus has been placed inadvertently in all probability upon our country, without any demands or suggestions being made of what Ho Chi Minh and the Communists should do.

Mr. COHEN. I think the paper can speak for itself.

Senator LAUSCHE. Yes; that is right.

Senator CLARK. So do I. [Laughter.]

SPONSORSHIP OF MANSFIELD RESOLUTION

Senator CLARK. Mr. Chairman, there are 55 Senators who have cosponsored the Mansfield resolution, and you, sir, with your usual generosity and feeling of teamplay would make the 56th because you indicated this morning that you would support this resolution.

Among those 55 are 12 out of the 19 members of the Foreign Relations Committee, and nine, believe it or not, out of the 18 members of the Armed Services Committee. I have been through the list of Senators, which I have before me, and I am reasonably confident that this resolution would receive the support on the floor of at least 70 and probably more of the one hundred Senators.

I would hope very much, therefore, that having heard the other witnesses and possibly made one or two minor and technical amendments to it, the committee would report this resolution forthwith to the floor for immediate action.

EFFECT OF NORTH VIETNAM AND RED CHINA NOT BEING U.N. MEMBERS

Now, Mr. Cohen, I, as you know, have always had the greatest admiration for you. I think you have given us a splendid and very helpful paper. There is only one matter on which I would like to query you and I must say that this matter does give me some pause and resulted in my being a little hesitant to cosponsor the resolution although I finally went along. That is my concern that the fact that North Vietnam and Communist China are not members of the United Nations. They have said some pretty unfortunate things about that institution that might make the carrying of the Vietnam controversy to the United Nations a rather idle gesture. I would like your views on that.

Mr. COHEN. There is always a chance if you make the effort it may not succeed. On the other hand, it is so easy to say "Why make the effort, it won't do any good?" In my prepared statement I was a little critical of some of the decisions, I would not say made by the country as a whole, but made by the State Department in not taking the Vietnam matter to the U.N. earlier. Their reason was just the reason that you now referred to, they weren't sure that they would get a response or an adequate response from the U.N. But I think a great deal depends upon the ingenuity and resourcefulness that we show in handling these matters before the U.N.

We are, after all, the strongest power in the U.N. While we can't control the U.N., great power has great influence. That is why I always emphasize in these matters that to succeed the utmost cooperation of the Administration is required. We must convince the Administration of the wisdom of activating the U.N. if the Administration is to have the faith and resourcefulness to succeed against formidable obstacles in activating the U.N.

Still, it seems to me a wonderful thing that Senator Mansfield was able to get so many people with varied viewpoints united on this course of action, in respect to an issue in which our country is so deeply divided. In order to get out of Vietnam, we all, without abandoning our own conscientious views, have an obligation to try to find some ways of reconciling our positions so we can make progress toward peace. That is why I thought the strides made in gaining support for the Mansfield resolution was a tremendous thing. I can't help but think and hope it may start in motion forces that will move mountains.

RISK MAY BE WORTH TAKING

Senator CLARK. I agree with you. I take it you feel that there is a good enough chance that constructive action might come out of the U.N., so that we should take the risk, if it be a risk, that neither North Vietnam nor Peking would pay any attention to anything the United Nations might do.

Mr. COHEN. I think that is true. I would not underrate the fact that it is a risk, but having tried in good faith, I don't think failure is anything we need be ashamed of. I would not say we are going to fail in advance, and that is why on a number of points I pointed out what might be done, if occasion demands it, to meet the views of different groups in the U.N.

I think at the moment probably in order to have the greatest support for the Mansfield resolution, we should leave some of the guidelines in the Morse resolution for future consideration as we observe how action is proceeding in the U.N. But I do think at the moment the important thing to get the greatest possible support for the Mansfield resolution.

Senator CLARK. Of course, if we were going to live in a perfect world I would prefer the Morse resolution with some of the amendments you have suggested. But we don't. Therefore as a practical matter, I think we ought to stick with the Mansfield resolution.

Thank you, Mr. Chairman.

SUBMISSION OF PROPOSAL TO THE U.N.

Senator MORSE. I think the point Senator Clark has raised is a very important one and troubles many people about submission of the proposal to the U.N. for its jurisdiction.

But, Mr. Cohen, assuming a hypothetical now. Suppose the Security Council or the General Assembly takes over jurisdiction. The Security Council could, if it wanted to, transfer the issue to the General Assembly for its consideration with the Security Council recommendation, set up a procedure which would include the North Vietnamese, the Vietcong and the South Vietnamese as parties to the procedure that the United Nations decides upon for starting the negotiations, for the administering of the separation of the combatants, the beginning of the cease-fire and the enforcement of a peace.

This is my question: If the United Nations accepts jurisdiction, this does not prevent the United Nations from bringing in the North Vietnamese, the Vietcong and the South Vietnamese as participants in the organization for peacekeeping, does it?

Mr. COHEN. No, indeed.

Senator CLARK. If the Senator will yield, if they will come.

Mr. COHEN. North Vietnam, South Vietnam, and the Vietcong may be invited to participate in the proceedings of the Security Council and General Assembly when their interests are involved. If they do not want to come, the U.N. may still call upon them to participate as parties in a conference of belligerents to arrange a cease-fire and a reconvened Geneva Conference to consider terms of peaceful settlement. The resolution which the United States submitted to one Security Council on January 1966 proceeded along these lines save for the unfortunate omission of the Vietcong.

I think there might also be advantage in urging some of the neutral powers themselves to get together and introduce a resolution calling

upon the belligerents to meet or convene a Geneva conference so as to play down the idea that we are directing all steps.

Senator MORSE. Senator Pell.

Senator PELL. Thank you, Mr. Chairman.

IS UNITED STATES VIOLATING U.N. CHARTER?

Mr. Cohen, in your view, is the U.S. action in South Vietnam or in Vietnam as a whole, in violation of our obligations under the charter of the United Nations?

Mr. COHEN. Let me go back a little in time. The position in Vietnam was supposed to be governed by the Geneva treaty. In 1962 the International Control Commission found Hanoi was sending in men and supplies in violation of the treaty and the Commission also found the relations between United States and South Vietnam reconstituted an alliance forbidden by the treaty, and that we had brought in more forces than were permissible under the treaty.

The difficulty comes now when you begin to talk about the charter or treaty obligations South Vietnam claims it is not bound by the treaty and has rejected it. But we constantly complain Hanoi is not observing the treaty. We frequently state that we did not sign the treaty, although we did make a rather solemn statement that we would do nothing to prevent it being carried out. It is a little difficult to hold Hanoi to a treaty which other parties do not observe. Charges and counter charges of aggression produce heat, not light.

In truth the treaty of Geneva has broken down. It eminently called for a conference to consider how you revive it to give vitality and meaning to it. Unfortunately, in the early days not only did Diem on behalf of South Vietnam rebuff invitations for a conference, but we did as well. So it seemed to me that we didn't do all we could to make the Geneva agreement a living document.

Now when you come to the U.N., there are provisions in the charter that bind us to settle our disputes by peaceful means and refrain from the use of force except in self-defense and there is provision in the charter if the parties cannot settle their disputes by peaceful means the member states involved shall refer the dispute to the Security Council.

We began, in a limited way, to participate in the fighting in South Vietnam as early as 1962. We did not refer the matter to the Security Council before 1966 and we did not report fighting allegedly in self-defense to the Security Council before the Tonkin Bay incident in the summer of 1964. So it seemed to me we didn't fully meet our responsibilities under the charter. It is true that North Vietnam is not a party to the charter. But it was our obligation, I think, to bring the controversy and armed conflict to the U.N. earlier, and, insofar as we regarded our action as justified, as collective self-defense under section 51, it should have been immediately reported to the Security Council, which it was not.

IS UNITED STATES LEGALLY IN VIOLATION OF CHARTER?

Senator PELL. Let me rephrase my question, if I may. Could a good juridical case be made to the effect that the U.S. actions in Vietnam are in violation of the charter of the United Nations?

Mr. COHEN. Legalistically used in an important sense, yes. But the bandying about of charges of charter violations and aggression do not help the processes of peaceful settlement. I am greatly troubled by some of the problems we face in the U.N. right now. When conflict breaks out, there is much debate about who is the aggressor not about what caused the conflict or how are you going to settle it. It is true that the U.N. was to prevent aggression. In some cases you find a Hitler that makes it easy, a clear case of unadulterated evil and aggression. But in most cases the underlying causes of the conflict are complex and confused. And talk of violations and aggressions doesn't contribute to making a peace. I am sorry Senator Lausche isn't here to see how cautious I am [laughter] in saying anything detrimental to Government policy, needlessly detrimental to Government policy. I don't know whether I have answered your question. I have tried to answer it but in a diplomatic way.

Senator PELL. Right.

BRINGING MATTER BEFORE SECURITY COUNCIL

The question that goes through one's mind as one reads press statements to the effect that we are acting in violation is, why has no effort been made to bring this matter before the Security Council of the United Nations itself?

Mr. COHEN. Leaving aside whether we would have to refrain from voting if the issue was raised in the Security Council, it is difficult to arraign a principal power before the Security Council. I am very strongly in favor of the proposition that great powers are bound by the charter as much as small powers. It is not true that the U.N. is impotent to deal with great powers. The processes of mediation and conciliation, can apply as readily to great powers as to small powers, and the use of force is the last thing not the first thing that you want to employ.

But I think we have been remiss in not going to the U.N. I think it is rather unfortunate in light of the question raised whether some of our acts are in complete accord with the charter or with the treaty of Geneva, that we ourselves bandy around the term "aggression", as I don't think it helps toward peaceful settlement. For example, we say the infiltration from the North is aggression. Well, Hanoi says the infiltration of our troops is aggression. And it so happens that we have infiltrated many more of our troops than North Vietnam has. The charge only leads to hard feeling.

The important facts are that there has been a breakdown of the treaty of Geneva and there has been a failure to make full use of the processes of the U.N. Let us hope that the passage of the Mansfield resolution, with the support of both parties and the support of people who have agreed with our policy and those who have not, augurs a new day. Let us hope we can find the causes of and remedies for the prolonged conflict in this troubled area. Let us seek peaceful settlement and not lose ourselves in a vain and futile search for the guilty.

Senator PELL. If all that is required is for one nation to precipitate discussion in the Security Council of the Vietnam item, which is already on the agenda, why is it, then, that not one nation has taken the necessary action to do so?

Mr. COHEN. Well, as I say, I think the feeling has grown, I forget the name of the man who was Chairman of the Security Council, the Dane or Norwegian during the Near East crisis.

Senator PELL. Tabor.

Mr. COHEN. Thank you. Tabor is now the foreign minister. He was on TV just a few weeks ago, and he took the position, or at least indicated, that it was their feeling in the Security Council that Hanoi would not come to a conference unless we were willing to stop the bombing. So he saw no advantage or purpose in bringing it up. I imagine that is the dominant reason.

Senator PELL. It must be the unanimous reason and not just the dominant reason.

Mr. COHEN. Oh, I think some member states would hesitate to move against the most powerful country in the world. Every country has various relationships with us that they don't want to see disturbed.

BOMBING CESSATION IN ORDER TO ENCOURAGE NEGOTIATIONS

Senator PELL. Don't you think that there is some danger in the idea advanced that we should cease the bombing in the north in order to encourage negotiations? To my view there are very good logical reasons why the bombing should cease, separately from starting negotiations. We are all familiar with the three reasons why we did it, to improve morale in the south, to discourage morale in the north, and to interdict the flow of supplies and men.

On the last point, the Secretary of Defense has stated that bombing has not radically altered it. We have also noted just the reverse effects in our attempt to build morale in the south and hurt it in the north.

But in terms of negotiations, is there not a very real danger that they could be prolonged and prolonged until in the end they blow up and cease. At that point isn't the danger of vastly escalated war almost more than in the beginning?

Mr. COHEN. I think there is some real danger there as you suggest. That is why in my paper I urged, not the connection with the Mansfield resolution, but in connection with what I called the Morse guidelines. That is why I would urge the Administration to state in a little more definite terms our peace objectives in light of existing political and military realities, to wit, that we are for a peace of accommodation based on self-determination but not for a peace involving the suppression of the Vietcong as a political movement. If we are intent on suppressing the Vietcong as a political movement in light of their political and military power in substantial parts of the countryside, the prospects of a negotiated peace in the near future are not very bright.

Senator PELL. Isn't what you mean not to ask the Administration to delineate more clearly its peace objectives, but to change its peace objectives?

Mr. COHEN. I would not want to impute to the Administration peace objectives that have not been expressly stated. You may be right. But I find there is an absence of clarity on this point rather than a definite statement that we are opposed to it. One can't help, as one reads the statements of different high officials in the Administration, but feel that there is a difference of opinion among them. But

I would not want to impute a view that we are insisting on a surrender as the official viewpoint of the Administration unless the President so states. And I don't think he has as yet.

Senator PELL. Thank you, Mr. Chairman.

Senator MORSE. This afternoon we will hear Congressman Jonathan Bingham and the Honorable Charles W. Yost. We will recess until 2 o'clock.

I want to thank you very, very much, Mr. Cohen, for what I think is a brilliant presentation of the need for United Nations intervention.

(Whereupon, at 12:40 p.m., the committee recessed until 2 p.m. of the same day.)

AFTERNOON SESSION

Senator MORSE (presiding). The hearing will come to order.

Let the record show that the responsibility for the delayed convening of the committee rests on the committee, for Congressman Bingham was of the opinion that we were taking up again at 2:30 instead of 2 o'clock.

We are delighted to have you, Congressman.

ATTITUDE OF OTHER U.N. MEMBERS TOWARD THE UNITED STATES

Before I call on you for your statement, the chairman wishes to have printed in the record of the hearings at this point a memorandum prepared by the staff of the committee entitled "Opinion in the United Nations on the Vietnam Conflict and United Nations Involvement." This is a very helpful summary bearing upon what some of the points of view are within the United Nations itself.

(The memorandum referred to follows:)

UNITED STATES SENATE COMMITTEE ON FOREIGN RELATIONS, OCTOBER 26, 1967

OPINION IN THE UNITED NATIONS ON THE VIETNAM CONFLICT AND UNITED NATIONS INVOLVEMENT

In the general debate at the 22nd session of the General Assembly which convened September 19, 1967, most of the delegates made some reference to the danger inherent in the Vietnam conflict. Several nations mentioned the responsibility of the United Nations and some suggested varying roles which could be played by the Organization in bringing about peace negotiations. The representative of Italy said on October 4, 1967:

"No one can remain indifferent to this serious and alarming situation, least of all the United Nations. Moreover, the Charter, which should govern our conduct, requires us to take up any problem that constitutes or could constitute a threat to international peace and security. In saying this, I am fully mindful of the difficulties caused by the fact that some of the parties involved in the conflict are not represented in our Organization. I am also well aware of the results of the deliberations in the Security Council when the problem of Vietnam was raised in that body. But, in my opinion, over and above the formal difficulties—which in any case have all been foreseen by the San Francisco Charter—what really concerns us is the substance of the matter.

‡The substance of the matter leads us to point out that the main contending parties have said that they are seeking a political rather than a military settlement to the conflict. But that is not all. They also all agree that the 1954 Geneva Conventions provide the principal basis for such a settlement.

¶A political settlement means a negotiated settlement. The problem lies in finding a means of promoting such negotiations. Should it be the responsibility of the Security Council to invite the Co-chairmen of the Geneva Conference to reconvene the Conference or should the General Assembly recommend the convening of the Conference? Or should the Co-chairmen act on their own initiative?

I do not know, but that is not the main problem. Any move that leads to the desired result will, however, be supported by us, as it should be by all loyal Members of the United Nations. At any rate, since the Security Council has already considered the question without adopting any decision and since the two Co-chairmen have not yet succeeded in agreeing that the Geneva Conference should be reconvened, perhaps it is time for the United Nations to address a pressing appeal to the parties for a speedy reconvening of the second Geneva Conference and for an early beginning of those negotiations that alone can end the military conflict. In other words, the United Nations has the right and the duty to deal with a dispute that endangers peace and to suggest methods and procedures for settling it, especially when such methods, whether regional or otherwise, are ready, as in this instance, to be accepted."

The representative of Argentina said on September 27, 1967:

"The consideration of this problem by our Organization would open up new possibilities of finding avenues leading to final solutions to this long-lived dispute.

"Furthermore, we consider that under present conditions it is unreasonable to contend that the international Organization, which was specifically created to safeguard international peace and security, could remain alien to such an obvious case of a breach of both peace and security."

The representative of Costa Rica said on September 28, 1967:

"We must make a supreme effort to end the conflict in Vietnam. As Members of the entity born of the decision to preserve succeeding generations from the scourge of war, we cannot allow to continue indefinitely a situation of war that has been prolonged so unduly, especially since it has been denied by none that the three nuclear Powers possessing the greatest resources continue to increase the support which they are giving to the different Governments in the peninsula, either by means of armed forces or with war material of the most advanced nature, or by financial assistance. All these elements, through their own weight, may lead to a widening of the conflict beyond the geographical limits within which it has been located, to the verge of a nuclear war which would inevitably destroy the civilization that hundreds of generations have created at such cost.

"The Government of Costa Rica trusts that through the normal channels offered by our Organization, or by other subtle means offered by the presence of statesmen who come to this Assembly, a final dialogue may be entered into which will lead to an end to the conflict, so that the people of South Vietnam will be able to choose their own destiny through democratic means free from any pressure or interference, overt or covert, by any Power or nation."

Several nations suggested that the inability of the United Nations to deal with Vietnam pointed up the need for universality of the organization. For example, the representative of Somalia said on September 27, 1967:

"The ideal approach to this problem would be to bring it before the United Nations. Unfortunately there are procedural obstacles to such a course of action because some of the parties to the dispute are not Members of our Organization. It would appear to my delegation that, under these circumstances, the least that Member States of the United Nations can do is to direct individual and collective appeals to the parties concerned to resolve the conflict by negotiations.

"The lesson to be drawn from the present inability of the United Nations to take a more positive role in the Vietnam conflict is that the Organization will continue to be ineffective in matters of such magnitude if it does not apply the principle of universality of membership . . ."

A considerable number advocated the Geneva Conference machinery as the proper channel for negotiations, and a large number expressed the belief that a halting of the bombing of North Vietnam was a necessary step to bring about peace negotiations. Illustrative of these views, the Representative of the Netherlands stated on October 3, 1967:

"Countless speakers before me have advocated a reconvening of the Geneva Conference, a conference which at the time proved to be a forum for constructive discussions. I join in their appeal. The Vietnam question calls for discussions and negotiations. In this context I was pleased to note that important governments involved are prepared to move in that direction. I call to mind, for example, the statements made by one of the two Co-chairmen of the Geneva Conference, Britain's Foreign Secretary Mr. George Brown, and the expressed readiness on the part of the United States, so specifically stated by Ambassador Goldberg, to sit down at the conference table and to accept a Security Council decision opening the way to a Geneva Conference. On the other hand, it is most regrettable that the other Co-Chairman of the Geneva Conference, the Soviet Union, seems as yet unwilling to co-operate towards such a procedure.

"The people of the Netherlands are by now so deeply worried about the war in Vietnam that they felt the need to give a solemn expression to their apprehensions. Towards the end of August last, the Lower House of the Netherlands Parliament spent a full day debating Vietnam, and every one of our political parties participated. My Government shares the grave concern expressed on that occasion by our Parliament, as well as its view that the Vietnam question calls for a political rather than a military solution. The House adopted a motion calling, *inter alia*, for a cessation of the bombing of North Vietnam in order to increase the possibility of peace negotiations. The member of Parliament who introduced the motion explained in an oral statement that the requested cessation of the bombing should not be subject to pre-conditions.

"My Government believes that the present situation must not be allowed to continue. It has therefore appealed to all parties to the conflict to break through the existing vicious circle and to adopt a policy leading to peace by accepting, as a first step, to go to the conference table. I now publicly reiterate this appeal on behalf of my country."

SHOULD NOT THE U.S. MAKE A COMMITMENT?

Senator MORSE. A review of this material gives us some very interesting insights and sidelights on the situation within the United Nations. For example, the point of view of some that when we sent up the letter dated January 31, 1966, followed by a supplementary letter in which the United States presented a draft resolution in the United Nations, we escalated the bombing. This raises the question, may the Chair point out for the record, as to whether or not we have reached the situation in our country's relationships with the United Nations where if, as, and when we present a more meaningful resolution than our already pending resolution, we are not really under an obligation to make a commitment; that we will abide by the jurisdiction of the United Nations, either the Security Council or the General Assembly, depending upon which body has the resolution at the time, and whether we do not have to make some token offer or commit at least some specific act that demonstrates our intention to change our escalating policy.

That is why, in part, Mr. Cohen pointed out so many times in the colloquy this morning that we have already been advised by friends, as well as those who have not been too friendly in the United Nations, that the hope of getting cooperation through the United Nations on the part of the combatants on the other side depends upon the willingness on our part to pledge ourselves to a suspension of the bombing.

U.S. STATEMENTS ON U.N. INVOLVEMENT IN OTHER CRISES

The Chair also introduces into the record another memorandum prepared by the Foreign Relations Committee staff entitled "United States Statements on the Need for United Nations Involvement in Certain International Crises." The staff has extracted quotations from President Johnson, Ambassador Stevenson, Ambassador Lodge, Ambassador Austin, Ambassador Goldberg, setting forth the position we have taken in the past in our urging United Nations consideration of other issues that have troubled us.

(The memorandum referred to follows:)

U.S. SENATE COMMITTEE ON FOREIGN RELATIONS, OCTOBER 26, 1967

U.S. STATEMENTS ON THE NEED FOR UNITED NATIONS INVOLVEMENT IN CERTAIN INTERNATIONAL CRISES

Cyprus: Remarks of President Johnson, March 4, 1964

"The United States Government will give full support to the efforts of the United Nations mediator in this direction, and we appeal to all peoples everywhere to join in their support. . . . we have seen once again that men of good will can find means to keep peace if they are constructive about it and if they are determined to do it."

Remarks by Ambassador Stevenson, March 4, 1964, Statement made February 19:

" . . . once again the United Nations has demonstrated the indispensable role which it can play in serving the cause of peace."

" . . . the urgent business before the Council and the responsibility of the Government of Cyprus is to restore communal peace and order and to stop the bloodshed. The sooner that we and the Security Council turn our attention to this the better it will be for all."

Congo: Remarks by Ambassador Henry Cabot Lodge, July 13, 1960

"The unfortunate sequence of events in the Congo which makes the speediest possible United Nations assistance imperative is well known to us all."

Hungary: Statement by Ambassador Henry Cabot Lodge, October 28, 1956

"We in this Council cannot stand indifferent when such events take place. The Council must consider a situation so flagrantly contrary to the purpose and principles of the charter. We must consider carefully, in the light of developments, the steps this Council can appropriately take to help bring about an end to these repressions and to assist the Hungarian people in the enjoyment of their fundamental rights."

Middle East: Remarks of Ambassador Henry Cabot Lodge, September 26, 1956

"The United States welcomes the initiative which the Governments of the United Kingdom and France have taken in bringing the Suez Canal matter to the Security Council for its consideration."

Letter from Ambassador Lodge to President of Security Council, October 29, 1956:

"The situation makes imperative an immediate meeting of the Security Council, charged as it is with the primary responsibility for the maintenance of international peace and security as well as responsibility for the observance of the Armistice Agreement."

Statement by Ambassador Lodge in Security Council, October 30, 1956:

"Failure by the Council to react at this time would be a clear avoidance of its responsibility for the maintenance of international peace and security. The United Nations has a clear and unchallengeable responsibility for the maintenance of the armistice agreements."

Korea: Statement by Ambassador Austin in the General Assembly, December 6, 1950:

"The Security Council votes on the joint draft resolution on November 30. The resolution was not adopted, because of the negative vote of one of the permanent members, the Soviet Union."

"It seems clear to the six sponsors of the joint draft resolution that no fruitful action can be expected, at this time, from the Security Council in view of this attitude of one of the permanent members."

"Under these circumstances, the Governments which sponsored that resolution believe that the question of Communist intervention in Korea should be considered by the General Assembly as important and urgent matter."

"The proposed agenda item puts before this Assembly one of the greatest questions faced by the United Nations. It may involve the whole future of the United Nations. It may involve the peace of the world. All the processes of the United Nations should be invoked in an effort to put an end to the threat to world peace."

Middle East: Remarks of Ambassador Goldberg, May 23, 1967, Restated on June 6, 1967, before the Security Council

"We have been consulting intensively with other members over the last several days, since the crisis first arose, to determine in what way the Security Council could best contribute to the cause of peace in the area. We entirely agree that the time has now come, in the light of the gravity of the circumstances, for the Security Council to discharge its primary responsibility under the charter for the maintenance of international peace and security.

"It has been said, for example, that one of the possibly adverse effects of a discussion at this time would be to dramatize a situation better left quiet. Mr. President, this Council would have to be burying its head in the sand if it refused to recognize the threat to peace implicit in the developments which have occurred since our distinguished Secretary-General left New York two days ago. It is precisely because of these developments, not known to him nor to any member of the Council, that we have been called here today urgently to consider what the Council ought to do in discharge of its responsibility to further his efforts and not to impede them."

U.S. LETTER AND RESOLUTION OF 1966

Senator MORSE. The Chair will also place in the record the U.S. letter of January 31, 1966, and a copy of the resolution that we finally sent to the Security Council which the Chair described this morning as a piece of paper with some words on it because, in the opinion of the Chair, only a resolution in which we commit ourselves to abide by the jurisdiction of the Security Council of the General Assembly and waive any veto power at that time, will comply with our obligations under the charter.

(The material referred to follows:)

LETTER FROM ARTHUR J. GOLDBERG, U.S. REPRESENTATIVE TO THE UNITED NATIONS, TO THE PRESIDENT OF THE SECURITY COUNCIL REQUESTING AN URGENT MEETING OF THE COUNCIL TO CONSIDER THE SITUATION IN VIETNAM, JANUARY 31, 1966¹

His Excellency ROGER SEYDOUX,
President of the Security Council.

DEAR MR. PRESIDENT: I have the honor to request that an urgent meeting of the Security Council be called promptly to consider the situation in Vietnam.

As you know, the U.S. Government has, time and time again, patiently and tirelessly sought a peaceful settlement of this conflict on the basis of unconditional negotiations and the Geneva Accords, of 1954. We have done so both inside and outside the United Nations.

In President Johnson's letter of July 28, 1965, to the Secretary General, in my letter of July 30, 1965, to the President of the Security Council, and in my letter of January 4, 1966, to the Secretary General, we appealed for whatever help in ending the conflict the Security Council and its members or any other organ of the United Nations might be able to give. We have also been in constant touch with the Secretary General in order to keep him fully informed and to seek his counsel and assistance. A great number of United Nations members, acting jointly or separately, have with our earnest encouragement sought to find a means of moving the conflict from the battlefield to the conference table.

As you are also aware, because my Government was advised by many others that a pause in the bombing of North Vietnam might contribute to the acceptance by its Government of our offer of unconditional negotiations, we did suspend bombing on December 24 and continued that suspension for some 37 days. At the same time, President Johnson dispatched several high-ranking representatives to explain to His Holiness the Pope and to the chiefs of state or heads of government of a number of states our most earnest desire to end the conflict peacefully and promptly. Our views were set forth in 14 points which were communicated to a very large number of governments and later published and which were summarized in the third paragraph of my letter of January 4, 1966, to the Secretary General.

¹ U.S. Mission to the United Nations press release No. 4798 dated Jan. 31, 1966.

I should like to repeat that summary to you as follows:

"That the United States is prepared for discussions or negotiations without any prior conditions whatsoever or on the basis of the Geneva accords of 1954 and 1962, that a reciprocal reduction of hostilities could be envisaged and that a cease-fire might be the first order of business in any discussions or negotiations that the United States remains prepared to withdraw its forces from South Vietnam as soon as South Vietnam is in a position to determine its own future without external interference, that the United States desires no continuing military presence or bases in Vietnam, that the future political structure in South Vietnam should be determined by the South Vietnamese people themselves through democratic processes, and that the question of the reunification of the two Vietnams should be decided by the free decision of their two peoples."

Subsequently, the President in his state of the Union address on January 12 reiterated once again our willingness to consider at a conference or in other negotiations any proposals which might be put forward by others. I am authorized to inform the Council that these U.S. views were transmitted both directly and indirectly to the Government of North Vietnam and were received by that Government.

Unhappily, there has been no affirmative response whatsoever from Hanoi to our efforts to bring the conflict to the negotiating table, to which so many governments lent their sympathy and assistance. Instead, there have been from Hanoi, and of course from Peiping as well, merely the familiar charges that our peace offensive, despite the prolonged bombing pause, was merely a "fraud" and a "swindle" deserving no serious consideration. The most recent response seemed to be that set forth in President Ho Chi Minh's letter to certain heads of state which was broadcast from Hanoi on January 28. In this letter President Ho Chi Minh made quite clear his unwillingness at this time to proceed with unconditional negotiations; on the contrary, he insisted on a number of preconditions which would in effect require the United States to accept Hanoi's solution before negotiations had even begun. This is obviously unacceptable.

Therefore, Mr. President, my Government has concluded that it should now bring this problem with all its implications for peace formally before the Security Council. We are mindful of the discussions over the past months among the members of the Council as to whether a formal meeting could usefully be held in the context of other efforts than in train. We are also aware that it may not be easy for the Council itself, in view of all the obstacles, to take constructive action on this question. We are firmly convinced, however, that in light of its obligations under the Charter to maintain international peace and security and the failure so far of all efforts outside the United Nations to restore peace, the Council should address itself urgently and positively to this situation and exert its most vigorous endeavors and its immense prestige to finding a prompt solution to it.

We hope that the members of the Security Council will agree that our common dedication to peace and our common responsibility for the future of mankind require no less. In this connection, we are mindful of the renewed appeal of His Holiness the Pope only 2 days ago in which he suggested that "an arbitration of the United Nations confided to neutral nations might tomorrow—we would like to hope even today—resolve this terrible question."

Accept, Excellency, the assurance of my highest consideration.

ARTHUR J. GOLDBERG.

LETTER FROM AMBASSADOR ARTHUR J. GOLDBERG, U.S. REPRESENTATIVE, TO
PRESIDENT OF THE SECURITY COUNCIL OF THE UNITED NATIONS, JANUARY
31, 1966¹ CONTAINING TEXT OF U.S. RESOLUTION OF 1966

DEAR MR. PRESIDENT: As a supplement to my letter to you of this date, requesting that an urgent meeting of the Security Council be called promptly to consider the situation in Vietnam, I submit herewith a draft resolution which I request be circulated as a Security Council document.

Accept, Excellency, the assurance of my highest consideration.

Sincerely yours,

ARTHUR J. GOLDBERG.

¹ U.S. Mission to the United Nations press release No. 4799 dated Jan. 31, 1966.

"The Security Council,

"Deeply concerned at the continuation of hostilities in Viet-Nam.

"Mindful of its responsibilities for the maintenance of international peace and security,

"Noting that the provisions of the Geneva accords of 1954 and 1962 have not been implemented,

"Desirous of contributing to a peaceful and honourable settlement of the conflict in Viet-Nam,

"Recognizing the right of all peoples, including those in Viet-Nam to self-determination,

"1. Calls for immediate discussions without pre-conditions at ----- on ----- date, among the appropriate interested Governments to arrange a conference looking towards the application of the Geneva accords of 1954 and 1962 and the establishment of a durable peace in South-East Asia;

"2. Recommends that the first order of business of such a conference be arrangements for a cessation of hostilities under effective supervision;

"3. Offers to assist in achieving the purposes of this resolution by all appropriate means, including the provision of arbitrators or mediators;

"4. Calls on all concerned to co-operate fully in the implementation of this resolution;

"5. Requests the Secretary-General to assist as appropriate in the implementation of this resolution."

COMMITTEE SOUGHT CONGRESSMAN BINGHAM'S VIEWS

Senator MORSE. In introducing Congressman Bingham, I want to say that he is not appearing at his request but at our request. He is appearing because the Foreign Relations Committee has a very high respect and regard for his expertise in this field.

Even before he became a Congressman he was a delegate to the United Nations. He has taken a long-standing interest in the problems of foreign affairs. We felt that he was especially qualified to give us the benefit of his views in regard to the value that the U.N. intervention at the request of the United States through a U.S. resolution would have in furthering the hope and the possibility of establishing an order of peace in the Southeast Asia area through the application of the rules of law instead of the application of the military might.

I want to say, Congressman, that we appreciate very much your attendance as a witness before us, and we hope that you will give us the advantage of your views bearing not only upon your work as a Congressman, but your activities even prior to the time you came to Congress.

However, you may proceed in your own way and whatever you present to the record will be very much appreciated.

STATEMENT OF HON. JONATHAN B. BINGHAM, A U.S. CONGRESSMAN FROM NEW YORK

Mr. BINGHAM. Thank you very much, Mr. Chairman. I thank you for those kind words, and I would like to say it is a pleasure to be back before this great committee.

I think the first occasion that I had to testify before this committee was 1952. It seems quite a long way back.

Mr. Chairman, I have a short prepared statement, and if it is agreeable, I would like to read it, but, perhaps, interrupt with additional comments as I go along, if that is all right.

Senator MORSE. That will be very satisfactory.

Mr. BINGHAM. I would like to again apologize for being late due to a misunderstanding of the time.

Senator MORSE. You owe us no apology at all. We owe you one for not making our instructions clear.

Mr. BINGHAM. Mr. Chairman, my first comments would have to do with Senate Concurrent Resolution 44 which you introduced September 11.

I certainly welcome the introduction of this resolution, and I would welcome its passage by the Congress simply because, in my judgment, almost any step that would tend to move the U.S. Government out of its present locked-in position on Vietnam would be helpful.

RESERVATIONS CONCERNING TERMS OF S. CON. RES. 44

I have not joined in introducing this particular resolution in the House, however, because I do have certain reservations concerning its terms.

First of all, while I agree that at some future point the United Nations might be immensely useful in regard to achieving permanent peace in Vietnam, I do share the doubts expressed by Secretary General U Thant and many others as to the U.N.'s potential usefulness at the present time as long as there remains a sharp division between the United States and the Soviet Union with regard to the problem.

I think it is fair to say that the Security Council has never been able to arrive at useful conclusions when the great powers were in sharp disagreement, with the exception, of course, of the Korea case when the Soviet Union was not sitting in the Council.

I think it is fair to add to that that this was the intention at San Francisco that the Security Council would have to act in accordance with an agreed position on the part of all the great powers.

Second, I venture to question whether the advance commitment by the United States to abide by the decision of the Security Council, as suggested in Resolution 44, offers a realistic approach. Various questions arise in this connection. For example, is it intended that the United States should agree in advance not to exercise its power of veto?

From what the chairman just said, I would take it that that was so, and I would assume that that would be so because if such a waiver was not intended, then the offer to abide by the decision would be meaningless because no decision can be taken if the United States votes "No."

If we then assume that it is intended that the United States should offer to surrender its power of veto, is it also intended that the United States should not take part in the debate or otherwise seek to influence other members of the Council to adopt a resolution that would be compatible with the U.S. position?

For the United States to waive its right to do this would seem almost masochistic. Yet if it does enter into the debate and use its influence in the normal way, it could probably persuade enough members of the Security Council to adopt a position favorable to its point of view to prevent the taking of an adverse decision. It has always been able to do this in the past on other matters.

We have never yet had to use the veto in the Security Council simply because—not because we would not use it if we had to, but simply because—we have been able when we opposed resolutions to

get either enough other States to vote against them or to abstain them to death; that is, under the present rule, if you get seven abstentions out of the 15 members that is enough to prevent a favorable decision.

I might say that I understand that these hearings now are concerned also with Senate Resolution 180 which was given great attention, and deservedly so, in this morning's papers. I have read this resolution hastily, and I see that it has a great number of distinguished sponsors.

UNITED STATES MUST BE PREPARED TO STOP BOMBING OF NORTH

It seems to be a very general resolution, one that I would certainly think would be a useful initiative for the Senate to take, although for reasons which I will explain in a moment, I do have reservations about our taking this matter to the U.N. unless we are prepared to take certain other decisions at the same time.

Let me comment further on that.

As I said in a letter to the New York Times recently, a letter which you, Mr. Chairman, were kind enough to have reproduced in the Congressional Record, it seems to me that in order for the United States to usefully bring the matter of Vietnam before the United Nations once again, we must be prepared to stop the bombing of North Vietnam indefinitely.

I think it is fair to say that a very large number of members of the United Nations at the current General Assembly have indicated that in their view so long as we continue the bombing of North Vietnam no negotiations will be possible. Certainly U Thant has said that on many occasions, and it is his feeling, I believe, that so long as we maintain the bombing there really is nothing useful that he can perform in his function as mediator nor is there any value in taking our case to the United Nations.

Indeed, so long as we continue the bombing, if we take the case to the U.N. without a willingness to change that policy, we are quite likely to get slapped down, I think, with a resolution that would be hostile to our position.

On the other hand, if we are to take the step that I suggest, to announce a willingness or—that is, either to stop the bombing or to announce our willingness to stop the bombing under certain conditions, the whole atmosphere at the U.N. would change. We could once again mobilize the services of the Secretary General in attempting to mediate the conflict and, perhaps, more important, we could enlist the help of many nonaligned countries and probably many Eastern European Communist countries in bringing pressure to bear on Hanoi and the NLF to come to the conference table.

I share the view that up to now Hanoi has not indicated any desire to negotiate. I think that stems from a number of factors. But I think it is the case, and I think that one of the important things that could be done, if we were to change our policy on the bombing, would be to bring a great deal of international pressure, to make it virtually impossible for Hanoi and the NLF not to come to the conference table.

WILLINGNESS TO NEGOTIATE WITH THE NLF

I believe that such an announcement for the actual cessation of the bombing, should be accompanied further by a clear statement of

our willingness to negotiate with the NLF in its own right, and a reiteration of the fact that our objective in Vietnam is not to maintain an anti-Communist bastion in South Vietnam at all costs, but to assure the right of the South Vietnamese people of self-determination, free from outside pressures. I would like to develop that point a little bit, Mr. Chairman.

The President has many times stated—he said it in his Johns Hopkins speech in 1965, he said it, by my count, seven or eight times during the course of this year—that our basic objective in Vietnam is to assure to the people of South Vietnam the right of self-determination. That objective, I think, is one that is subject to negotiation with the other side.

I think that this is something that they cannot, at least in principle, quarrel with, and as long as that is our objective we can get the support of all of the members of the United Nations and the Secretary General to help us achieve it.

But I must say I am very disturbed by statements such as that made by Secretary Rusk recently that indicate that, perhaps, this is, after all, not our real objective; that our true objective is to maintain at all costs a firm anti-Communist position in that part of the world, and that means that we would insist on maintaining in South Vietnam a regime that is hostile to North Vietnam, that is hostile to Communist China, and if that is our objective, then our position is not negotiable. We have nothing to negotiate with because they would have no reason to come to the conference table with us.

PEACE CONFERENCE OF NONALIGNED POWERS

As a means of bringing to bear the kind of international pressure that I think would be useful and might bring about negotiations, I would specifically propose—as a matter of fact, I have proposed, both to the President and the members of his Administration at times in the past—that at this current General Assembly we extend a public invitation to a group of nonaligned powers—and I would suggest the group of 17 nonaligned powers who called for peace negotiations in 1965 which we, incidentally, accepted in principle, and the other side turned down—to arrange for a peace conference at a time and place of their own choosing and to invite such parties as they would see fit.

Of course, that would mean that they would invite, if they did this, they would invite the NLF, as well as Hanoi.

At the time of extending such an invitation to a group such as this to set up a conference, we would announce that we would be there, we would attend, and we would further announce that in advance of the conference, three weeks or a month in advance, we would stop all bombing of North Vietnam and would be willing to cease all hostilities in South Vietnam at the time the conference opened so long as such a cease-fire was reciprocated.

I want to make clear that this would be an announcement of stopping all bombing of North Vietnam unconditionally and indefinitely, but that the offer of a cease-fire in the south would be an offer to stop shooting in the south as long as the other side maintained a cease-fire.

By such a move I believe we could mobilize enormous pressures on Hanoi and the NLF to come to the negotiating table, a step which we have so far, through other methods, failed to achieve.

ROLE OF THE UNITED NATIONS IN A SOLUTION OF THE CONFLICT

I believe the United Nations General Assembly would be a useful forum in which to make such an announcement and through which to bring to bear the kind of pressure I have suggested, and eventually the United Nations itself might be involved in the carrying out of whatever settlement might be agreed upon.

For example, the U.N. has had experience in the supervision of elections, and I would visualize that any settlement we would make would probably culminate in the conduct of free and fair elections in South Vietnam under international supervision, which would give to all parties, including the NLF, the right to participate and the right to be protected in the campaigning and in the participation and the voting in contrast, of course, to these last elections at which they did not have the right to participate.

The U.N. could, perhaps, also be involved in inspection if agreement were reached on some form of continuation of supply to the extent of maintaining existing forces, but not increasing existing forces.

These are all things that would have to be negotiated, and once negotiated the U.N., I think, could be usefully involved, and probably would be involved, in the policing of those agreements or if not the U.N., if the U.N. were still considered unacceptable to the other side, then it might be some other international body; for example, it might be the International Control Commission beefed up for the purpose, or it might be an international body especially set up for the purpose by agreement.

Those, in general, are my thoughts on the matter, Mr. Chairman. I do believe that this course would be a more practical one, a more useful one, than simply to ask the U.N., as presently constituted, to seek to devise and impose a solution of the conflict without making any other changes or any basic changes in our policy in the conduct of the war.

Thank you very much.

Senator MORSE. I think it is a very helpful contribution to this record.

U.S. PARTICIPATION IN SECURITY COUNCIL DISCUSSION

I refer to the question you raised as to what the intention of the author of Senate Concurrent Resolution 44 was concerning our participation in the discussion before the Security Council. Certainly the resolution was designed so we would have full power of discussion and debate. My own view is that it would be very desirable. We would waive our veto right and, in a sense, put this in quotation marks, "We are one of the defendants" in such a consideration of the resolution. We should not have the right to render the judgment which a veto would be and thus to prevent action that would be applicable to us.

That is why I have suggested in many of the debates in the Senate that the best way for us to show our good faith now, in view of the acrimonious charges that are made against us by many in the United Nations, is to say: "Well, if you will take jurisdiction and really carry out your obligations as members of the charter to enforce the peace,

we will accept the jurisdiction. We will cooperate in carrying out the responsibilities that you assign to us in enforcing the peace so long as you do not transgress upon our sovereignty; that we would withdraw, of course, as we have a right to withdraw, if the United Nations should ever seek to transgress upon the sovereignty of any member."

But I take note of your point that we have great influence in the Security Council. Our participation in the discussion might very well cause one or more nations to accept our point of view and they might exercise their right to prevent the formulation of action under the Security Council. I think it is quite possible. I do not think it is inevitable, because this carries with it, of course, a determination on our part to act with complete good faith and really try to make the rules of law work.

EXHAUST ALL PROCEDURES OF CHARTER

But if it should happen that one resolution is turned down in the Security Council, then the next step would be to move into the General Assembly and see if it might not take a concerted action whereby it would make clear, as we did in the Congo case, for example, that peace has to be maintained.

My only point is that I do not think we are going to meet the historic responsibility of the Republic until we exhaust all the possibilities of procedures under the charter.

I even contemplate the possibility that, if it is retained within this Security Council format, that the Security Council would seek to have the nonaligned countries participate in the discussion, give the Security Council their point of view, give them an opportunity to make suggestions as to what kind of an arrangement they would accept in connection with a United Nations jurisdictional takeover. If they turn that down, as they have in the past indicated they would not participate in the United Nations discussions at that level, we could have a second chance in the General Assembly or follow up the suggestion that you made, that a group of nonaligned nations could propose an international conference that seeks to get the cooperation of the Vietcong, North Vietnamese, and the South Vietnamese and, for that matter, China, in suggesting a format for setting up a multilateral program for negotiating a peace. I think bilateral negotiations are almost out of the picture at the present time.

I only make this statement, Mr. Congressman, because I thought you ought to know at least what has been going through my head, since I have now for almost four years been making a plea for an approach along the lines that my resolution envisions.

MANSFIELD RESOLUTION AS A FIRST EFFORT

I am not wedded to it. I said this morning that the Mansfield resolution, introduced while I was away for a week, with that broad base of support in the Senate, is a very significant thing, and I am willing to go along with that as a first effort. It may be the best way to build a bridge between the Congress and the Administration because it does not contain a directive, as my resolution can be interpreted as containing.

It expresses a sense of the Congress to the President for him to respond to.

Senator Mansfield and I made comments this morning to the effect that we have come to the conclusion, as a result of conversations with the Administration, that they are willing to explore all of the possibilities to find a solution to the problem that confronts us in Vietnam, but there is no indication of any commitments to any particular solution.

My own view is, and Senator Mansfield indicated the same, that the President certainly welcomes the exploring that we are doing up here. It does not bind him in any way.

I happen to think that it is a part of the advice and consent clause before the fact which, as you know, I have argued on the basis of constitutional law, is part of the meaning of the advice and consent clause.

PRESTIGE OF U.N. AT STAKE

I am concerned. I would like to get your judgment, as to whether or not you think I have any basis for my concern. I am concerned about the failure of the United Nations to really do anything very effective in trying to resolve the threat to the peace in Asia. About the image that it is creating around the world in many countries, and the image that it is creating in the United States among many of our own citizens.

So my direct question is this, Congressman: Do you think that the failure of the United Nations to act thus far in trying to enforce a peace in South Vietnam is increasing its prestige and influence around the world or detracting from it?

Mr. BINGHAM. Well, I think, Mr. Chairman, it certainly is the latter. I regret this.

At the same time, I think, perhaps, I am somewhat more understanding or have somewhat greater sympathy, let us say, for the point of view of the Secretary General who has been one of those who has said repeatedly that he did not see that the United Nations had a useful role to play.

I would certainly agree that its failure to play a role has hurt its position in the country and in the world. But I think one has to recognize the fact that the United Nations is not to any great extent in a matter of this kind an entity with a life of its own; that it is a conglomeration of members, and when you consider the Security Council you have to consider the votes of each of the individual countries represented there at a particular time and how they are going to react.

The Security Council has no power other than that, and no likelihood of reaching a decision other than to the extent to which individual nations can combine. So I think, as often has been said, the fault lies not with the organization or with the way it is established or the mechanism, but it reflects the disagreements and the troubles in the world today. It is, as the Secretary General has said, a mirror of the world, and I am afraid it is true, as it was expected to be in 1945, that where the Soviet Union and the United States do not agree on something it is very difficult, if not impossible, to get action out of the United Nations.

U.N. CONSIDERATION COULD TURN INTO TWO-WAY DEBATE

Senator MORSE. One of the points of view expressed to us almost invariably when we hold conferences with Administration spokesmen about the possibility of United Nations consideration of the war in Vietnam, is that it is bound to result in acrimonious debate; that serious charges will be made against the United States for its original intervention. You know the charges that are advanced against the U.S. position.

Some of us who have talked to the Administration have said that is true, but that debate has to be put behind us sooner or later anyway.

I remember on one occasion at the White House I pointed out that, "Well, don't forget, quite a bill of particulars can be advanced against Russia for her participation in the war in Vietnam," which, according to my sights, cannot be reconciled with the Geneva conference of which she happens to be one of the cochairmen.

You cannot reconcile her war aid in Vietnam with the prohibitions of the Geneva treaty any more—as you know, I have said and cited it time and time again—than the bill of particulars against our own country, which, in my judgment, are open violation of the tenets of the Geneva treaty which we said we would respect as tenets of international law, can be reconciled. As a result, I think we have violated every major section of the Geneva treaty.

Russia has not sent combat men, but she has certainly sent over the materiel of war that has been used to kill a lot of our men. So when they talk about the acrimonious debate, it is not going to be a one-way debate.

ACRIMONIOUS DEBATE SHOULD TAKE PLACE

I have also observed over the years that if you have those pent-up feelings it is better that the participants in such a situation get the feelings out of their system so that the cortex can finally sit on the throne of reason again. I think we have to get that debate behind us.

So I am not dissuaded from urging this approach, and I do not ask you to comment on it, but I simply ask you to keep in mind that in my mind the acrimonious debate argument does not disturb me. I want to get it behind us, and then have them settle down to see if they can work out a procedure for decreeing a cease-fire, setting up the lines of defense, proceeding with the pacification program, working out a form of government which I think will have to be a coalition government for a time which is abhorrent to us.

But if we think we are ever going to see Vietnam controlled by military junta, why, we are just sticking our heads in the sand of international reality.

I am sorry to advise you, Congressman, that you have to depart forthwith because there is a rollcall vote in the House. If you want to make the rollcall you need to go. I am going to say you have made a contribution that I think is very helpful to us. I reserve to you the right to file any supplemental statement to your statement that you wish.

Mr. BINGHAM. Thank you very much, Mr. Chairman. I am sorry, but I would like to make that rollcall.

Senator MORSE. Our next witness will be Ambassador Charles W. Yost of New York, if he will come forward.

I want to say, Ambassador Yost, that you honor the committee by being a witness today. You bring to this record a background that I would like to have the American people know something about as I introduce you.

I would at this time mention that at the end of Mr. Yost's testimony I would like inserted in the record a letter I received from Mr. Yost and certain other former U.N. delegates, I think they may be helpful for the record. (See pp. 62-68.)

Your academic work at Princeton and the University of Paris, your long service in various assignments in our Foreign Service, Vice Consul, Alexandria, Warsaw; Assistant Chief of the Office of Arms and Munitions Control of the Department of State; Ambassador to Syria, Ambassador to Morocco, U.S. Deputy Representative to the United Nations, presently with the Council on Foreign Relations in New York; your various publications, including "The Age of Triumph and Frustration," and "Modern Dialogues."

But above all, I want this record to show that those of us on the committee feel we are privileged to hear a dedicated public servant and you honor us by your presence.

You may proceed as you wish.

STATEMENT OF CHARLES W. YOST, NEW YORK, N.Y.

Mr. Yost. Thank you very much, Senator. I appreciate those kind words very much.

I might say before I read my brief statement that I personally very much wish I could be more encouraging in regard to the purpose and intent of your resolution than in all sincerity I can be, because I personally am deeply troubled by the repercussions and consequences of the war in Vietnam.

I wish, as do most people at the U.N., that the U.N. could do something decisive to bring it to an end. But the circumstances at the U.N., as I will explain, make that very difficult.

[U.N. UNABLE TO GRAPPLE WITH VIETNAM PROBLEM

Mr. Chairman, certainly the United Nations, which is in principle the supreme instrument of peacemaking and peacekeeping for all its members, should be able and willing to deal with the war in Vietnam. There is no doubt that its members almost without exception are profoundly disturbed by the war, that they consider it the most serious present threat to international peace and security, that they believe it the principal obstacle to movement inside and outside the United Nations toward necessary cooperation among the great powers, and that they are keenly aware that it might at any time, against the will of all the parties, explode into much wider war. Yet, despite this almost unanimous collective judgment, despite the most earnest efforts of the Secretary General, of the United States and of many other members over the past three years, the U.N. has been unable to grapple with the problem.

In February of last year the United States was barely able to persuade the Security Council, by a margin of one vote, to inscribe Vietnam on its agenda, and was thereafter wholly unable to persuade the Council even to debate the subject, not to mention act upon it.

Vietnam was referred to in almost every speech in the Assembly's recent general debate, but there has not been the slightest evidence that the majority of the Assembly is prepared to adopt any sort of resolution on the subject, even though an Assembly resolution would only be a recommendation to the parties. The Secretary General, as you know, has repeatedly put forward suggestions which he hoped might form the basis for a negotiation between the parties, but all of these suggestions have been unacceptable to one or both of them.

Why this strange impotence on the part of the world's peacekeeping organization? I think there are three principal reasons for it.

REASONS FOR U.N. IMPOTENCE

First, we often forget that the peacekeeping authority of the United Nations laid down in the Charter was made in large part dependent on agreement among the great powers, the permanent members of the Security Council. This safeguard was insisted upon at Dumbarton Oaks and San Francisco, as strongly by the United States as by the Soviet Union. The Security Council has therefore never been able to deal effectively with East-West conflicts, except in the single case of Korea when the Soviet Union was temporarily absent. The Assembly has sometimes in the past been able to act on East-West issues, at least in the form of hortatory resolutions, but, now that a very large number of members consider themselves nonaligned between East and West and prefer to abstain on resolutions to which one or the other of those take very strong exception, it is almost impossible to secure the adoption of such a resolution, that is one to which one or the other object, if it relates to an important political issue.

The second reason for the impotence of the U.N. in regard to Vietnam is the fact that one of the major combatants and one of its major supporters, North Vietnam and Communist China, are neither members of the U.N. nor represented there. For this reason, among others, they have repeatedly stated that they do not recognize the jurisdiction of the U.N. and would not act upon any recommendation it might make. This firm rejection of the U.N.'s competence not only causes the Soviet Union, in support of its North Vietnamese ally, to state frankly that it would veto any resolution the Security Council might pass on the subject, but causes a majority of members of the U.N. to feel that it would be both "unneutral" and an empty gesture to vote for an Assembly resolution on the issue. There is a general feeling at the U.N. that the machinery set up at the Geneva conference of 1954 is better suited to deal with the Vietnam issue because all of the active parties are represented there.

The third reason for the failure of the U.N. to cope with Vietnam is that the two sides are still so far apart and so seemingly uncompromising on the essential issues that it is hard for members to see what the U.N. could propose that would be really meaningful, that would not be rejected out of hand by one or both parties. The Secretary General has put forward several formulas for negotiations, for cease-fire, for deescalation of various kinds, but all have been either rejected or accepted with reservations, expressed or unexpressed, which would make them obviously unacceptable to the other side. The majority of U.N. members, therefore, eager as practically what all of them are to see an end to the Vietnam war, are at a loss to see they could usefully propose or do.

CONCLUSION REACHED BY PRINCIPAL PARTIES

I hope very much myself that all concerned will soon come to the conclusion that the conflict in Vietnam has now expanded to a scale of violence, suffering, and expenditure of resources which is in nobody's interest, which is disproportionate to everyone's objectives and which more and more jeopardizes everyone's security. When that conclusion is finally assimilated by the principal parties, it may be possible to end the war by negotiation and compromise. It should certainly be possible to deescalate it in certain important respects, to deflate the transcendental importance both sides have been attaching to it, to reduce it to proportions more commensurate with its proper place in the whole spectrum of responsibility which great powers must bear and share.

If and when the principal parties reach that conclusion, the United Nations will be available to assist, if it is asked, in facilitating either a settlement or a deescalation. It may even be possible that, if the United States, for example, should take concrete, unambiguous and unconditional measures of deescalation and if Hanoi should fail to respond or to match them in any significant way, the General Assembly might then be willing to take a stand. Otherwise I doubt that it will.

MULTILATERAL PEACEKEEPING MACHINERY SHOULD BE REINFORCED

Certainly the war in Vietnam and the situation in the Middle East have all too clearly demonstrated both the risks and limitations of unilateral peacekeeping and the continued weakness of the machinery for multilateral peacekeeping. In my opinion it is absolutely necessary that the latter be substantially reinforced during coming years. Two prerequisites for this reinforcement, I am convinced, are, first, much more meaningful cooperation among the great powers now on the Security Council and, second, at least as far as peacekeeping in East Asia is concerned, the representation of Communist China in the United Nations. Unfortunately, the Vietnam war is a principal obstacle to making progress toward either of these two ends.

Thank you, sir.

Senator MORSE. I am very pleased to have this analysis of yours, Mr. Ambassador. I always like to have a record that balances off points of view.

I would like to ask a few hypotheticals.

Mr. YOST. Certainly.

Senator MORSE. They at least will help me in my thinking.

POSSIBILITY OF A U.S. LAND INVASION OF THE NORTH

I think it is clear from your statement that you think because basically it is an East-West controversy that the chances of getting any assumption of jurisdiction on the part of the major powers through the Security Council is rather remote and that, therefore, apparently the present procedure will have to continue for the time being unless we can get the United States to set forth what you so clearly describe here as a concrete, unambiguous, and unconditional set of measures of deescalation, and if Hanoi would then fail to re-

spond to that deescalation, maybe the General Assembly might take jurisdiction.

Let us assume the United States, the South Vietnamese and our allies might invade North Vietnam by a land invasion.

Do you think that change of condition, which is not deescalation but a great step-up in escalation, might increase the possibility of either the Security Council members or the General Assembly members of giving more favorable consideration to a United Nations attempt to enforce a peace over there?

Mr. YOST. I think it might, Senator.

As you say, that would be a very substantial step in escalation. I personally am inclined to believe it would bring the Communist Chinese into the war, and that great broadening of the war would certainly redouble the apprehensions that already exist in the U.N., and certainly it would make every effort to do something about it. Whether successful or not, I do not know.

Senator MORSE. Your answer covers really the second hypothetical I was going to put, but I will put it anyway so that we can separate them.

POSSIBILITY OF CHINA'S ENTERING THE WAR

Suppose that the escalation goes beyond an invasion of North Vietnam and the United States and its allies start dropping bombs on China, which would bring China into the war.

Do you think that would cause enough concern among the members of the Security Council and the General Assembly to cause them to believe that now their stakes had become so high because that kind of a war they could escape the consequences that go along with it, that that might cause the United Nations to intervene and try to take jurisdiction?

Mr. YOST. I think so, Senator. I think a good many members of the U.N. who are good friends of ours and who hitherto have been restrained in their criticism, if they felt we were responsible for such a substantial broadening of the war, would move in the United Nations over to the other side, and there would be almost certainly action in the Assembly, probably in the Council as well.

WHEN THE ISSUE IS BETWEEN EAST AND WEST

Senator MORSE. You comment about the doubtful possibility of United Nations intervention when the issue is an issue between East and West this means that when they are not issues between the East and West directly, such as the Congo, Cyprus, the earlier Middle East conflict, and the Pakistan-India conflict, some record was made, with varying degrees of success, for United Nations intervention. Isn't there a danger if that pattern continues that you would find growing opposition to the United Nations on the part of the so-called nonaligned nations. Wouldn't they feel that apparently its peacekeeping procedures apply only to them but not to the big boys and maybe they had better offer some amendments to the charter itself that would deplete somewhat or reduce somewhat the powers of the big countries within the United Nations?

Mr. YOST. Well, happily, there has not been any such trend of thought so far. Actually most of the smaller countries, and middle-sized countries, feel that the U.N. peacekeeping capacity is very much

in their interest because they may at some point be under threat by one of their neighbors or by a great power, and they are only too happy to see the U.N. retain and develop a greater peacekeeping capacity.

They are very pleased, on the whole, when the great powers can agree in the cases when they do, as in Cyprus, for example, to permit a U.N. peacekeeping operation take place; and while they resent its not being able to do so in other cases, I do not think that that would lead them to the conclusion that the whole business should be thrown into the melting pot and changed.

POSSIBLE AMENDMENTS TO U.N. CHARTER

Senator MORSE. Assuming it would be desirable to have the ideal, if it is considered an ideal, of the United Nations as an effective force in bringing to an end, through its procedures, threats to the peace, whether the threat is between small powers or large powers, do you think a case can now be made, in light of the nonintervention to date on the part of the United Nations in South Vietnam or the threat of peace of the world in South Vietnam, for floor amendments to the charter? If you think so, would you make some suggestions to the committee as to what amendments maybe we ought to be urging upon the United Nations.

Mr. YOST. Senator, I am inclined to agree with the remark that Congressman Bingham made in reply to one of your questions. I do not think the fault really lies primarily in the charter. I think it lies in the policies of the various governments which are members of the United Nations.

They have not found sufficient common ground of agreement to carry out, to exercise through the United Nations, the authority that the charter lays upon it.

There are in chapter 7 of the charter enforcement procedures which would enable the U.N. to deal with Vietnam or any other similar situation if the Security Council, the members of the Security Council, would agree to use that authority.

But they simply have not been willing to do so in critical cases of this kind.

As you say, they have done so in a number of cases with some success, and they have performed a very valuable service, I think, in those cases like the Congo and Cyprus and Kashmir.

But in these East-West issues they have not been willing to do so. I think the answer is not an amendment to the charter but a gradual development of more cooperative arrangements, more accommodation inside and outside the United Nations between the United States and the Soviet Union, for example.

Now, one element which I would hope for eventually would be an agreement among them to use the multilateral peacekeeping authority and facilities of the U.N. rather than attempting themselves in the absence of such facilities to use unilateral means.

DANGER OF GROWING OPPOSITION TO THE U.N.

Senator MORSE. One of the concerns of some of us is that if repeated nonaction on the part of the United Nations is built up whereby it is

not effective in bringing peace to areas of the world where peace is threatened, that there will be growing opposition to the United Nations among the peoples of various countries of the world, including our own country. If it does not produce the results which the people were promised when the charter was agreed to, then it might go the way of the League of Nations?

Do you think there is any danger of that kind of public opinion developing?

Mr. YOST. I am sure there is. One sees signs of it here and abroad at the present time.

On the other hand, one does see some countervailing trends of opinion there, at the U.N., and in many countries, a feeling of deep disappointment that the U.N. has not done more in the case of Vietnam and in other cases.

I have a feeling that it should be doing more and that means must be developed for assuring in the future that it does do more.

It, of course, is in a sense a race between discouragement and determination, and I do not know which will prevail in the long run. But, perhaps, the more risky and the more difficult unilateral peace-keeping turns out to be, the more we and others will be prepared to put our faith and reliance on multilateral peacekeeping.

BOMBING PAUSE DURING RECONVENED GENEVA CONFERENCE

Senator MORSE. Some of us have had faith in United Nations procedures, have been so dedicated to the ideal of ending war by countries unilaterally acting out of their own proclaimed self-interest, following intervention policies which lead to threats to the peace, have been hopeful that something could be salvaged out of this charter in connection with the instant dispute. Do you think that there might be any hope of trying to get the United Nations to pass a resolution calling upon the United Kingdom and the Soviet Union to reconvene the Geneva conference and having in that same resolution a provision that a bombing pause should prevail during the course of such a conference?

Do you think there would be any hope of getting consideration of that kind of a resolution and, if so, do you think it would be constructive in helping pave the way to multilateral negotiations?

Mr. YOST. I think it might be constructive if it could be done, Senator. I would doubt that it could be accomplished at present or until there is some change in the policy and attitudes of the principal governments involved.

If that proposal were submitted under present circumstances it would be opposed by the Soviet Union because Hanoi has made it quite clear that it does not wish the United Nations to take any action, and that it is not prepared to negotiate in any case until certain prerequisites are met.

On the other hand, the United States, under present circumstances, as long as it objects to a cessation of bombing, would not favor it.

With the two principal powers opposed to it, I am sure a great number of members would feel it was useless to adopt any such resolution and would hesitate to work for it. It is unlikely under those circumstances that it would get the necessary majority.

ATTITUDE OF THE SOVIET UNION TOWARD A CONFERENCE

Senator MORSE. The refusal to date on the part of the Soviet Union to even participate in the convening of the Geneva conference raises a suspicion that apparently she is waiting for us to become even more involved in Asia, and that she welcomes our escalation in spite of other public pronouncements that she makes, because perhaps the more we escalate the more world support we lose, and the sooner she may find us in a position where she would have us at a world disadvantage.

I do not know whether that is her objective or not, but many people are developing that suspicion. And that is why I think it is so important, as I said when Congressman Bingham was on the stand, that it would be a very good thing to have this debate out with her in the Security Council even if she is going to use her veto. She would have to debate before the veto, and maybe it would give us an opportunity to present what facts we have as to what I consider to be a great deal of bad faith on the part of the Soviet Union in connection with this whole matter.

I also happen to think my country is guilty of a great deal of bad faith, but that is another issue.

A DEBATE IN THE U.N.

Do you think any great harm would be done. Do you think it would not be in the interest of our country and of the United Nations itself, for us to follow a course of action before the United Nations in submitting a resolution that would give pretty reasonable certainty that this debate that the Administration forces keep talking about occurring, but seem not to be anxious to get into, would in fact be held?

Mr. YOST. No, Senator, I must say I am not worried about that aspect of it.

Senator MORSE. I am not either.

Mr. YOST. There has been a good deal of sharp debate in the U.N. on the subject anyway, and if there should be more I cannot see that it would do any serious damage.

ATTITUDE OF THE SOVIET UNION IN REGARD TO WAR

I might, if you do not mind, comment on the point you mentioned in regard to the Soviet Union. I was in Eastern Europe this summer and I had the impression there, including the Soviet Union, that they are genuinely desirous of seeing this war come to an end, first because as long as it goes on it always has the possibility of erupting into something more serious that would involve them; and, second, because I think they genuinely do want to make some progress with us along some lines, at least limited progress, which is inhibited by this business.

But I would also feel as you do that, if the war goes on and on and escalates more and more, and the United States suffers in world opinion and world position very widely as a consequence, that will rebound to the advantage of the Soviet Union and they might come eventually to feeling that the war was in their interest rather than against it.

Senator MORSE. Only one more comment to make and then I will have Senator Pell take over the chairmanship because I am called away.

SOVIET UNION'S REFUSAL TO INVOKE THE GENEVA MACHINERY

Whenever I can find myself in agreement with the Secretary of State I grab the opportunity. It is very rare these days, but in his press conference of September 8 he was pointing out that in one of the last debates of the Security Council the Soviet representative and Ambassador Goldberg were speaking about the Geneva conference machinery, and quoted Ambassador Goldberg as saying "All right, if that's your view, then let us invoke the Geneva machinery." And the Secretary said, "But when he turned to the Geneva machinery, the other side would not play on that."

The Secretary continued:

Now, we believe there is a proper concern of the United Nations. The fact that one party, or one or two parties, refused to accept the jurisdiction of the United Nations has nothing to do with the world responsibilities of the United Nations under its charter. So we'd be glad to have this matter considered in the United Nations.

I do not make a broad application of the Secretary's comment. I do share his view that because the North Vietnamese and Vietcong, China, even, are not parties to the United Nations does not in any way eliminate the responsibility of the signers of the charter to exhaust every approach that possibly can be turned to, to try to get some multilateral agreed upon procedure to lead the combatants to a negotiated settlement of this war.

That is one reason why this debate would be a good thing. We could just put it right on the Soviet Union's back as far as her refusal to seek to invoke the Geneva machinery.

CHANCES FOR BILATERAL NEGOTIATIONS WITH THE VIETCONG

But what troubles me, Mr. Ambassador, is that—and I would like to have your corrective response if you think there is no basis for my fears—I have heard nothing in this committee, I have heard nothing in the briefings that have taken place in the White House, that leads me to believe that in the foreseeable future there is the slightest chance of getting bilateral negotiations with Hanoi and the Vietcong. We are just going to have multilateral negotiations because basic to our proposals for bilateral negotiations is the implied condition that they accede to our wishes, which to them is a form of surrender.

They are never going to surrender. Their whole record for 25 years has been one of suffering great casualties and fatalities but not surrendering.

At one of the briefings recently it was pointed out to us the French during the Indochina War destroyed a dam as a result of which it was reported they killed over a million people. That did not cause any surrender. It only caused them to dig in with deeper hatred for the French.

My concern is that that is what is happening over there now as their hatred for the United States intensifies.

I have taken these few moments to tell you how I feel about these briefings based upon an apparent attitude of our Pentagon and State Department people that if we just escalate enough and destroy enough they have to capitulate.

I do not think—that could happen, but if it does happen I do not think—it is going to give us a negotiated peace. It will give us another imposed truce, which only means, I think, a postponement of the ultimate war.

I thought you ought to have a chance to at least comment on these views of mine no matter how wrong you may think they are. That is the conclusion I have reached.

I am not alone on it. I know quite a few colleagues who have attended the same briefings and who have developed the same concerns. I would like to have your value judgment on my comments.

CHANCES OF A POLITICAL SETTLEMENT

Mr. Yost. Well, of course, I have not attended those briefings, but I certainly feel strongly myself that we are not likely to produce a capitulation; that the only kind of settlement we can have is a compromise settlement, and primarily a political settlement, and a political settlement is going to be something that will have to be principally accomplished by the Vietnamese themselves, the South Vietnamese.

I think that we are in a vicious circle as far as the United Nations is concerned. You point out how far apart we are in regard to private negotiations. That is what discourages most members of the United Nations from undertaking responsibility, because they do not see how the two sides could be brought together in their present state of mind.

If there was a feeling at the U.N. that by appointing some sort of an intermediary or mediator or charging the Secretary General with that function, that they could help to bring the two parties closer together, they would do that tomorrow. They would be delighted to do that.

But there have been no indications that either side would welcome or accept anything of that sort. Therefore, most people in New York have concluded that the first steps have to be some change of heart on the two sides, the two combatants, before the U.N. can do anything very effective.

They can, of course, debate and ventilate the problem, as you say, and point out the sins of both sides. But they hesitate to do any more of that than they are doing if they cannot see any practical benefit resulting from it.

■ Senator MORSE. Mr. Ambassador, thank you very much.

Senator PELL, I am going to ask you to take over the chairmanship. When you finish the hearings the committee should recess until 10 o'clock tomorrow morning.

Thank you very much.

Senator PELL (presiding). Thank you, Mr. Chairman.

Mr. Ambassador, I feel a little strange here when you are such a close friend and an old boss, to be at this end of the table and you at that end.

REASONS FOR CESSATION OF BOMBING

I have read your statement with great interest, and I also read Congressman Bingham's. I noticed a very interesting idea in both of them which has not yet been fully ventilated, I think, in the

Congress; namely, that there is a third reason why we should cease the bombing in the north. Let me review the two reasons with which we are already familiar.

First, it is counterproductive. As Secretary McNamara himself has pointed out, the bombing has not significantly reduced, nor would any bombing contemplated in the future significantly reduce, the flow of men and material into the south. From the point of view of morale, it has had just the opposite effect of what we thought it would have. It has solidified the morale in the north. Moreover, the most successful presidential candidate in the recent election in the south, next to the government Thieu-Ky slate, was the one who believed in peace and cessation of bombing in the north.

So those of us who think it is counterproductive continue in that point of view.

The second reason to stop the bombing is that it would lead to negotiations. This, to my mind, is somewhat fallacious because there can be danger in going into negotiations unless you can come out with something at the other end. Unfortunately, there seems no possibility of compromise at present.

But you and Congressman Bingham have put into the hopper today a third reason for ceasing the bombing; namely, that it might spur the United Nations into some sort of action, or it might help change the atmosphere there so that they would be willing to become seized of this problem. Would that be correct?

CONSEQUENCES OF BOMBING CESSATION DIFFICULT TO PREDICT

Mr. YOST. It is impossible to predict definitely what would be the consequence, but I think there would be a fairer prospect of that.

Certainly, as you very well know, bombing of the north has become a symbol all over the world of intransigence and, in the opinion of many, an overutilization of power.

If we should choose to stop the bombing, this would have a profound effect in the United Nations and over the world. There would be, I am convinced, a very strong feeling generally that we had made a substantial step to meet a condition that Hanoi had laid down, to meet the requests of our friends, to meet what a very large number of speakers in the recent general debate in the General Assembly asked for, and that this warranted, this deserved, a substantial response on the other side.

If our action did not, within what people felt to be a reasonable length of time, produce any significant response, then I think a good many members would be inclined to pursue the question in the U.N. I do not know whether there would be a sufficient majority to obtain an Assembly resolution, but there might well be. In any case it would almost certainly reopen the debate in a significant way.

Senator PELL. I thank you for that contribution, too, because I think that the press and the public opinion are all aware of the importance of the arguments concerning the relationship between the cessation of bombing and the possible start of negotiations, and the reasons suggesting counterproductivity, but the most important are those you are suggesting now.

SACRIFICES DISPROPORTIONATE TO OBJECTIVES

I notice in your statement you say that the sacrifices, the suffering and expenditures of resources which are in nobody's interest, are disproportionate to everyone's objectives and more and more jeopardize everyone's security.

When this disproportionate sacrifice amounts to a breaking point then we may get into a different stance. Meanwhile I wonder if the only place—not counting, of course, South Vietnam—where the sacrifices are disproportionate to the objectives, is in our own country. After all, the Chinese sacrifices in men have been zero, and material, a small percentage of what we have put in; the Soviet Union men zero, material again, a small percentage of what we have put in; and the North Vietnamese have lost much in men and material. I understand, also that our airplane losses amount to about three times the value of the targets destroyed. But North Vietnam's objective is the reunification of their country, which meant a great deal, as we know, in our own Civil War.

Therefore, we are left with a question I want to put to you: Is not the only country that is paying a disproportionate cost for whatever it is attaining the United States?

Mr. Yost. Well, I would feel that those who are suffering most and paying most are the Vietnamese, north and south. But certainly of all those not directly constituting the battlefield, the United States is the one which, in my opinion, is expending a disproportionate amount of resources and political energy and attention.

As you know, I spent some time in that part of the world in Southeast Asia, and I do feel we have important obligations and responsibilities there. But I am equally persuaded that we have important obligations and responsibilities in many other parts of the world, in the Middle East, in Latin America, and in Europe, in assisting in the development and modernization of the new and developing countries generally, not to mention our most vital responsibilities and obligations in our own large cities which are in such a difficult state.

So I think it is of the greatest importance that we do allot to each of these problems, each of these obligations and responsibilities, what seems a due proportion not only of the resources that we theoretically have but the resources that the American taxpayers are willing to have devoted to governmental objectives.

Looking at it in that regard I feel at present our effort in Vietnam is disproportionate.

I think it is very important. I certainly would be the last to say that it should not be pursued, but I would say that it is definitely disproportionate.

OBJECTIVES OF THE UNITED STATES AND NORTH VIETNAM

Senator PELL. You are quite correct in emphasizing that the South Vietnam sacrifice, on the battlefield, and in hand-to-hand combat, is the greatest of them all.

I notice where you suggest, too, that the two sides are still far apart. I completely agree with you. I think one of the fallacies when we talk about negotiations is our failure to recognize that the two national objectives and two goals do not yet really seem to be within the same ballpark.

I wonder if you could clarify in simple language your view as to what are the present actual objectives of the United States, and those of the North Vietnamese and Vietcong.

Mr. Yost: It is very difficult to go behind the stated objectives and say what each side would really settle for in the last analysis. Obviously, the North Vietnamese would like to achieve the unity of their country under their control.

During this visit to Eastern Europe that I mentioned earlier I was repeatedly assured, whether or not correctly, that they would in the last analysis settle for an indefinite division of the country as long as the south was under a government in which their supporters, the Vietcong, would play a substantial but not a dominant role.

If that role is their objective and is really what they would settle for—and there is no way of knowing except by testing them out—then it seems to me something that we could live with.

ALLOWING POLITICAL FORCES FREE PLAY

Senator PELL. Excuse me, just pressing on that point, am I not correct in saying that they would not settle for any situation which did not allow the political forces in being to play a role, that would reflect the actual strength? As it is now, the most active, aggressive force seems to be the Vietcong. They seem to have more cohesion, drive and aggression.

Therefore, they presumably would come out on top, and this would really mean that North Vietnam would not settle for a government where the VC could not play eventually a dominant role. What do you think?

Mr. Yost: That is the great question. I do not think anybody knows whether they would insist in fact, if there were a coalition government, that it be dominated by the VC or whether they would be satisfied with the VC playing a subordinate role or a role on a parity with other parties but not the dominant role.

Senator PELL. But might it not be to the best interest of the Vietnamese and us, if we simply let a government emerge reflecting the political forces that are present. In short, if we just allowed the free play of political forces wouldn't it be probable, that the VC would soon exercise a dominant force because they have more cohesion and drive than any of the other groups in the country?

Mr. Yost: Well, I am not really sure of that. One might have said the same of the Communists in France in 1944, and it did not turn out to be that way. They participated in a coalition government for three years and then were edged out.

Now, the situation obviously is not the same in South Vietnam. But I am not prepared to say that they would surely play the dominant role.

Senator PELL. It might be a sensible risk for us to take. Would you say so?

Mr. Yost: Of course, our stated position and our honest position is that we are fighting to insure self-determination in South Vietnam. In other words, that the Vietcong or anyone else should not impose their domination by force. We have never carried our argument all the way down the line as to just what we would do in what particular contingencies. Governments rarely do. But reverting to something

you said a little earlier about the unlikelihood of negotiations succeeding in view of the wide divergence between the parties, I personally am always in favor of starting negotiations, if you can.

I think negotiations, like war, have their own momentum, and once they are begun, all sorts of pressures are built up on the parties, both domestic pressures and external pressures, to succeed, to come out with something. It may take a long, long time, as it did in Korea, or it may move fairly rapidly as it did in the case of the Geneva conference in 1954 and the Geneva conference in 1962.

But even if the parties are very, very far apart, if they will agree to sit down at a table I am always in favor of urging them to do so.

EFFECT OF TWO RESOLUTIONS

Senator PELL. With specific regard to these two resolutions, the one of Senator Mansfield with its more than 50 cosponsors, and that of Senator Morse, am I right that your position is that their passage would probably not produce any results, but still would produce no harm?

Mr. YOST. I think insofar as they indicate a deep concern with the trend of events, and also indicate a conviction which cannot be denied that the U.N. should be doing something about this, that they would have some positive value.

I cannot in all honesty say that they would be likely, even if we followed the stipulations that either one of them makes, that they would be likely to produce any result at the United Nations unless one or more of the parties changed their position.

Senator PELL. Under the present circumstances do you have any preference with regard to one resolution over the other? Would you prefer the stronger one, the Morse one, or the less strong one, the Mansfield one?

Mr. YOST. I would prefer the less strong one because I think it does permit more adaptation to events, more flexibility. I regret to have to be pessimistic about the outcome at the United Nations at this point.

RECOMMENDED COURSE OF ACTION FOR ADMINISTRATION

Senator PELL. Now, apart from these resolutions, in light of the regard and respect we have for your own judgment, and the fact that you were at San Francisco at the start of the U.N. and followed it so closely down through the years since, would you state what would be your recommended course of action? What course should our Administration take, even if they can't liquidate this problem in Vietnam, at least to bring it within bearable limits? I realize it is a very general question, but I would be interested in your thoughts.

Mr. YOST. Well, just to reply briefly, as I have said, I do think we have important obligations and responsibilities in Southeast Asia in general and in Vietnam in particular, and I certainly would not waver on those obligations.

On the other hand, I do think, as I said, we are devoting a disproportionate amount of our political energy, attention and our resources to this in relation to all the other heavy responsibilities we have.

Therefore, in general, I would tend to deescalate in various ways. Obviously, the most important one, because it has become such a symbol, is the cessation of the bombing, which I should definitely favor.

I am not at all sure that it would produce a negotiation. It might or it might not. There is some prospect that it might, not right away but after a period of time.

Certainly if it did so the casualties that would be saved by bringing this war to a conclusion, perhaps in a few months rather than in a few years, would be enormously greater than any casualties which are alleged to be the consequence of stopping the bombing.

In any case, even if it did not produce negotiation, it would greatly improve the political climate in this country and abroad by demonstrating that we are willing to go this extra mile even at some military cost in order to try to achieve a solution, and this would change the atmosphere in the U.N.

Not only that, but it would in my opinion, improve our posture, our position, our prestige throughout the world, and in so doing, and this is not just a sentimental consideration, in so doing, would assist in achieving all sorts of political objectives in other parts of the world which are in some degree inhibited by our present stand.

I may say also on the general subject of deescalation that just because I do think we have obligations in Southeast Asia, because there are a number of weak and backward countries in a difficult position, because we are going to have to maintain a limited presence for a long time, I fear that, if we expend too much too quickly, there will be a reaction. The American people over a period of time will not tolerate such an expenditure because it interferes with too many other goals, they would react and pull away, and we might go to the other extreme. For the long, hard pull I think you need a more measured pace.

LARGE NATIONS MUST MAKE SACRIFICES

Senator PELL. I would wholeheartedly agree with you from a political viewpoint. Perhaps we may see the pendulum start swinging in that direction now.

I believe the leaders of the world should keep areas of aggression and of war as restrained and as cooled down as possible. Yet as long as any nation is a leader of the world, like we who derive all the benefits we do, half the world's resources with only 6 percent of the world's people, we would probably have to be prepared to make sacrifices. Our objective should be to keep those sacrifices within the threshold of bearability. In Vietnam it would seem to me we have exceeded that threshold, and this is the danger today.

This is a policy that a mature nation like Britain maintained for many years before we assumed the leadership of the world; and for us to successfully carry this mantle, we will have to assume it, too.

I would gather our views are in common in this regard.

Mr. Yost. They are. I agree with that absolutely.

I think we should come to understand that, on the one hand, even if we succeed relatively well in Vietnam, that is not going to prevent similar situations from occurring elsewhere over a good many years which we will have to deal with. Victory there is not going to be victory for all time or everywhere.

On the other hand, even if we fail, I do not think we are going to fail, but even if we have a setback there, that would not lead to a series of other setbacks unless we chose to allow it to do so.

Senator PELL. Thank you very much for the excellence of your statement, the responses to our questions which is exactly what I, for one, knew would be the case.

At this point I have just been informed that Senator Wiley, former chairman of this committee, and beloved by many of us, who served with him and knew him, has just died. I thought this announcement should be made to the committee at this time so that his friends would be aware of it and it would be in the committee's records, the committee that he served so diligently and led so well.

At this point this meeting is recessed until 10 o'clock Friday morning, when our witness will be Ernest Gross, former delegate to the United Nations, and certain other witnesses.

(A statement by Hon. Herbert Tenzer, U.S. Congressman from New York, follows:)

STATEMENT OF HON. HERBERT TENZER, MEMBER OF CONGRESS

Mr. Chairman and Members of the Committee on Foreign Relations, I am pleased to have this opportunity to present my views on S. Con. Res. 44, sponsored by the distinguished Senator from the State of Oregon, The Honorable Wayne Morse.

On October 18, 1967 I introduced in the House H. Con. Res. 536, worded differently in some respects but with the same objective as S. Con. Res. 44. I am pleased to advise the Committee that as of this morning, 23 Members of the House of Representatives have joined in sponsoring Resolutions identical to H. Con. Res. 536.

During the brief period since October 18th a considerable amount of interest has been expressed on the House side in favor of H. Con. Res. 536. This interest demonstrates that we must more vigorously pursue peace by urging the United Nations—the only international forum for world peace—to use its influence in an effort to bring about a reconvened Geneva Conference to the end that a cessation of hostilities in Viet-Nam may be achieved and peace restored to South East Asia.

H. Con. Res. 536 expresses the Sense of Congress that the President should take appropriate steps to bring a resolution calling for a reconvened Geneva Conference to the U.N. General Assembly. It does not call for a full scale debate in the UN on the Viet-Nam issue since neither North or South Viet-Nam is represented in the world body—nor is Communist China. It does call on the President to request the UN to appeal for peace negotiations among the parties directly involved in Viet-Nam.

Mr. Chairman, The President, the Secretary of State and our Ambassador to the United Nations at different times have spoken about the United States' efforts to have the UN place the Viet-Nam conflict on its agenda. They have urged at different times that the Security Council take up the matter of the Viet-Nam conflict. We were told that the member nations have been canvassed and that they have indicated an unwillingness to take jurisdiction and accept the responsibility outlined in the Charter.

There are those who have questioned the credibility of our leaders and the sincerity of our desire for peace. I do not underestimate the desire for peace in the hearts and minds of the overwhelming majority of Americans. I do not question the right to dissent. The basic differences lie in the manner in which peace is to be achieved.

The objective of the Resolution now being considered by this Committee and the objective of H. Con. Res. 536, is to pursue peace—the search for which is in the proudest tradition of our American democracy.

I first proposed use of the special U.N. "uniting for peace" procedure on June 14, 1967 in a House statement (Congressional Record A3015) one day after the use of the same procedure by the Soviet Union in connection with the Middle East crisis. It was the first time the Soviet Union had recognized the validity of the "uniting for peace" procedure to bring a war or peace issue to the General Assembly where the Security Council is unable to act. The United States should follow this same course.

Every idea has its time.

The time for the U.S. to request an emergency meeting of the UN Security Council to consider all aspects of the conflict in Viet-Nam—is now.

If the Security Council is unable to act, then the United States should take all the steps necessary to assure action by the General Assembly.

Only by the collective action—the coordinate efforts of the President, the Secretary of State, our Ambassador to the United Nations, with the support of the Senate and the House of Representatives—can we demonstrate to the world the sincerity of our purpose to achieve a cessation of hostilities—an honorable peace—in Viet-Nam.

Mr. Chairman, the Viet-Nam war has had its impact in every nation of the world and the refusals of Hanoi to come to the peace table threaten to prolong this struggle. Bilateral and unilateral efforts have been unsuccessful and while we continue to pursue every avenue toward peace, we must not overlook the United Nations—the only multilateral force which can bring world opinion to bear upon the parties involved in the Viet-Nam war.

A UN resolution calling for a reconvened Geneva Conference would place world opinion officially on record and would be a formal and direct request to the co-chairmen of the Geneva Conference—Great Britain and the Soviet Union—and the parties directly involved in Viet-Nam—to comply with the United Nations request for peace negotiations.

Let the nations of the world have the opportunity to use their influence—not merely to one side or the other—but to take constructive action to bring the parties to the peace table.

The Members of the House who have joined in sponsoring this legislation are the following:

Hon. Joseph P. Addabbo
 Hon. William A. Barrett
 Hon. George E. Brown, Jr.
 Hon. Phillip Burton
 Hon. Jeffery Cohelan
 Hon. John Conyers, Jr.
 Hon. Don Edwards
 Hon. Joshua Eilberg
 Hon. Donald M. Fraser
 Hon. Samuel N. Friedel
 Hon. Jacob H. Gilbert
 Hon. Seymour Halpern

Hon. Julia Butler Hansen
 Hon. Ken Hechler
 Hon. Henry Helstoski
 Hon. Robert W. Kastenmeier
 Hon. Robert Leggett
 Hon. Patsy T. Mink
 Hon. Wm. S. Moorhead
 Hon. Abraham Multer
 Hon. Edward Roybal
 Hon. James Scheuer
 Hon. Herbert Tenzer

90th CONGRESS
 1st Session

H. CON. RES. 536

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 1967

Mr. TENZER submitted the following concurrent resolution; which was referred to the Committee on Foreign Affairs

CONCURRENT RESOLUTION

Whereas the primary purpose of the United Nations is to maintain international peace and security and to take collective measures to remove threats to world peace; and

Whereas in ratifying the charter of the United Nations the United States undertook a solemn treaty commitment to settle international disputes by peaceful means; and

Whereas under the charter the Security Council has primary responsibility for the maintenance of peace, which devolves to the General Assembly when the Council is unable to act: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that:

1. The President should request an emergency meeting of the United Nations Security Council to consider all aspects of the conflict in Vietnam and to act to end the conflict in accordance with article 25 of the charter.

2. If the Security Council is unable to act, the United States should take all steps necessary to assure action on the issue by the General Assembly.

3. The United States objectives in the United Nations should be to obtain—
- (a) support for an immediate cessation of hostilities by all parties, and
 - (b) recommendations for appropriate measures, such as the convening of an international conference, for reaching a permanent settlement which will assure a lasting peace for Southeast Asia.

(The letters from U.N. delegates previously referred to follow:)

COUNCIL ON FOREIGN RELATIONS, INC.,
New York, N.Y., October 2, 1967.

HON. WAYNE MORSE,
U.S. Senate, Committee on Foreign Relations,
Washington, D.C.

MY DEAR SENATOR: I appreciate your sending me a copy of the resolution which you have introduced concerning the role which the United Nations might play in bringing about a settlement of the war in Vietnam. This is of course a subject which concerns me very much and I shall be happy to testify on the matter on October 26 if the Committee on Foreign Relations so desires. I am informing Mr. Kuhl of my availability on this day.

I am sure you are very much aware how difficult it has proved, despite the deep concern of most of its members, to involve the United Nations directly and effectively in the Vietnam problem. I was a member of the US delegation on several occasions when very serious but abortive efforts were made to do so. The difficulty is of course that both North Vietnam and Communist China, who are not UN members, take the position that the United Nations has absolutely no jurisdiction over the Vietnam conflict and that the Soviet Union and a majority of other UN members therefore, while constantly speaking to the issue, refuse to agree that the Security Council should take, or the General Assembly recommend, any concrete action. Yet the vast majority of UN members, including the United States, are intensely unhappy and frustrated by the inability of the world peacekeeping organization to do anything effective about this tragic and dangerous war.

I am personally inclined to believe that it will be necessary for the United States to take the initiative in deescalating the war, particularly by suspending the bombing of the North, before it will be possible to move toward a settlement, either in or out of the United Nations. Should the United States take these preliminary steps, it might be easier, because of the absence of North Vietnam and China from the United Nations, to get to negotiations outside rather than inside the organization. Should Hanoi, however, fail to respond within a reasonable time to significant measures of deescalation by the United States, it might then be possible and advantageous to raise the question again in the United Nations with more hope at least of a recommendation being made by the General Assembly.

In summary I am in full agreement with the objective of your resolution but am doubtful that any effective action on this issue can be expected from the United Nations unless and until one or both of the parties to the conflict alters its present posture.

Sincerely yours,

CHARLES W. YOST.

PHILIP U. KLUTZNICK,
Chicago, Ill., October 2, 1967.

HON. WAYNE MORSE,
U.S. Senate, Committee on Foreign Relations,
Washington, D.C.

MY DEAR WAYNE: Your letter of September 26 was sent to my old address in Park Forest, Illinois. Consequently, I have just received it and the enclosures. I appreciate the fact that you are circulating this material among those who have served in recent sessions of the General Assembly. The procedure implicit

in the concurrent resolution is extraordinary. In this sense, it meets head on a situation which is itself extraordinary. However, I have grave doubts about the efficacy of this approach unless the administration is in sympathy with it and will do what the concurrent resolution calls for, both explicitly and implicitly.

By coincidence, I read the proposed resolution and your statement shortly after the President delivered his speech in Texas. If that continues to reflect the policy of the administration, then the resolution will have little, but public opinion, effect. In this sense, it may be helpful in swaying the administration to a more positive posture. However, beyond that purpose, I see little of value and the possibility of a precedent which may hobble our foreign relation capacities in the future. In other words, if the President were to be swayed by a Congressional resolution, it seems that he should be swayed by his friends in the Senate and in the House who have been telling him many of these things for a long while.

Both of us share a profound respect for what the President has done domestically and a growing concern about where he is heading us internationally. Since you are closer to the scene, if you feel that this resolution is one way of turning the tide, then naturally I would be prepared to support it with some amendment. First and foremost, I doubt whether I would address this matter to the Security Council. In paragraph 1 of the proposed resolution, the President is requested to call an emergency meeting of the Security Council for the purposes set forth therein. In this paragraph, it is intended to pledge the United States, in effect, to waive its veto. I believe this to be a dangerous precedent which may come back to haunt us until the United Nations has been made more perfect as an instrument in the international field.

It seems to me that it is an unnecessary risk to take. While I recognize that we have never used our veto, the threat of its being there is helpful so long as others have the right of veto. The institution of a precedent of waiving in advance opens a Pandora's Box which may lead us goodness knows where.

I have said that I feel this approach is unnecessary. I believe the objective of the resolution can be achieved in even more effective form and with more dramatic purpose if the Security Council was not the point of first appeal. The resolution would be wiser in my judgment if it called upon the President to request a special emergency meeting of the General Assembly where the problem of veto would not be immediately involved. Since an act by the Security Council calling for a cease-fire and whatever else it may call for is no more effective than a similar act on the part of the General Assembly, I would think it more appropriate for the resolution to limit itself to an approach to the General Assembly.

I would also include in that call a provision for an invitation to the non-members such as North Viet Nam, South Viet Nam, and Red China. While they probably would not attend, it should be indicated that they are invited to be present.

I agree with you completely that it would be well if we would use the facilities of the United Nations. But, I reiterate that unless the President is prepared to do so graciously and meaningfully, it might be better not to go back again.

With best wishes, I am,

Cordially,

PHILIP M. KLUTZNICK.

5504 CHEVY CHASE PARKWAY, NW.
Washington, D.C., October 12, 1967.

HON. WAYNE MORSE,
U.S. Senator,
Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR SENATOR MORSE: Your letter of September 26, 1967, with a copy of Concurrent Resolution (S. Con. Res. 44) interests me very much, and I apologize for the delay in responding.

I entirely agree that the war in Vietnam is definitely a threat to the peace which should enlist the active efforts of the United Nations towards a settlement. I also agree that primary responsibility under the Charter is with the Security Council, but that inaction there opens the way to seek consideration and recommendations by the General Assembly.

As to the exact text of the Resolution it might not be wise at this time for the Congress to call specifically upon the President to request an emergency meeting of the Security Council; that is to say, it might be better to express the sense of Congress that the United Nations, through the Security Council or, failing there

through the General Assembly, should seek a settlement. I would not wish to be more precise without consultations with the Executive Department, including Ambassador Goldberg. These comments could be applied to paragraph 2 as well as to paragraph 1.

I fully agree with paragraph 3.

Going back now to the fifth Whereas clause, I doubt the wisdom of this, which seems to place the blame on the United States. It is probable that we had sound reason for believing effective steps could not be taken before due to the Soviet and French positions in the Council, but I do not think it follows that the Congress should not seek effective steps at the hands of the United Nations. There is some difference it seems to me in the Congress calling upon the President to take a definite action in this matter now and in expressing the views of the Congress as to the responsibility of the United Nations.

It appears from press accounts that informal meetings are being held by by representatives of the members of the Security Council. This I think at present is good means of exploring possibilities of later effective and formal Security Council action.

As you know the United States is ready at any time to enter into negotiations for a peaceful and honorable settlement. Every effort should be made to influence Hanoi to agree to begin such negotiations.

I prefer not to be a witness at the hearings; but I do wish to express my deep respect for your efforts in this as in many other problems over the years.

Sincerely, and with personal regards,

CHARLES FAHY.

5504 CHEVY CHASE PARKWAY NW.,
Washington, D.C., October 13, 1967.

Hon. WAYNE MORSE,
U.S. Senator, Committee on Foreign Relations, U.S. Senate,
Washington, D.C.

DEAR SENATOR MORSE: My letter of yesterday regarding the Concurrent Resolution (S. Con. Res. 44) might be read as suggesting a direct approach by the Congress to the United Nations. My thought is expressed more accurately by suggesting that the Congress endorse the efforts the President has made to enlist the help of the United Nations in the matter.

Sincerely,

CHARLES FAHY.

DEBEVOISE, PLIMPTON, LYONS & GATES,
New York, N.Y., October 17, 1967.

Hon. WAYNE MORSE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I am sorry to have been slow in answering your letter of September 26, 1967, relating to your S. Con. Res. 44 as to the referring of the Vietnam conflict to the United Nations.

You ask my candid views, and I shall give them.

Ideally, the U.S. *should* bring the conflict to the Security Council, and the Security Council *should* order an immediate complete cease-fire by *all* sides, *should* send observers (if not an armed force) to implement the cease-fire, and *should* order an immediate peace conference with all parties represented or the immediate reconvening of the Geneva Conference. If I had any confidence that the Security Council (or the General Assembly) would do what it should do, I would strongly favor our bringing the matter to it at once. (I would favor this even though I think that the U. S. would be the only one to observe the cease-fire and that the Communists would reject it and any conference—in that case, the world would at least know whom to blame when fighting resumed.) But I do not think that either the Security Council or the General Assembly would do what it should, and I think that the result of bringing the matter formally before the U. N. would be frustration.

First, as to the background. Both Peking and Hanoi have many times announced that Vietnam is no business of the U. N. and that the U. N. has no business there. Indeed, both Peking and Hanoi in 1965 firmly (although politely) refused to let U Thant visit them for the purpose of exploring peace possibilities. And, needless

to say, neither Peking nor Hanoi is a member of the U. N. or obligated to do what the U. N. orders or recommends. The result of the Hanoi position (if not Peking's) is that the Soviet Union, anxious to preserve its supposed position as the leader of the Communist world, particularly as against Peking, resolutely (a familiar Soviet word) rejects any U. N. involvement in Vietnam.

The U.S. has brought the Vietnam issue to the Security Council twice.

The first time was just after the Tonkin Gulf incident in August 1964. The Soviet Union strenuously resisted any discussion at all, and Hanoi refused to accept the Council's invitation to attend and present its case, with the result that the meetings ended in frustration.

The U.S. again brought the issue to the Security Council in February 1965. Again, the Soviets fought against the Council's considering the matter at all, and, in fact, no debate ever was held—the Japanese President of the Council, after certain private consultations, simply wrote a public letter stating that his consultations indicated a general feeling not to hold any debate and a strong desire for an early cease-fire and early negotiations to implement the Geneva accords.

He was promptly denounced by the Soviet and French representatives (who had not been consulted) for acting without authority. Again, frustration.

I see no reason to believe that a further reference to the Security Council would produce any different result. The attitude of the Soviet Union has not changed; it still opposes U.N. involvement because Hanoi (and Peking) oppose it. Indeed, I question whether Moscow may not regard a peaceful settlement as *against* its national interest, for surely that interest is served by continued U.S. entanglement on the Asian mainland (so long as it does not overwhelm North Vietnam, and there are no signs of that happening or being intended), with its wastage of the U.S.'s resources and its darkening of the U.S.'s international reputation—and, perhaps, its restraining effect, if any, on possible Peking penetration of Southeast Asia.

But, you may say, why not bring the matter up again in the Security Council, and if the Soviet Union frustrates again, let it, and let it be held publicly responsible. The difficulty is that even if the U.S. introduced a simple resolution which merely called for a cease-fire and the reconvening of the Geneva Conference, it would not, I am afraid, be able to get the necessary 9 votes against Soviet and French opposition—with resulting further frustration, and denigration of the U.N.

I am equally afraid that the same sort of thing would happen if the issue were taken to the General Assembly.

One of the fundamental difficulties about the U.N. is the deep-seated reluctance of members to take a stand on any issue which involves a confrontation between the U.S. and the U.S.S.R. The result is, of course, that the U.N. is not an effective institution for dealing with such issues—bringing them before the U.N. simply exposes its weakness.

You may well say, why not expose its weakness? I do not agree—I believe it should be used for things that are within its capabilities, and that, as the only international organization for peace we have, it is better served by slow strengthening than by sudden strains leading only to frustration.

Accordingly, I hope you will not press your resolution.

I am taking the liberty of sending copies of this letter as indicated below.

Respectfully yours,

FRANCIS T. P. PLIMPTON.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES
Washington, D.C., October 23, 1967.

HON. WAYNE MORSE,
Senate Office Building, Washington, D.C.

DEAR SENATOR MORSE: Please forgive me for not having previously acknowledged your thoughtful letter of September 26 respecting your resolution, S. Con. Res. 44, providing for submission of the Vietnam issue to the United Nations. I would very much like to see the United Nations take jurisdiction over the issue, but I am afraid that under present conditions there is little hope for obtaining approval for a meaningful resolution in either the Security Council or the General Assembly. My own views on the subject are set forth in a speech I made on the Floor recently and I am enclosing a copy.

I would have preferred that the President should make his announcement that he had ordered that the bombing of North Vietnam be stopped at the time he

makes his appearance at the General Assembly. However, in order to meet the argument that there is no assurance of cooperation from the other side in attending negotiations even if the bombing were stopped, I thought the administration might prefer to delay in making such an announcement pending receipt of word that the proposed conference had been organized and the parties invited.

The proposal could meet the objections of the French, the Soviets, and our adversaries to consideration by the United Nations in that it offers the possibility of an outside meeting at Geneva or some other world capital.

With best wishes,

Sincerely,

SIDNEY R. YATES,
Member of Congress.

[From the Congressional Record, Wednesday, October 4, 1967]

VIETNAM

Mr. YATES. Mr. Speaker, President Johnson is receiving a great deal of advice these days respecting the conduct of the war in Vietnam. In the other body, Senators in both parties are urging the President to seek to persuade Hanoi to come to the negotiating table by stopping our bombing to the north, a viewpoint which I share.

Our closest friends in the free world—Great Britain, Canada, Denmark, and the Netherlands, all of whom are members of NATO—have made the same recommendation.

France and Soviet Russia, which retain friendly relations with Ho Chi Minh, have declared that the bombing must be halted before negotiations looking to a cease-fire can begin.

Secretary General U Thant who has had several discussions with North Vietnamese leaders says this is a condition precedent to discussions.

In his latest statement the President has indicated our official position is still to require a reciprocal action from Hanoi before we will agree to stop the bombing. Secretary Rusk has asked, "What assurance have we that they will agree to negotiate if we stop the bombing?" And the war goes on.

Mr. Speaker, the people of the United States, and of the world, too, for that matter wonder why the United Nations has not taken a more active role in settlement of the war. The matter has been pending before the Security Council for more than a year, where it now lies dormant. Upon inquiry we are told there is little possibility of obtaining Security Council action now or in the near future because of opposition by the Soviet Union and France on the Council, and because of the refusal by our adversaries to cooperate with the United Nations.

Nor is it likely that taking the matter from the Security Council and turning it over to the General Assembly would serve any useful purpose under present circumstances.

What then should be done? I have a suggestion, Mr. Speaker, for taking the matter off of dead center at the United Nations and hopefully moving it toward settlement.

I would suggest to President Johnson that he appear in person before the General Assembly of the United Nations to speak in the cause of peace. The matter is of such great importance as to warrant his appearing personally to rally support for a peaceful settlement of the Vietnam war. The President has not spoken to the General Assembly since 1963.

I believe the President ought to try a new and constructive approach by calling upon the assembled nations to convene a special conference for the purpose of ending the war. If the great nations remain stalemated as they seem to be at the present time, the President could call upon the unaligned small nations to take the initiative for calling the conference as they have done on a number of occasions in the past to bring the warring parties together.

Mr. Speaker, I suggest the President may want to make the following points: First. Let the conference be organized, he might say to the delegates. Invite whatever parties you consider appropriate. We will be there.

Second. If the NLF and the Government of North Vietnam object to meeting at the United Nations, as they probably will, let the meeting be held in Geneva or in any neutral world capital.

Third. As soon as it has been announced that the conference has been organized and the parties invited, the President of the United States will order that the bombing of North Vietnam be halted.

Mr. Speaker, presumably the sponsoring nations would invite both the National Liberation Front and the Government of South Vietnam. Thus the meeting would offer the opportunity for the direct belligerents to meet and negotiate with each other, as well as the governments of the United States and North Vietnam.

Mr. Speaker, the appearance of the President of the United States in the cause of peace would be a dramatic and powerful event. I recall the tremendous impression upon the assembled delegates made by President John F. Kennedy in 1963 and shortly after Mr. Kennedy's death, by President Johnson. But 4 years have gone by since his last appearance, years in which the United States has become embroiled to an ever-increasing degree in the Vietnam war.

The President's initiative for a peaceful solution in Vietnam by offering to halt the bombing would have an enormous impact for good throughout the world. It is conceivable that it might be the first step in bringing the war to an end. We would furnish solid support for the Charter of the United Nations and for the principle that international disputes should be settled peaceably. His proposal at the United Nations would help restore the flagging prestige of the United Nations and the cause of international cooperation. The burden of seeking settlement of the Vietnam dispute by peaceful means would be shifted to Hanoi, for we will have taken the first affirmative and tangible step for peace.

SCHOOL OF ADVANCED INTERNATIONAL STUDIES,
JOHNS HOPKINS UNIVERSITY,
Washington, D.C., October 24, 1967.

Senator WAYNE MORSE,
Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR WAYNE: Thank you so much for writing me about the concurrent resolution which you have introduced relating to the submission of the Vietnam issue to the United Nations. I appreciate your thoughtfulness in inviting my comments on this important matter.

Let me say at the outset that I very much share your major objective. Certainly the United Nations, which has responsibility for the maintenance of peace and security in the world, should be persistent in its attempts to bring to an end such conflicts as that which exists now in Vietnam. On our part we should do everything we can to encourage the U.N. to assume its responsibility in this particular instance and to help develop the kinds of procedures and attitudes that will enable the U.N. to cope with conflicts of the Vietnam type in the future. I do not believe in avoiding the United Nations merely because some people feel it will be unable to bring about a settlement.

On the other hand, if consultations which we should carry on in New York suggest that there is no support for our position in calling for a meeting of the Security Council, then of course we would have to abide by the decision of our friends and allies. At the moment, U Thant seems to feel that nothing constructive can come from a meeting on Vietnam. So do a good many other delegates including those from the Communist Bloc. Certainly we can achieve no useful purpose by asking the U.N. to deal with the problem if the other members of the Organization do not want such a meeting and believe no useful purpose can be served by holding one.

With respect to the wording of the resolution, I do not like your first "Whereas." It may be accurate but I think it should be softened a bit in order to attract people who might be willing to support your general position but who would look upon this language as an unnecessary indictment of the United States and its policy.

I would take a somewhat similar approach towards your last "Whereas." You suggest that the United States "has failed to take effective steps" to bring about the United Nations involvement. Would it not be better to say "we have been unable" to bring about U.N. involvement? As you know, we have tried but other states have been unresponsive. Certainly, I don't object to trying again. Obviously we should keep on trying if there is any chance at all.

I have some reservations about your paragraph 1 which suggests that we would agree in advance to accept and carry out any decision the Council might take. Isn't that going a little far? Would we agree to remove our troops, for example, or to stop shooting even if the other side should be unwilling to do so? I would prefer to make the language somewhat more general, suggesting our willingness to cooperate with the Council in every possible way in reaching a decision. I would even be willing to waive the veto if there were any indication the other side would cooperate.

May I say in conclusion that anything we can do to encourage the United Nations to assume its responsibility in this important matter would be appreciated by millions of people all over the world. If something constructive could be done through U.N. channels, it would not only enhance greatly the reputation of that Organization, but it might help bring an end to the conflict that we all deplore.

Having said that, the big question, it seems to me, is how we can get the other side—that is, Communist China, Ho Chi Minh, the Viet Cong and the Soviet Union—to agree to cooperate with the United Nations. In any event, we must leave no stone unturned in our efforts to bring about peace in Vietnam. A resolution of this kind which expresses the sense of the Senate that the United Nations should take appropriate action, ought to receive the overwhelming endorsement of the United States Senate. We must never give up. We've got to keep on trying.

I appreciate very much your invitation to appear as a witness on October 26 or 27. Unfortunately other commitments for that week, including a trip out of the city, will make that impossible.

With warm good wishes.

FRANCIS O. WILCOX.

REDLANDS, CALIF., November 6, 1967.

HON. WAYNE MORSE,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR MORSE: It is a source of sincere regret that your letter of September 26, 1967, has remained unanswered so long. My prolonged absence from my home in Redlands accounts for what must have appeared as great rudeness. Now that I have retired I use a "public stenographer" and during my absence my mail is not forwarded to me. When I returned to Redlands two days ago, Saturday, November 4, 1967, there was a large accumulation awaiting me.

Because of my conviction that there must be a strong and effective world organization and because of my desire to have our country play a leading role in the strengthening of the United Nations, your resolution (S. Con. Res. 44) could not fail to interest me.

Since I left the UN in December 1965 my contacts with it and with our government have been minimal. It would, therefore, be difficult for me at this juncture to suggest a procedure which might succeed in bringing about the UN intervention in the quest for a peaceful solution in Vietnam. Although the proposal contained in your resolution is designed for this purpose I do not believe it would produce the desired result. On the other hand, the passage by the Congress of the United States of a Joint Resolution urging the intervention of the United Nations in seeking an end of hostilities and the negotiation of a peaceful settlement might help to create a climate in which the United Nations could be encouraged to become actively engaged.

The above is too vague to be helpful, I fear. In any event, I wanted to reply as soon as possible after my return to Redlands.

Sincerely yours,

FRANCES E. WILLIS.

Senator PELL. The meeting is adjourned.

(Whereupon, at 4 p.m., the committee adjourned to reconvene at 10 a.m., on Friday, October 27, 1967.)

SUBMISSION OF THE VIETNAM CONFLICT TO THE UNITED NATIONS

FRIDAY, OCTOBER 27, 1967

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to recess, at 10 a.m., in room 4221, New Senate Office Building, Senator John J. Sparkman presiding. Present: Senators Sparkman, Morse, Clark, Pell, and Hickenlooper.

Senator SPARKMAN. Let the committee come to order, please. We continue hearings this morning on Senate Concurrent Resolution 44, submitted by the distinguished Senator from Oregon, Mr. Morse, and Senate Resolution 180, introduced by our distinguished majority leader, Senator Mansfield. I regret I was unable to be here yesterday. I understand the testimony was most interesting and enlightening. I read the newspaper accounts of it and look forward to reading it in the record.

This morning we are very glad to have as our first witness Mr. Ernest A. Gross, former delegate to the United Nations General Assembly in New York.

Will you come forward please, Mr. Gross?

Mr. GROSS. Mr. Chairman.

Senator SPARKMAN. It is good to see you again and good to have you before our committee.

Mr. GROSS. Thank you, Mr. Chairman. I am delighted to be here, sir.

Senator SPARKMAN. I have a biographic sketch of Mr. Gross that will be printed in the record.

(The biographic sketch of Mr. Gross follows:)

BIOGRAPHIC SKETCH OF MR. ERNEST A. GROSS OF NEW YORK CITY

Born: September 23, 1906, New York City.
Education: Harvard College, B.S. Degree, 1927, Student, Oxford University, 1927-28, Harvard, LL.B., 1931, Geneva School of International Studies, 1929-30.

Experience:

1931-33—Assistant Legal Adviser, Department of State
1933-34—Division Counselor, N.R.A.
1934-36—General Counsel, graphic arts coordinating committee, Printing & Publishing Industries
1936-38—Associate General Counsel, National Association of Manufacturers
1938-43—Associate General Counsel for enforcement, National Labor Relations Board
1946-47—Deputy Assistant Secretary of State for Occupied Areas
1947—Legal Adviser, Department of State
1948—Assistant Secretary of State
1954—Partner, Curtis, Mallet-Prevost, Colt & Mosie

CONFERENCES ATTENDED AND OTHER ACTIVITIES

U.S. Delegate to Far Eastern Commission, U.S. Representative on United Nations Peace Commission in 1953, Alternate delegate to 3rd, 5th and 6th U.N. General Assembly Sessions. President, Freedom House, 1953, Trustee, Carnegie Endowment for International Peace, President, Woodrow Wilson Foundation.

Memberships and Clubs:

American Bar Association
 American Society International Law
 New York City Bar Association
 Federal Bar Association

Publications: Legal articles in Department of State Bulletins.

**STATEMENT OF ERNEST A. GROSS, PARTNER, CURTIS, MALLETT-
 PREVOST, COLT & MOSLE**

Mr. GROSS. Mr. Chairman, it is a privilege to respond to the invitation of the Chairman of the Foreign Relations Committee to testify in regard to the role which the United Nations might play in bringing about an honorable settlement of the Vietnam conflict. The question obviously is of great consequence to our national interest, to world peace, and, very possibly, to the future of the United Nations itself.

In my respectful view, the committee is performing a high public service in providing an opportunity for discussion of this subject.

Mr. Chairman, in contrast to virtually all other conflicts—

Senator MORSE. May I interrupt for just a moment?

Mr. GROSS. Yes, Senator Morse.

BACKGROUND OF WITNESS

Senator MORSE. The Chair has very advisedly put your biographic sketch into the record of the hearings, but I think for those attending the hearings and for those who take note of the hearings through the media that this much should be said about your background: This very distinguished witness was a member of the U.S. delegation to the Far Eastern Commission; U.S. representative on the United Nations Peace Commission in 1953, alternate delegate to the third, fifth, and sixth United Nations General Assembly sessions; president of Freedom House; trustee of the Carnegie Endowment for International Peace; president of the Woodrow Wilson Foundation. I could go on to cite his other qualifications in the field of international relations and international law.

I want to say, Mr. Gross, that I think the committee is highly honored to have a person of your expertise in this field and scholarly background, with your knowledge of the United Nations Charter, appear before us this morning as a witness in these hearings. I want to thank you very much for honoring us and for being willing to make your testimony available to this committee.

Mr. GROSS. Thank you, Senator Morse. Your comments are very kind and overgenerous.

U.S. POSITION IN VIETNAM

I was on the point of commenting that, in contrast to virtually all other conflicts which followed in the wake of World War II, involving the disintegration of colonial empires, the Indochina wars, of which the Vietnam conflict is the current phase, have remained as essentially

a unilateral enterprise, first French and now American. It seems to me a good starting point, at least from my perspective, to take account of the fact that the United States suffers from naked and lonely exposure in Vietnam to a conflict whose course we cannot control and whose outcome cannot be predicted.

Perhaps the most striking aspect of our position there today is its contrast to the policy which was envisaged and indeed insisted upon in 1953 and 1954. That, of course, was the period of the disintegration of French colonial policy in the area, of the signing of the Geneva accords, and the discussion of the Southeast Asia Defense Treaty.

U.S. ATTITUDE TOWARD U.N. RESPONSIBILITIES IN SOUTHEAST ASIA

Before turning to a consideration of the substance of Senator Morse's resolution, Senate Concurrent Resolution 44, I should like, with the chairman's permission, to review briefly the attitude of the U.S. Government in that crucial period concerning United Nations responsibilities in regard to Southeast Asia. I think this is particularly relevant and important in the light of the emphasis which is now placed on the Southeast Asia treaty in the determination of our policies and commitments in that area.

At that time in 1953 and 1954, President Eisenhower and the late Secretary of State, Mr. Dulles, firmly and explicitly ruled out any U.S. military intervention in the area, particularly in the absence of United Nations sanction.

As early as 1953, which already was the seventh year of the Indochina wars, President Eisenhower declared, and I quote:

Aggression in Korea and Southeast Asia are threats to the whole free community, to be met by united action.

The significance of the phrase "united action" was never in doubt. It referred to United Nations action or, at least, United Nations sanction.

In May of 1954, shortly before the Geneva accords, and only a few months prior to the negotiation of the Southeast Asia Defense Treaty, Secretary Dulles defined the essential conditions for U.S. intervention in the area in the following terms, and I may say that the late Secretary of State's comments followed consultation with congressional leaders and with numerous of our principal allies. Mr. Dulles said, as follows:

We are willing to participate in collective defense basically upon the terms laid down by the Vandenberg Resolution of June 1948 which laid down basic conditions under which the United States would be prepared to participate on the basis of mutuality and in accordance with the principles of the United Nations. We don't go in alone—

Said Mr. Dulles—

we go in where the other nations which have an important stake in the area recognize the peril as we do.

Then I emphasize the following sentence from Mr. Dulles' statement:

We go in where the United Nations gives moral sanction to our action.

The late Secretary of State made clear also that the United States was at that time strenuously attempting to persuade the French Government in their own as well as in the general interest to escape, by recourse to the United Nations, from the hopelessly unilateral exposure in which they found themselves.

Secretary Dulles declared in May of 1954, and I quote:

There have been discussions off and on—

With the French—

I am sorry to say more off than on, over the past year with reference to bringing the United Nations into this situation. At the moment, the prospects look somewhat better than they have recently been in the past. In the past we have been very close to the United Nations action without its being actually taken.

Mr. Chairman, and members of the committee, these statements were made by the Secretary of State on the eve of the Geneva conference, the disaster of Dien Bien Phu, and of the Southeast Asia Treaty. They were contemporaneous with the events, the crucial events, of that decisive period.

FRENCH OPPOSITION TO INTERNATIONALIZING OF WAR

The French, we may recall, for our own profit, and future guidance, the French insisted on playing a lone hand even though the United States had to provide the stake to the tune of something approximating \$850 million a year, plus provision of substantial military assistance. In the words of Secretary Dulles at that time, and I quote:

The French were opposed to what they called internationalizing the war. They preferred to treat it as a civil war of rebellion.

It should be recalled, in concluding my references to this crucial and, I think, determinative period in which a unilateral policy became entrenched, it should be recalled that in 1953 and 1954 the Korean war was a very fresh and vivid experience. As I have said, President Eisenhower at that time bracketed Korea and Southeast Asia as both involving what he termed aggressive "threats to the whole free community, to be met by united action."

We, the U.S. Government and people, were still keenly aware of the significance of the fact that our intervention in Korea took place under the United Nations flag and in pursuance of United Nations authorizing resolutions. Sometimes it is said, Mr. Chairman, that the two situations were and are quite different; that the circumstance of Soviet absence from the Security Council in June of 1950 made United Nations action possible in Korea, whereas Soviet presence in that body today precludes United Nations intervention in Vietnam.

SOVIET ABSENCE FROM SECURITY COUNCIL IN 1950

I respectfully submit, sir, that this argument misses the point completely, and having been our representative in the Security Council on June 25, 1950, I should like, if I may, to interject a word of personal experience in this regard.

When the U.S. Government decided upon recourse to the United Nations Security Council on June 25, 1950, we had no idea whether or not the Soviet delegate would be present. The decision was in no

way influenced by the fact that he had walked out of the Council some months previously. On the basis of personal knowledge, Mr. Chairman, I can say that had the Soviet representative attended the Security Council session and vetoed the Korean resolution on that fateful day the General Assembly would have been convened at once under plans which were formulated at midnight, and undoubtedly would have adopted substantially the same resolution.

It is well known, sir, that, despite Soviet insistence to the contrary, the Security Council has primary responsibility, not exclusive responsibility, for the maintenance of peace and security, and the overriding authority of the General Assembly is not only embodied in the charter, but is decisive not only to the workings of the organization but to the future of world peace.

The point is that in 1950, as in 1954, the United States saw the wisdom of internationalizing acts of aggression and of confronting the members of the United Nations with both the opportunity and the challenge of carrying out their responsibilities under the United Nations Charter.

SEATO TREATY ENVISAGED MULTILATERAL ACTION

Mr. Chairman, as a so-called international lawyer I would say that there is nothing in the Southeast Asia Defense Treaty or in the circumstances of its negotiation which serves to justify or to explain a failure to seek more effective use of the United Nations in the Vietnam conflict. Indeed the record makes it clear that the sponsors of the Southeast Asia Treaty, notably Secretary of State Dulles himself, envisaged no commitment to deploy ground forces in the area, certainly in the absence of what he described as the moral sanction of the United Nations in the quotation which I have already put into the record.

The committee, no doubt, will recall the late Secretary of State's testimony before this committee on the treaty in 1954 from which I should like to quote an excerpt, with the chairman's permission:

Said Mr. Dulles—

We do not intend to dedicate any major elements of the United States military establishment to form an Army of defense in this area. It would involve, in the opinion of our military advisers, an injudicious extension of our military power if we were to try to build up that kind of an organization in Southeast Asia. We do not have adequate forces to do it, and I believe that if there should be open armed attack in that area, the most effective step would be to strike at the source of aggression rather than to try to rush American manpower into the area to try to fight a ground war.

Now, of course, the concept of massive retaliation, which is implied in Mr. Dulles' statement which I have just quoted, never was realistic, and it has been fully buried by the realization of the necessary limitations upon the use of power in the nuclear age. But the point remains that the Southeast Asia Treaty was not based upon the premise or intention that unilateral American military force would be provided as a shield behind which free institutions and a stable social order could be established.

TRAGIC DILEMMA OF U.S. PRESENCE IN VIETNAM

Mr. Chairman, I do not think there is room for reasonable doubt that the South Vietnamese people are victims of aggression and subversion which are both mounted and managed from the north, and history teaches that aggression feeds on itself.

But history also shows the grave dangers when one nation attempts to serve as a shield and guide to an alien society, particularly one torn by dissension and largely lacking a sense of identification with its own leadership.

Under these circumstances a massive military presence tends to take on the attributes of a military occupation and to become looked upon almost as a colonial establishment. It becomes a prime target for resentment over evils which it has no power to prevent or control.

A tragic dilemma arises from the fact that the very force with which we seek to protect the society from aggression and subversion imposes a crushing weight upon its institutions. The same efforts which are designed to shield the society from external dangers tend to inhibit or to thwart the social, economic, and political changes which are essential to the building of free institutions. Corruption and selfseeking are difficult to control through indirect rule, and the U.S. massive military presence there may come to be regarded as, in effect, an agent of the status quo rather than as a force for these changes.

These are some of the risks and burdens and they sum up into a tragic dilemma for our national interest and security. But these are some of the risks and burdens which attend our unilateral, essentially unilateral, assumption of responsibilities in the area.

Mr. Chairman, it should not be forgotten that other nations also are making contributions and sacrifices in South Vietnam. But I am speaking about the facts and consequences of power, and the undoubted truth, from a political, moral, and certainly public opinion point of view, is that the United States is engaged in an essentially unilateral enterprise.

WHAT ROLE CAN U.N. PLAY IN HONORABLE SETTLEMENT?

Mr. Chairman, under these circumstances what, if any, role can the United Nations play in bringing about an honorable settlement in Vietnam which we all desperately seek and hope for?

It would not be realistic—and I think this was testified to yesterday by one or two of my distinguished former colleagues in the U.S. Government—it would not be realistic to expect the organization to play a decisive role at this point in history, when our essentially unilateral responsibilities have become so deeply engaged, when the security of our forces must be an overriding and paramount consideration, and when precipitate or unconditional withdrawal from the area would create grave dangers. Moreover, as is well known, both Peking and Hanoi have made entirely clear their rejection of the United Nations as a mechanism for peacemaking in the situation.

But even though the United Nations is not now in a position to take over the war, so to speak, or to determine the conditions of its cessation, to say nothing of dictating the terms of peace, this is not at all the same as saying that the United Nations could not play a limited, though important, part in bringing the conflict to an honorable end.

It would be unwise, I believe, to look upon United Nations intervention as an all-or-nothing proposition. The challenge is to find the most effective practicable way of engaging the responsibilities of the United Nations membership and of bringing to bear their collective weight on the side of a just settlement.

It follows from what I have tried to say that the basic objective of the resolution introduced by Senator Morse, Senate Concurrent Resolution 44, is sound and in our highest national interest.

I should like to comment, respectfully, however, on certain of its pertinent details.

THREAT TO WORLD PEACE

The first paragraph of the preamble, it seems to me, could be rounded out and strengthened by making reference to the fact that world peace is threatened also by aggression to which the South Vietnamese people are being subjected from the north.

Similarly, the final preambular paragraph might, I think, attribute responsibility to all members of the United Nations as well as to ourselves for failure to take steps to bring about effective United Nations involvement. There certainly has not been a noticeable rush to the United Nations on the part of any member.

It is, of course, true that the U.S. Government has twice moved toward Security Council consideration. In particular, I refer to its initiative in persuading, with difficulty, a majority of the Security Council to inscribe the Vietnam question on its agenda at the end of January and beginning of February 1966. It is common knowledge that consultations with other governments since that time have revealed strenuous objections from several Council members including, I believe, France and the Soviet Union, to Security Council action on the item, and a negative vote by either would, of course, preclude Council decision.

EFFECT OF PRESSING FOR PRIOR SECURITY COUNCIL CONSIDERATION

Under these circumstances a real question arises whether a useful purpose would be served by pressing for prior Security Council consideration, as Senate Concurrent Resolution 44 proposes in its first operative paragraph.

There might be some value in a confrontation in the Security Council particularly with the Soviet Union. But my own apprehension is that such a move would be widely regarded as a mere propaganda maneuver, and frustration of Security Council action either by failure to obtain a majority in the Council for any acceptable course or by exercise of a veto by the Soviet Union, would tend to discredit the organization without compensating advantage and would, it seems to me, create frustration piled on top of an already widespread sense of frustration among the American people as well as world opinion in general.

ACTION BY THE GENERAL ASSEMBLY

I believe, Mr. Chairman, that the second operative paragraph of the resolution takes us right to the heart of the matter. It provides, and I

quote: "If the Security Council is unable to act, the United States should take all steps necessary to assure action on the issue by the General Assembly."

In the light of the virtual certainty that resort to the Security Council must lead to a dead end, it seems to me there is much to be said in favor of submitting the question of Vietnam directly and promptly to the General Assembly. Of course, there are technical questions, such as taking the question of Vietnam off the agenda of the Security Council, but these are simply arranged by a majority vote which is not vetoable and has been done repeatedly throughout the history of the United Nations, particularly in connection with the Korean war itself.

Both Secretary of State Rusk and Ambassador Goldberg have made clear their view that the General Assembly would be an appropriate forum for consideration of this question.

The Secretary of State has said that the United States would be prepared, and I quote: "To seek a role for the United Nations Security Council or the General Assembly." And our United Nations representative, Justice Goldberg, likewise declared in the Assembly itself a year ago that the United States would "welcome discussion of the question either in the Security Council or in the General Assembly."

I take it that those references by the Secretary of State and Ambassador Goldberg did not refer merely to inconclusive debate, but that their references to "discussion" in this situation, or "role" in this situation, meant a decision which, of course, would be in the form of a recommendation by the Assembly.

QUESTION OF CESSATION OF BOMBING OF NORTH VIETNAM

I come now to perhaps the most vexing question of all, which has troubled the minds and conscience of all Americans, particularly in the light of the paramount interest and desire to protect our forces there, and it is a question with which the Senate concurrent resolution does not explicitly deal. It is the question of the cessation of bombing of North Vietnam. In my respectful judgment, it would be neither prudent nor profitable to seek General Assembly consideration of the Vietnam question, any more than Security Council consideration, unless we accompany such an initiative with simultaneous cessation of bombing of North Vietnam. Although Senate Concurrent Resolution 44 does not explicitly refer to this subject nor, of course, does Senator Mansfield's resolution which has been handed to me this morning, Senate Resolution 180, Senator Morse himself on more than one occasion has made clear his view that the United States should stop bombing North Vietnam. His speech in the Senate on Monday, September 11, 1967, is eloquent on this, as on other vital issues arising in and from the war.

It may be, as Senator Morse said, and I quote from his statement: "That there never will be bona fide cessation in the bombing of North Vietnam until the nations of the world compel it."

I take the liberty, however, of voicing a greater optimism than this. I should infinitely prefer to see the United States take the initiative on this matter than be the subject of an unwanted resolution on the issue of bombing of the north which would be an almost inevitable concomitant of United Nations action in any forum at this stage, if there were any action at all.

CALL FOR CEASE-FIRE BY GENERAL ASSEMBLY

If the United States were to suspend bombing of the north, and at the same time request the inclusion of the question of Vietnam as an urgent and additional item under the Assembly's rules of procedure, it would be legitimate for the United States to expect and indeed demand, that the Assembly without delay call for a cease-fire and a reconvening of the Geneva conference or any other form of conference or negotiation acceptable to the parties for the purpose of negotiating a settlement.

What valid objections could be raised to such a resolution in the General Assembly? Why should it not command an overwhelming majority? Mr. Chairman, and members of the committee, those members and including for this purpose the Secretary General of the United Nations, those members and persons who have insisted that the bombing of North Vietnam is the obstacle or the principal obstacle to peace, would, under those circumstances, face the challenge of placing their weight behind pressures upon all parties to cease fire and to negotiate.

Those who argue that the United Nations is not an appropriate forum because of the absence of Communist China and the two Vietnams could not, it seems to me, reasonably object to a resolution which calls upon the parties to cease fire and seek a solution by negotiation through arrangements or means of their own choice, Geneva conference or other means. After all, resort to negotiations through means of the parties' own choice is a principle which is embodied in article 33 of the United Nations charter itself, and which commands the highest priority over all other forms of settlement of disputes or conflicts or situations.

Moreover, even though suspension of bombing of North Vietnam would not, under these circumstances, be accompanied by express conditions, it would be clear to all that if such an initiative on our part did not lead to clear and prompt action by the Assembly along the lines that I have suggested or if it did not lead to compliance on the part of North Vietnam with the resolution of the Assembly, it would be clear to all that unpredictably grave consequences must be expected and indeed would be inevitable.

U.S. COULD EXPECT RECIPROCAL ACTION

The United States, in other words, would be entitled to expect reciprocal action by the General Assembly just as the Assembly would have the duty to demand reciprocal action to a cessation of bombing on the part of North Vietnam as well as the NLF and its military arm, the Vietcong.

Even though the role envisaged for the United Nations in this suggestion may appear to be a restricted one, it would nonetheless be a move in a new and important direction. The responsibility of United Nations members, which is now almost totally absent, would inevitably become progressively more engaged, particularly if a call by the General Assembly for a cease-fire and negotiations were rejected by North Vietnam under the conditions of a cessation of bombing. The United States would at last be moving toward collective rather than unilateral judgment and responsibility, and I say at last despite the

initiative of February 1966, because Security Council action is not to be expected, and the Security Council under the circumstances seems to me to lead nowhere but to a dead end.

In sum, Mr. Chairman, the objectives envisaged in the third operative paragraph of Senate Concurrent Resolution 44 would be furthered by such a move, a three-part program, and I hope, we all hope, the objectives would be fulfilled.

We would have gone as far as reasonably could be expected to find an effective role for the United Nations in bringing about an honorable settlement to end a situation which increasingly menaces the peace of the world. Thank you, Mr. Chairman, and members of the committee.

Senator SPARKMAN. Thank you, Mr. Gross.

Senator MORSE?

Senator MORSE. Mr. Gross, I think this is a powerful and brilliant and keen analysis of the problems which confront us in Southeast Asia.

RESPONSIBILITY OF SECURITY COUNCIL MEMBERS

Here, in my judgment, is a statement that will withstand the analysis of any international lawyer, and I want to say that there isn't a proposal that you make in your statement by way of additions to and modifications of my resolution that wouldn't be perfectly acceptable to me. Just as the Mansfield resolution is acceptable to me as a first step, a proposal which, as I said yesterday, offers a teamwork relationship with the President, placing the responsibility on him to determine the kind of resolution that we will submit. Inherent in the Mansfield resolution is advice to the President that there has to be a modification of the kind of resolution we have previously submitted. We obviously have to have more than that if we are going to be able to force the hand of certain countries which in the Security Council have been reluctant to assume what is a clear responsibility under the charter.

Time and time again I have pointed out that in my opinion not only has the United States failed to carry out its obligations under the charter, but so has every signatory.

Mr. GROSS. Yes, sir.

Senator MORSE. It is implicit, as far as I am concerned, in my resolution, and I am only directing my resolution to what I think my country should do.

Mr. GROSS. Yes, sir.

Senator MORSE. I think these are some of the steps that it could take, not necessarily the only ones, and do we not necessarily need to take these steps if we can reach the objectives by other routes.

LEGAL PROCEDURE FOR PUTTING MORSE PROPOSAL INTO ACTION

There is a legal point that I want to defer to you on, because of my great regard for your expertise in the field of international law. It is true, my resolution suggests an approach first through the Security Council and then to the General Assembly. I have during the last four years pleaded for both approaches. To focus attention on it I have said I want to put France and the Soviet Union on the spot and take my country off the spot by showing that we are willing to go along

with the Security Council jurisdiction. Then we can see whether or not France and the Soviet Union want to veto it. I think it is probably true, as the Secretary of State keeps telling us when we talk to him about this matter, that he thinks such an approach would be vetoed. But I say we don't know until we try. You never know what surprises may await you in hours of crisis. It is possible, as you will see in a question I will put to you shortly, that there are other things that can be done in the Security Council, in the consideration of alternatives other than a straight vote on Security Council jurisdiction.

But the legal point that I want your advice on is this: it seems to me that under the charter we have to move first to the Security Council, if not through it. You made a reference in your statement that we do have this pending resolution in which we ask the Security Council to put the problem on the agenda by a majority vote. Ambassador Goldberg was able to get it put on the agenda. I want to call your attention to the fact that we had trouble getting it on the agenda, but the discussion at the time, both within the Security Council and much more in the cloakrooms of the United Nations, was that we submitted a resolution at the same time we escalated the war. That brought about a lot of negative criticisms and caused a good many people to say that we were playing a part of Dr. Jekyll and Mr. Hyde when we asked them to put it on the agenda and at the same time, and on the other hand, we escalated the bombing, which created a psychological difficulty. While you can't dismiss its effect on opinion within the United Nations delegations, we have it on the agenda. You suggested, if I understood you correctly, that we could make a request, rather than the broad request that I propose to make, of having them accept or veto a proposal of ours that they assume jurisdiction through the Security Council; that they, in effect, authorize the matter to go straight to the General Assembly; that they suspend any action on the resolution that we have on file. I am not too clear that I thoroughly understand the procedure that we would follow to bring about that accomplishment, and it would help me if you would discuss that in detail.

DEBATE IN THE SECURITY COUNCIL

I would like also to have your appraisal of this problem that concerns me: whether or not in the long run it would not be better to have the record show what the members of the Security Council want to say and do in respect to a proposal that the Security Council take jurisdiction rather than the General Assembly.

Yesterday we discussed the point of view held by some officials in the State Department and elsewhere, that if we ask the Security Council to assume jurisdiction and try to lead the combatants to a negotiated settlement the request might be preceded by acrimonious debate.

I think you are going to have a lot of acrimonious debate elsewhere anyway. I am not sure if it would not be best to get that over with in the Security Council forum.

As I said yesterday, there is a lot that can be said on both sides of that debate. Certainly France and the Soviet Union will make charges against us and allegations as to what they consider to be our policy of aggression and our violations of the charter and the Geneva treaty,

some real and some fancy. But, after all, the Soviet Union is cochairman of the Geneva conference and has been blocking the reconvening of that conference. She is also guilty of a lot of violations of international law vis-a-vis Vietnam. She has not been putting in troops but she has been putting in men-killing materiel and devices of war which cannot be reconciled with her international obligations.

So I have held, maybe mistakenly, to the point of view, and have said so in my conferences with the Administration, that we have to get the debate behind us. The sooner we get it behind us the better. With that debate behind us, then maybe we will be in a position to move on in a cooperative way with others to try to bring this war to an end through the United Nations.

One more point and I am through, which you may cover in the response to the issues I am raising.

SUGGESTED ACTIONS FOR THE SECURITY COUNCIL

It is my view that there are things the Security Council can do without coming necessarily 100 percent to grips with the issue of taking over jurisdiction. It is my understanding that it would be possible for the Security Council to pass a resolution transferring the whole thing to the General Assembly with recommendations, including one that the United Kingdom and the Soviet Union reconvene the Geneva conference, and in reconvening it, even invite an expansion of its membership making it possible for North Vietnam and the Vietcong and even China to participate in negotiations or consultations through the Geneva conference acting under the aegis of the General Assembly.

It could be tried to see what the response would be. It might be repudiated. If so, as you point out in your paper, if I understand it correctly, that does not relieve the General Assembly, if it is thwarted by nonmembers who are endangering world peace, from carrying out the responsibility of the charter. It was perfectly clear at San Francisco that the charter did not apply to just member nations. This agreement to enforce the peace, applied to all of the signatories, obligating themselves to enforce the peace against members and nonmembers, if nonmembers were endangering the peace. Submission to the General Assembly could very well contain a suggestion that you make. I agree with you it is delicate, there is great difference among us in the Congress and in the country as to what the effect of it would be—if the General Assembly could call upon the United States to suspend its bombing while it sought to find an area of agreement among the combatants that would permit negotiation by appropriate bodies set up by that body.

CESSATION OF BOMBING A PRECEDENT TO U.N. ACTION

We already know that within the United Nations itself many countries have made very clear to our representatives that they consider this a condition precedent to their becoming interested at all in helping to set up a multilateral negotiating procedure.

I close with that point. You cannot understand my resolution, its motivation, or its intent, what I think ought to be done by us to

change our course of action in Asia unless you understand that I have come to the conclusion you cannot settle this bilaterally. That time is past us.

We can use enough force to force a truce, I think, in the months ahead which will never produce a peace but will only produce a truce that will keep us in a military policeman's role for years and years to come in Asia. I think future generations of Americans will take the position that the French people finally took and tell our country to get out if the Asians have not thrown us out already.

That is really the foundation on which my whole view in opposition to this war is built.

I was very much interested in the extent to which you brought out facts and legal analysis that I find not at all inconsistent with my view. It may not be your intention.

I am sorry I took this much time but, on the other hand, as the author of the resolution, I thought I owed it to the resolution and to the many, many people who support me in the point of view that I am taking in opposition to the Vietnam war, to make these observations on your testimony. I would be very glad to have your comment. I will not add further to what I have already said.

Mr. Gross. Senator Morse, with the chairman's permission, I would be glad to try to confine myself to those questions which the Senator raises, which are perhaps more within my competence than others to comment on.

OBLIGATION OF NONMEMBERS OF THE U.N.

In the first place, if I may start with one of the last points that Senator Morse raised, I would like to make clear, too, as well that it was not only San Francisco, but actually the United Nations charter itself, in the second article, paragraph 6, which provides that the organization, in the words of the charter, shall insure that states which are not members of the United Nations act in accordance with these principles so far as may be necessary for the maintenance of international peace and security. So nonmembership in the United Nations confers no license to breach the principles of the charter with regard to peace and security.

RELATIVE ROLE OF SECURITY COUNCIL AND GENERAL ASSEMBLY

With respect to the first question, the legal issue with regard to the relative role of the Security Council and the General Assembly, this, of course, has been one of the most vexing issues, particularly in the light of the strong difference of opinion that has historically existed between the Soviet Union and the United States. The Soviet Union has until quite recently insisted, as the Senator knows so well, that the Security Council does not have merely primary authority for the maintenance of peace but exclusive authority. This the United States has always taken to be inconsistent with the clear terms and principles of the charter, and too limited an approach.

Article 10 of the charter, as the Senator knows so well, authorizes the General Assembly to discuss any question or any matters within the scope of the charter.

The only restriction upon the authority of the General Assembly is that—and again I quote:

It may make recommendations to members of the U.N. or to the Security Council or to both except as provided in Article 12.

Now, that exception is what, of course, Senator Morse must have in mind in defining the relative authority of the Assembly and the Council to act in a particular situation.

That article, Article 12, provides that:

While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation.

Now, historically, as members of the committee will be aware, a broad interpretation has been given to the phrase I have just quoted. It does not mean when an item is on the agenda of the Security Council and the Security Council is not exercising the functions assigned to it that the General Assembly may not discuss and recommend with regard to such matter. But in order to dispel any possible and diversionary doubt or legal confusion, which the Soviets almost inevitably as well as perhaps other members of the Council would raise, the practice has been and would be appropriate in this case, I think, for the Security Council simply to remove the question from its agenda, if that is the will of a majority—that is, the constitutional majority. This is not a vetoable decision. This would clear the road for General Assembly action, and there would be nothing in the charter which would preclude it. There would be everything in my mind in principle to support and to justify such action.

EFFECT OF GENERAL ASSEMBLY ACTION

I turn now to the possible desirability of what might be called—if I paraphrase Senator Morse's question and comment correctly—a sort of minimal or less than allout action by the Security Council following what I think would be obviously an abrasive and probably inconclusive debate. I believe these considerations point toward General Assembly rather than toward Security Council action. Such action, it is true, would take the form of recommendation as distinguished from a binding decision, but I do not foresee the Security Council making an enforceable decision in any event under the circumstances.

The first consideration is that the absence of Communist China from the General Assembly is in this sense much less significant than its absence from the Security Council. Whatever one's views may be about the desirability or otherwise of Communist Chinese representation in the U.N., certainly its absence from the General Assembly in a situation of this sort is of less significance than its absence from the Security Council. The presence of the Nationalist Government of China on the Security Council places certain governments, particularly the Soviet Union, in a much more exposed position with regard to freedom of action than is the case in the General Assembly.

Let us assume for the sake of argument—that the Soviet Union is, without feeling in a position to say so publicly—let us assume the Soviet Union would be amenable to a solution or a settlement of the Vietnam war comparable to that which it, through others, agreed to

in Korea. In other words, let us assume for the sake of argument that the Soviet Union might be prepared in its own interest as well as the general interest to agree to a solution based on the status quo in Vietnam, the 17th parallel, and the Geneva accords. Then the use of the General Assembly would make it possible for the Soviet Government to take a position which while openly hostile to such an action, even perhaps including a negative vote on its part in the General Assembly, would not have the same decisive quality as a negative vote by the Soviet Union in the Security Council.

However, these are matters which perhaps are not as important as the possible advantages and disadvantages of a confrontation in the Security Council. On the one hand, this might have certain unifying and, if you like, morally cohesive consequences in our country. When people stand up to be counted in the Security Council and the Soviet Union obstructs Council action, the villains are separated from the nonvillains, so to speak.

EFFECT OF CONFRONTATION IN THE SECURITY COUNCIL

I think that such a confrontation has something to be said for it. But, on the other hand, I think back to our experiences in the Korean war, and frustrations aroused by Soviet obstruction in the Security Council. It is my view, sir, for what it is worth, that such a confrontation in the Security Council now would be more counterproductive than productive. It would not assist the organization in gaining stature, to say the least. It would not confront other members, not members of the Security Council, with their clear and present responsibilities under the charter.

After all, the 15 members of the United Nations Security Council include only 10 nonpermanent members of the entire membership, and there are many countries in Asia and elsewhere that are not members of the Security Council whose interest in the area, whose interest in world peace, whose responsibility is fully as engaged, or should be, as the members of the Council.

UNITED STATES SHOULD MAKE DECISION ABOUT BOMBING CESSATION

Finally, I do feel, sir, that again that although the overriding concern of the U.S. Government and people must be the protection of our forces in Vietnam and their security and welfare, it seems to me, without in any way attempting to express a strategic or military judgment, that there is something to be said for the U.S. Government to consider the relative risks and dangers, the risk for peace on the one hand, the risk for security of our troops on the other. It is the United States itself which should make the decision whether or not it is feasible and desirable to suspend bombing. This should not be a decision thrust upon the United States which may perhaps have valid reasons of a security nature to continue its bombing. These are matters outside my knowledge and authority but I would think that a serious consideration should be given to the fact that if bombing were suspended simultaneously with recourse to the General Assembly, and a limited program put before the General Assembly of the sort I suggest, that there would be what I might call a built-in escape clause, a built-in safety valve, without the United States having to express

conditions that unless the General Assembly acted or some other condition we would resume bombing. It would be implicit in such a situation. We would have every right, as I said before, to expect and demand that the overwhelming weight of the General Assembly would be put behind the effort toward peace and negotiations and a cease-fire.

Time after time in these recent weeks we have seen members of the United Nations General Assembly stand up and declare in the forum that the obstacle to negotiations is the bombing of the north. In sheer poker terms, I would say let us call that bet. I do not think that they could be reasonably expected to be so irresponsible as to declare to the General Assembly on the one hand, that a cessation of bombing is a necessary precondition to negotiations and, on the other hand, refuse to throw the full weight of their governments behind a call for negotiations and a cease-fire under conditions of a cessation of bombing.

I think such a refusal or hesitation on their part would be little short of immoral.

Senator MORSE. Thank you very much.

Senator SPARKMAN. Senator Hickenlooper?

RECOGNITION OF NORTH VIETNAM INVASION OF SOUTH VIETNAM

Senator HICKENLOOPER. Mr. Gross, I think your statement which I have just read is an excellent presentation of a point of view. I am sorry to say I do not entirely agree with that point of view. There is an articulate group in the United States which keeps talking about stopping the bombing as the key to the settlement. That might be one element, but I do not hear very many people talk about stopping the invasion of South Vietnam by the North Vietnamese. That seems to be in the background some place and it is not dusted off very much in the argument of these people. It seems to be all the fault of the United States, that we are the culprits in this situation.

It does seem to me there is some responsibility on the part of the North Vietnamese. There should be at least an argument to compel the North Vietnamese to stop their invasion of South Vietnam and stop disrupting the operations of the South Vietnam Government.

Do you believe there is any validity in that?

Mr. GROSS. Yes, sir. In the statement I made with respect to the Morse resolution, I expressed the view that it should be rounded out and that aggression from the north should be recognized—the fact that there has been aggression and subversion mounted from the north.

As we all know, the International Control Commission Legal Committee in 1962 expressly found that there was such aggression and evidence of armed attack.

Senator HICKENLOOPER. I am not talking necessarily about your opinion now. You have explained that situation. But is there any more logic in putting the sole condition for a peaceful approach to this conflict on stopping the bombing from the north than there would be to put a sole condition on the stopping of the operations there on the cessation by the North Vietnamese of their operations in the south?

It seems to me that the two go hand in hand. One is equally important with the other in this matter.

Mr. GROSS. My own view, Senator Hickenlooper, is that from a moral point of view it would be very difficult to deny the validity of what you have said.

Senator HICKENLOOPER. Or that it is a logical point of view.

FACTS OF INTERNATIONAL LIFE

Mr. GROSS. From a logical point of view I hesitate only to this extent and for this reason. The facts of international life and the facts of power and the vulnerabilities of our own position—and we must view this entirely from the standpoint of our enlightened national self-interest, that is the only point of view from which I have attempted to approach the matter in my analysis—we must, I think, squarely face the fact that, as it sometimes has been put, and perhaps in an insufficiently serious way, but it has been said that “bombing has a bad press.” It has been said that the United States’ presence in Asia invokes recollections of the atomic bomb. It has been said and is widely felt that the United States is unilaterally and nakedly exposed to a war in which it is pursuing a self-judging course. Who has declared the right of the United States to be there? Where is the sanction which Secretary Dulles and President Eisenhower referred to? These are all intangibles.

I would think certainly if I were a soldier or an airman in Vietnam I would not like to see shipments of supplies being made during a period of suspension of bombing, which is precisely what happened during the preceding pauses, and I would like to see an even-handed judgment made which takes account of the fact that the North Vietnamese are committing acts of terror accompanying their aggression against South Vietnam.

But I also believe that in the long-term interest of the United States, in view of the fact that the problem of bombing of the north has achieved the prominence it has, has swayed so many governments to make public declarations, even Asian governments such as the Indonesian Minister a few weeks ago in the General Assembly, an anti-Communist foreign minister calling for a cessation of bombing, which Senator Hickenlooper refers to as the key to the question, I think it is seriously to be considered as a step to be taken if it is accompanied by such procedures as I suggest for widening international responsibility in the situation which is now completely irresponsibly disengaged.

I would like to see the Assembly or the Security Council or foreign offices make more public declarations that the North Vietnamese are guilty of the things of which Senator Hickenlooper says and that they have as high a duty to stop bombing and warfare in South Vietnam as we have to stop bombing of the north. I would like to see that. I just do not think it is a fact of international life.

SHOULD THE UNITED STATES “KNUCKLE UNDER”?

Senator HICKENLOOPER. Therefore, we should knuckle under and virtually surrender to the stop-the-bomb group without insisting that there be a corresponding halt in the invasion from the north, just because of the sentiment of those countries which, in many instances, could not survive without our support.

Mr. GROSS. Well, I would not myself, with all respect, use the phrase "knuckling under." I think we should not do so if it is not within our long-term national interest.

My own point of view is that if we cease the bombing, as has been suggested by these statements made in the General Assembly, this is the key, we will be calling their bluff, and there is then their responsibility for following through the imperative logic of their pronouncements in this respect. It is a risk for peace.

INDICATIONS OF SUPPORT FOR U.S. OFFER TO CEASE BOMBING

Senator HICKENLOOPER. Do you understand from the public press, or other sources of information, that we have offered repeatedly to stop the bombing if they would stop supporting the insurrections in the south or if they would stop the insurrections in the south we would stop the bombing, whichever you want to put first?

Mr. GROSS. Yes, sir; I have not only seen that in the public press but have had the opportunity of official and unofficial briefings on the same subject.

Senator HICKENLOOPER. Yes.

Mr. GROSS. And of course we have—and I think we have been acting—I have no question we have acted in good faith in doing so. Those efforts, those offers, have been ineffectual. The question always comes back to what is in the best self-interest of the United States.

Senator HICKENLOOPER. In those cases have we had the support of the Russians or the French, or has there been any indication from the Red Chinese that they would look with favor on that kind of action?

Mr. GROSS. So far as I am aware, Senator Hickenlooper, there has been no indication, certainly not to my mind, a sufficient indication of what you might call real reciprocity or mutuality in the expressed attitudes of governments. I think their concern has been more—their preoccupation, almost to the point of obsession, with the grave dangers of the continued conflict, and, of course, the question essentially must be whether it is to the long-term highest interest of the United States to bring peace to that area and, if so, how and when, and this is, after all, all we are discussing.

EXTENT OF U.S. PEACEKEEPING BURDEN IN U.N.

Senator HICKENLOOPER. Yes, I think I understand that theory all right. Has there been any peacekeeping in the United Nations which has not depended solely upon the strength and vigor and determination of the United States?

Mr. GROSS. I think the answer to that is no, there has not. The United States—which led, of course, as the Senator knows so well, in the formulation of the United Nations—in its own interest as well as in the interest of world peace—has had to provide the sinews of that organization against the obstruction, vetoes, and all the walkouts of the Soviet Union, and the opposition now of the Communist Chinese, absent though they may be. But this, of course, is the historic role of the United States, given its power.

Senator HICKENLOOPER. The United Nations could not even keep the small peacekeeping force in the Gaza strip. U Thant, when Nasser

ordered him to get out, could not get to the pen and paper fast enough to order them to get out of there almost overnight. The U.N. utterly failed there.

In my judgment, the U.N. could have kept those peacekeeping forces there at least for a period of time and perhaps avoided this recent tragic difficulty in the Middle East. But it utterly failed to operate that way.

In the Congo the United States furnished all the sinews for the peacekeeping operation and neither France nor the Soviet Union would pay their share of the costs even after the decision by the World Court that they owed it as part of the obligation of their membership in the United Nations.

In Korea the entire burden of the enforcement of the so-called position of the United Nations fell upon the United States, with a few exceptions. I think one country had 5,000 troops in there and we had 400,000 or 500,000. In any case, we paid the bills.

How can we expect any kind of an equitable or judicial approach to this problem if we turn the problem over now to a speculative and an uncertain United Nations where two at least or perhaps three of the most important nations involved are openly and continuously hostile to the United States? France is out to embarrass us in every way that she can. The Soviet Union is out to embarrass us in every way that she can. Red China is not a member of the United Nations and is supporting this war without any doubt. The Soviet Union is supporting this war with sophisticated weapons.

It looks to me like you would be turning the fox into the chicken coop there if you did that.

Mr. GROSS. Might I make a comment on that, sir?

Senator HICKENLOOPER. Oh, indeed.

U.N. SHORTCOMINGS ACKNOWLEDGED

Mr. GROSS. I do not think the Senator has asked a question, but I should like, if I may, to make a comment, Mr. Chairman.

It seems to me what Senator Hickenlooper raises here is the most decisive of all possible questions which are raised by Senator Morse's resolution. We tend to think of these problems, even the gravest such as Vietnam, as if they were separate and distinct from all other major issues which are also related to peace in which the United Nations is simply one instrument to bring such forces to bear in the support of peace as can be found.

I think when we are discussing the question of Vietnam in the context of Senator Morse's resolution we are really, as Senator Hickenlooper has brought out so eloquently, we are really discussing the shortcomings, the frustrations, the very character and nature of the United Nations itself as well as the stake of the United States now and in the future in respect of an international organization, weak, stumbling as this one has been.

I believe in the case of Korea it was of great significance that the U.N. flag flew over the action and that General MacArthur was the executive authority designated as such on behalf of the United Nations.

I believe that it would be a mistake, if I may say so, to minimize the contributions made by other nations, small and inadequate as they

were from the standpoint of comparison to that of our own, the sacrifices there, the burdens there.

But it does seem to me, Senator Hickenlooper, with all respect, that the United Nations is more comparable to a hospital than to a firehouse, and that what we are trying to do, it seems to me—it always has seemed to me, and I have worked with it very closely, as I think the committee knows, from 1945 on—it has always seemed to me that what we are trying to do against the greatest odds is to develop a public health system, so to speak, in the international field of peace and security. And, of course, I would think that any American would feel that we have made a disproportionate sacrifice and borne a disproportionate heavy burden.

We could have, and we still can, retreat from those responsibilities on the ground that they are not being equitably shared. This is a very possible point of view. I disagree with it simply because it seems to me to be an unrealistic alternative. It is not an exit which is open to the most powerful nation in the history of the world whose very survival and certainly whose interests depend upon a reasonably stable international order.

We have borne these sacrifices, it seems to me, both out of a sense of moral obligation and also out of a sense of enlightened self-interest.

LIMITED USE OF THE UNITED NATIONS

I am not suggesting, Senator Hickenlooper, and my statement was not intended to suggest, that we abdicate our authority, our responsibility by turning it over—turning the question of Vietnam over to the United Nations and saying, "Here, bail us out of this, tell us how we can find a hasty exit, anything of that sort." I said to the contrary, our deep involvement, the security of our forces, the absolute, I think, untenability of a precipitate or unconditional American withdrawal, all these would be highly crucial issues.

To protect our national interests against possible irresponsibility, I am suggesting, Senator Hickenlooper, a rather limited use of this organization, not to turn it over—not to turn over the problem to it for a solution but to make, if you please, a catalytic use of the organization, but above all to confront members of the United Nations with the very responsibilities which Senator Hickenlooper has pointed out here they have thus far failed to engage themselves with. This is really the essential purpose of my suggestion.

Senator HICKENLOOPER. Well, I thank you, Mr. Gross.

Mr. GROSS. Thank you.

Senator SPARKMAN. Senator Clark?

STOPPING OF BOMBING WITHOUT CONDITION

Senator CLARK. Mr. Gross, as you know, I have enormous respect for your experience and your views. I find your statement most helpful, and I agree that what we have to do is to keep hammering, hammering, hammering on stopping the bombing of the north without condition.

I agree with you that we are taking a calculated risk that it might not work. I think, however, there is sufficient chance that it would

work so we must never stop this constant pressure to stop the bombing to see if it does work. That is not a question.

Mr. GROSS. Yes, sir.

IS THE APPROACH IN THE MANSFIELD RESOLUTION WORTHWHILE?

Senator CLARK. I would like to ask you only one question. Do you think the Mansfield resolution is worthwhile? It is a very much watered down Morse resolution and really is not much more than a pious exhortation, the resolving clause being, "that it is the sense of the Senate that the President of the United States consider taking the appropriate initiative" to assure that the resolution of January 1966 be brought before the Security Council for consideration.

That resolution has obviously loopholes big enough to drive a beer truck through.

On the other hand, I cosponsored it and as of now there are 56 Senators on it, including 12 of the 19 members of the Foreign Relations Committee and 10 of the 18 members of the Armed Services Committee. So I have no doubt it would pass the Senate by more than 70 votes. So my question to you is: Is this more or less an innocuous approach? It has to be innocuous to get all these Senators to support it. Is it worth while?

Mr. GROSS. I would be very rash to express disagreement with so many distinguished Members of the Senate, to say nothing of the distinction of the sponsor.

My statement was designed to bring out—and I hope it did somewhat persuasively if not conclusively—that the road of the Security Council is a dead end road. We have fair warning of this, the bell has been rung on it.

If it seems desirable to pursue this matter to what I would call the virtual certainty of a frustrated conclusion in the Security Council in order to pave the way for General Assembly action for some reason—not necessarily legally but perhaps politically, morally or what have you—then, of course, this resolution would do the trick.

I must respectfully admit that one of the things I prefer about Senator Morse's resolution is its second operative paragraph to which I referred in my statement which I think would strengthen the Mansfield resolution, Senate Resolution 180, by indicating clearly that it was not the sense of the Senate that if the Security Council were frustrated or were at a dead end that this would for all practical purposes satisfy the requirements of the situation so far as effective use of the United Nations is concerned.

Senator CLARK. Do I understand you correctly, that you think if we wrote the second operative clause of the Morse resolution into the Mansfield resolution, we would have something worth passing?

Mr. GROSS. I think so, sir; and I would also like to respectfully commend the third operative paragraph of the Morse resolution as well.

Senator CLARK. You can see what happens. You are an experienced diplomat and first-class lawyer conducting negotiations. As you put the Morse resolution into the Mansfield resolution you lose cosponsors so the problem is at what point do you have the—I can never remember

whether it is the least common denominator or the greatest common multiple—and come out with something that is worth while.

But I take it you would encourage this committee to see if we could put these two resolutions together in a way which would still have a meaningful sense of the Senate.

Mr. GROSS. Yes, sir.

Senator CLARK. And nevertheless a good chance of getting it passed.

Mr. GROSS. Yes, Yes, Senator Clark.

Senator CLARK. Thank you. That is all, Mr. Chairman.

Senator SPARKMAN. Senator Pell.

Senator PELL. Thank you, Mr. Chairman.

EXPERIENCE AND OBJECTIVITY OF WITNESS' BACKGROUND

I am struck by the fact that you have a true distinction in that you have served under four Presidents—Hoover, Roosevelt, Truman, and Eisenhower.

Mr. GROSS. Yes, sir.

Senator PELL. Although not under our present President, so you have both experience and objectivity.

Mr. GROSS. Yes, sir.

Senator PELL. Which is quite rare in government, I think.

IS THERE AUTOMATIC REFERRAL TO THE GENERAL ASSEMBLY?

Following up the question of Senator Clark's, would it not be perfectly proper to assume that under article 11 of the charter that if the Security Council considered this matter and was not able to resolve it, then, in accordance with article 11, paragraph 2 with which you are far more familiar than I am, would it then automatically go to the General Assembly?

Mr. GROSS. It would not, Senator Pell. My interpretation of the charter is not quite that, sir. There would not be an automatic referral. It would have to be inscribed on the agenda of the General Assembly, and the article, article 11, paragraph 2, to which Senator Pell refers, simply makes it clear that the General Assembly has the authority to deal with questions—to discuss and make recommendations with regard to questions concerning peace and security. The exception—that is to say the exception of article 12—which is the same exception as made in the preceding article with regard to the powers of the General Assembly—as I said before, the exception is limited to situations in which the Security Council is exercising the functions assigned to it.

Only under those circumstances is the General Assembly precluded from making recommendations, although even in that type of situation—the General Assembly can discuss the question.

ABUSE OF FORUM AT U.N.

Indeed one of the striking, and I think paradoxical aspects of the entire situation with regard to the use or nonuse of the United Nations is found in the following circumstance: Year after year—and we have witnessed it again during the past few weeks—member after member

stands up in the general debate of the General Assembly, the opening debates of the General Assembly, dozens and dozens, and express their official and high level views with regard to the Vietnam question or certain aspects of it.

I think there is something, if I may say, rather illogical or intolerable about a situation in which a government can utilize the forum of the General Assembly on something of a hit and run basis, pick out of the situation any element which strikes its fancy, make a statement on it, engage in a discussion of it by making a statement from the rostrum of the General Assembly, and then go home and forget about the question.

It seems to me that this is having it both ways.

I think that this exposes the United States to all of the unfair burdens and risks of the fact that other members of the United Nations do not engage their responsibilities, at the same time expressing their views, taking a public position, which incidentally is often quite different from their privately expressed position, and in effect abusing the forum of the United Nations in this regard.

I am sorry that Senator Hickenlooper is not here because I would have liked to have added to my comment in response to his that it is not a matter of the United Nations not being used as a forum for debate and discussion of these questions. It is. The question is whether it shall be more responsibly used for that purpose. I think this, the present method of its use, is not good enough and I think it is not in our national interest that it should continue in this way, if we can do anything to help it.

Senator PELL. I am struck by your reference to the fact that nations speak differently privately and publicly. I think our own public is unaware of this fact, that very often governments speak to their people in a very critical vein of the United States for domestic propaganda consumption and yet privately express themselves on the same subject to the U.S. Government quite differently. This, I guess, is one of the facts of life with which we have to live.

TAKING THE PROBLEM TO THE GENERAL ASSEMBLY

But would it not be correct, going back to the point we were discussing, and saying that under the present resolution, if it is considered by the Security Council and came to an impasse, there is no reason in the world why it could not go to the General Assembly under that same article of the charter?

Mr. GROSS. That is correct, sir. The question is whether or not the United States should take an initiative.

Senator PELL. Right.

Mr. GROSS. And there, of course, I take it to be the sense of both resolutions, which urge an initiative greater than that which has been taken.

Senator PELL. But under the Mansfield resolution it certainly is permissive, if not mandatory, that if the Security Council fails, the problem can go to the General Assembly.

Mr. GROSS. That is correct, sir. There is nothing in the Mansfield resolution which would exclude that or preclude it. I think, however, that perhaps I speak too much like a lawyer in this situation and with-

out sufficiently large awareness of the political aspect of the matter, so to speak, but it seems to me that Senate Concurrent Resolution 44, having explicitly registered this point, there might be an implied significance perhaps unfairly attributed to its omission from Senate Resolution 180.

JUDICIAL GROUNDS FOR U.S. BEING ACCUSED OF CHARTER VIOLATION

Senator PELL. In your view, are there any juridical grounds for saying that the United States has acted in violation of the United Nations charter in Vietnam?

Mr. GROSS. Is that a question, Senator Pell?

Senator PELL. Yes.

Mr. GROSS. I think it would be going much too far to say that the United States has acted in violation of the United Nations charter. I think, as has been pointed out by this Administration—

Senator PELL. Excuse me, I did not say we had, but I was asking you the question whether in your view we had.

Mr. GROSS. I did not mean to attribute the meaning or intention to you. I was using this rhetorically. It would be going too far to say that it had, and it has been pointed out that article 51 of the charter provides for self-defense to prevent an armed attack. The Government of South Vietnam stated that an armed attack had taken place which they had resisted, and they asked for our assistance. I think it has been argued and it can be argued that we have not violated the charter.

What I think would be more just and accurate to say is that by not utilizing or attempting more effectively to utilize the United Nations, particularly in a catalytic or limited sense such as, for example, I have suggested as one of many possibilities, that we fall short of carrying out the spirit of the charter. The charter, of course, envisages as one of its first principles that the members, the "peoples of the United Nations," undertake, and I quote from the preamble, "To insure, by the acceptance of principles and the institution of methods, that armed forces shall not be used, save in the common interest." I think it is a basic principle of the charter that the common interest should be defined by collective judgment and collective responsibility and not unilaterally unless indeed it is necessary to meet an emergent self-defense armed attack situation, because the right of self-defense is preserved.

There is enshrined in the charter the principle that force shall not be used except in the common interest, and that there shall be the acceptance of the principles and the institution of methods by which those common interests are determined, and by which they shall be protected. As I said before, my primary concern over the years, and this, if I may say so, started in 1953 with statements similar to those which I have made today, I have always felt that there will be grave dangers to U.S. national interests in pursuing an essentially unilateral course in so complex a situation as Indochina.

I believe, in short, that we have not violated our obligations under the charter by intervening there, but we have not gone as far as we should have gone or should now go to observe the principles which are basic to the charter and, I think, to world peace.

A BASIC PRINCIPLE OF CHARTER

Senator PELL. Am I correct in understanding that your view is that in accordance with the charter, force should not be used except when it is determined multilaterally that a threat to the peace exists; that it should not be used under a unilateral determination?

Mr. GROSS. That is the basic principle of the charter.

Senator PELL. Would this not be a basic difference between this and Korea?

Mr. GROSS. Except that here, as I say, we do have the exception, the out, if you like, of article 51 of the charter which, of course, recognizes the inherent right of self-defense against armed attack, individual or collective self-defense against armed attack and this, of course, is a basic principle which is inherent in all societies and social systems and must be.

But the question of how long the right of self-defense continues is, of course, one of those very vexing questions with which all legal systems try to grapple. There are, there must be at some time, at some stage, unless there is to be sheer anarchy, some sort of corrective method of determining when the right of self-defense is spent, and when the common interest should be defined and defended by common judgments and common responsibilities. I think we are coming close to the stage, if we have not arrived at it already in Vietnam, when this should be the governing principle.

APPLICABILITY OF SEATO TREATY

Senator PELL. I imagine another way out would be article 52, section 2, pertaining to regional arrangements.

Mr. GROSS. Yes. Senator Pell, in respect of the applicability of the Southeast Asia Defense Treaty, a regional treaty, of course. I had not ventured to go into that in my opening statement.

I studied the matter carefully and was familiar at the time with the matter, and its origins, and referred to those in my opening statement, although superficially.

But in response to your comment, Senator Pell, it does seem to me that one of the basic moral weaknesses, and I think therefore essentially political weaknesses, of the U.S. position is that the Southeast Asia Treaty Organization has not itself taken action or made decisions with respect to this matter, and that several members of the Southeast Asia Treaty Organization are among the missing when the roll is called.

Senator PELL. This is a very interesting point of which the public, I think, is not aware, that you have brought out here, and that is that SEATO per se has never had a meeting on, or taken action in connection with the aggression in Vietnam; would that not be correct?

Mr. GROSS. That is my understanding. I have never heard of any such meeting, and I think there are good reasons, perhaps, why such a session has not been convened. I think the attitude of Pakistan, for example, would raise difficulties, as well as other members that are not necessary to enumerate here. But it does seem to me here from the legal point of view I should qualify the implications of this comment because, of course, of the provisions of the Southeast Asia Treaty do

permit the parties singly, as well as severally, in terms of the treaty to meet the common danger in accordance with its, the individual party's processes and, therefore, unanimous agreement is not necessary.

However, this does not affect the moral or political consequences of the absence of certain members of the treaty organization itself and the Vietnam situation.

Senator PELL. Right.

I am struck, just as you are, if it is correct that there has been no meeting of SEATO or action taken devoted to the Vietnam problem.

IMPORTANCE OF CESSATION OF BOMBING

I am struck by the unanimity with which all the witnesses who have come up here have stressed the importance of the cessation of the bombing as a preliminary step to United Nations consideration, not only to its consideration but to some sort of United Nations affirmative action.

I have been of this view with regard to the cessation of the bombing for other reasons. It is counterproductive to our American national interest. We are failing in the military objectives of interdicting the flow of men and goods; although we are making it difficult, expensive, and inconvenient for the north. In addition, the morale effects are counterproductive in that it is solidifying the North Vietnamese, while at the same time it has produced some abhorrence on the part of some South Vietnamese.

So I have always believed, from the very beginning, that the bombing was counterproductive even though it may eventually lead to the total defeat of North Vietnam.

EFFECT OF EITHER RESOLUTION WITHOUT BOMBING CEASE

Do you think that without a cessation of the bombing, either of these resolutions can have any effect in the United Nations, either the strong Morse one or the weaker one of Senator Mansfield which I cosponsored?

Mr. GROSS. Without the benefit of actual consultations with U.N. members, I would have to qualify my response.

On the basis of such experience as I have had and exposure to the problem generally, I would without hesitation express the feeling that recourse to the Security Council or to the General Assembly, at a time we maintained our course of bombing the north, would be both unproductive, and I would think rather dangerous to our position.

In the General Assembly I have little doubt that there would be a very large and, perhaps overwhelming sentiment expressed for a resolution which would call upon the United States to cease bombing as a first step.

If we are not prepared to cease bombing, as I said in my earlier remarks, I do not think we should expose ourselves to that type of resolution which only puts us in the wrong, further deeper in the wrong. I do not think that would be in our national interest.

Therefore, I think so far as the General Assembly is concerned it would not be wise or prudent to submit the question to the General Assembly under the conditions of continued bombing.

With regard to the Security Council, of course, we do have the reserve power of the veto there. Senator Morse's resolution would call upon the executive branch in advance to announce, in effect, renounce its intention to use the veto.

Personally, with all respect to Senator Morse, I doubt that that would be a wise move for us to make in a situation in which we are engaged in mortal combat, where we have hundreds of thousands of troops involved. It seems to me we might very well find ourselves in a position of having to use that reserve power of the veto, reluctant as we would be to do so.

LIMITED RECOURSE TO THE GENERAL ASSEMBLY

Senator PELL. And yet you recommend that we go to the General Assembly where the veto would not apply?

Mr. GROSS. My proposal of limited recourse to the General Assembly when bombing has been simultaneously ceased, reduces the risk to a bare minimum, it seems to me; and, as I said before, I would have sufficient confidence that more than a two-thirds majority of the General Assembly would respond to our cessation of bombing by calling upon all parties to cease fire and throw their weight behind efforts of peace.

I would think that the possible irresponsibility of the General Assembly would not be so serious a risk that we should not accept it, because of the greater risk which continued lonely and unilateral exposure places the United States in our own high national interest.

Senator PELL. I thank you very much because what you have done here is, as have the other witnesses, to add to the reasons of counter-productivity and the possibility of entering into negotiations, the third factor, and the very important one, that without cessation of bombing there is no practicable chance of the U.N. really becoming productively seized of the problem.

I thank you very much.

Senator MORSE. Mr. Chairman.

Senator SPARKMAN. Senator Morse.

HAS THE UNITED STATES VIOLATED THE U.N. CHARTER?

Senator MORSE. I want to file a caveat in my own self-protection as far as my record is concerned. I would not want it said that Wayne Morse sat here and remained silent in this colloquy between Senator Pell and one distinguished international lawyer, Mr. Gross, in connection with whether or not we have or have not violated the United Nations charter?

I have, of course, submitted at great length legal documentation to the contrary. I think we have been in open violation of article after article of the charter from the beginning and, of course, the differences, as I am sure Mr. Gross recognizes, are agreement on the operative facts.

After all, you apply legal doctrine to facts, and you can have honest differences of opinion as to what the facts are. If you have those differences then you get a different application of legal principles. I have great respect for the brilliance of our witness. If I agreed with him on the finding of the facts we would come out to the same legal conclusions.

But our difficulties, as my brief showed, and they are shared by

many international lawyers in this country who hold the opposite point of view from what has been expressed here this morning, I will not engage in argument; I just wanted the record to show that I filed my caveat, to wit, as to such points as this: that our military intervention in the first place was aggression. We had no right under the charter, article 37, 51 or 52 or several others, to take the unilateral action that we took.

It goes back, of course, to the very disputed premise about a commitment to a puppet government that we created in the first place, in open violation of the literal prohibitions of the Geneva treaty which our Secretary of State and President said that we would respect as tenets of international law. We never have.

When you move in in violation of those principles you, of course, automatically move in in violation of the principles of the charter of the United Nations.

So it is this original finding of fact in which international lawyers find themselves disagreeing and, therefore, reach different conclusion as to the justification of the U.S. intervention.

USE OF SEATO AS RATIONALIZATION FOR U.S. INTERVENTION

We not only have that original aggression which we cannot justify and which is causing us a great deal of trouble with other nations because of our unilateral course of action, but you also have SEATO which does not, as a matter of law, justify to any degree whatsoever what the U.S. position is in South Vietnam.

Don't forget the Secretary of State grabbed that as an afterthought, after the State Department put out their first white paper which was supposed to rationalize our intervention in South Vietnam and had never even a whisper about SEATO. But subsequently the Secretary of State came up with the remarkable finding that SEATO justifies our intervention.

But, as has been pointed out even by this brilliant testimony this morning, if you go back to the statements of Secretary Dulles when the treaty was before this committee for ratification—and don't forget his statements become a part of that treaty as far as its meaning is concerned through American ratification—you cannot separate his statement as to what this treaty means from what we approved. We did not approve something else than what he said it meant, for he spoke for the President of the United States. Don't forget in that cross-examination, Secretary Dulles made perfectly clear that SEATO is not NATO. He made perfectly clear that the military commitments of NATO were not involved in SEATO. If he had not made it clear, why, he could not have gotten that treaty through this committee.

It was perfectly clear that that was the issue that this committee drew with the Secretary of State at that time. So even on that score alone, if he had no other points that were involved, you could not justify using SEATO for rationalization of our unilateral course of action in South Vietnam.

But even under SEATO we could not have received approval on a military course of action, which we never had. Why? Because three nations made clear there was a standing dissent—Pakistan, Great Britain, and France. So you cannot justify it on that basis.

You cannot justify it on the basis of self-defense under article 1 because we were not attacked. We did the attacking. We violated the rights of the conflicting parties in a civil war in South Vietnam.

I just wanted to get this caveat into the record because this is a general point of view of counsel on this issue on the other side of the table.

U.S. UNILATERAL COURSE OF ACTION IN VIETNAM

When you get to the Security Council you are going to get the acrimonious debate that I alluded to earlier this morning. The sooner we get that debate behind us and then move on either through further action in the Security Council or, as the witness says—and I think he is probably right—to the General Assembly, the better. But you have to get the atmosphere cleared in regard to this.

What the American people do not like to face up to is that we have followed a unilateral course of action in Vietnam to our everlasting historic discredit. We had better face up to it and not try to continue to perpetuate this unilateral military action in Vietnam where already the lives of over 13,000 American troops and thousands and thousands of Asians have been sacrificed.

You hear little talk by those who want to continue to escalate this war about what we are doing to the lives of others. It is as though just because we are in a combat we have to go along indefinitely inflicting this killing and suffering upon mankind and think we are going to make friends by doing it.

What we are doing is alienating ourselves around the world. This is bound up in this great international law debate. We must settle it—and we are never going to settle it until we stop our unilateral course of action, and make perfectly clear that the other nations have a duty to come in and take over. We ought to keep them on the spot until they do.

That is the caveat that I wanted to say, and I speak most respectfully to the witness. I never speak in a situation like this as a member of a committee without giving the person at the witness table an opportunity to make any comment he wants.

LEGAL COMMITMENT VERSUS A LEGAL RIGHT

Mr. GROSS. Mr. Chairman, I really will use self-restraint because of the hour, and I think the committee is entitled to the exercise of that quality on my part.

I would only like to say that the Southeast Asia Treaty, as I view it, gives the United States in terms a right. It does not, however, impose a commitment from a legal point of view. It seems to me that there has been some confusion by some statements on the part of certain of our officials which fail to distinguish clearly between the very important question of legal commitment versus a legal right.

Sometimes the commitment under the SEATO is talked about as if it were a legal commitment when what is really meant is a moral commitment as to which there might be differences of view, and I do not go into that.

RELATIONSHIP OF U.N. TO NATO TREATY

The only other comment I would like to make is with regard to the United Nations. Reference has been made to the North Atlantic Treaty, Senator Sparkman, and I would like, if I may, to refer to the fact that in the unanimous report of the Senate Foreign Relations Committee on the North Atlantic Treaty, which obviously imposed no essentially different obligation upon the United States than SEATO—if anything, it imposed a more direct and compelling one—that the report of this committee makes the statement explicitly of the relationship of the United Nations to the North Atlantic Treaty in terms which I believe apply to the Southeast Asia Treaty as well. The Senate Foreign Relations Committee said in its report:

Lest there be any misunderstanding about the relative position of the Treaty and the United Nations Charter, Article 7 makes clear the overriding character of the Charter with respect to the obligations of the signatories, who are also members of the United Nations.

Then the report goes on with one more sentence, if I may:

In the opinion of the Committee, the Treaty rightly recognizes the primary responsibility of the Security Council in this field—

Meaning peace and security—

and makes clear the intent of the signatories not to compete with this responsibility or interfere with it in any way.

Although the reference is to the Security Council, in order to support my point with regard to the General Assembly, if I may read just one more sentence from the report of this Committee:

This desire not to compete with or impair the authority of the United Nations is applicable not only to the Security Council but to other organs of the United Nations which the Committee understands the parties intend to use wherever appropriate.

It is my respectful submission that this express statement with regard to what was headed the paramount authority of the United Nations with regard to NATO, must also by every standard of reason and logic apply to SEATO as well.

Thank you, Mr. Chairman.

Senator SPARKMAN. Thank you, Mr. GROSS.

We are supposed to be in the Senate by 12:15 for the joint session.

(In connection with Mr. Gross' testimony, the following letter was subsequently received:)

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A.,
DEPARTMENT OF INTERNATIONAL AFFAIRS,
Washington, D.C., November 2, 1967.

HON. J. WILLIAM FULBRIGHT,
Chairman, Senate Foreign Relations Committee,
New Senate Office Building, Washington, D.C.

DEAR SENATOR FULBRIGHT: The General Board of the National Council of Churches at its meeting on September 15, 1967, adopted the enclosed "Resolution on Vietnam." A major operative paragraph in that resolution asks for a shift in U.S. policy concerning Vietnam at two points, as follows: "The first is to stop the bombing of North Vietnam for an unspecified period of time. The second is, simultaneously with the first, to request the UN (preferably the General Assembly) or other international agency to take up the question: What steps should be taken and procedures adopted to secure a peaceful settlement in Vietnam? The newly introduced Senate resolution concerning reference of the Vietnam issue to the UN deserves popular support." The resolution referred to, as is later specified, is S. Con. Res. 44 of September 11, 1967, introduced by Senator Wayne Morse.

The Senate Foreign Relations Committee is now conducting hearings on the Morse resolution, as well as on S. Res. 180 of October 25, 1967, which was co-sponsored by 57 members of the Senate. Both of these deal with the question of the possible role of the UN in bringing about an honorable settlement to the Vietnam conflict. The Honorable Ernest A. Gross, in his testimony before your Committee, has correctly stated the challenge here as one of finding "the most effective and practicable way of engaging the responsibilities of the U.N. membership and of bringing to bear their collective weight on the side of a just settlement." Mr. Gross, in addition to being an eminent international lawyer and former delegate to the UN, is also Chairman of the Advisory Committee of the National Council of Churches' Department of International Affairs.

As the NCC resolution indicates, the initiative in this matter should be taken by the United States. Both resolutions before your Committee are in accord with this position. It is our further conviction, however, that this should be done in conjunction with a cessation of the bombing of North Vietnam. Here again we would concur with Mr. Gross's testimony on this point in which he questioned both the prudence and the profitability of doing the first without the second. By combining these two initiatives, however, those UN members who see the bombing as the chief obstacle to peace would be afforded an opportunity to use their combined influence to bring about negotiations. There is also, of course, some evidence to support the view that the bombing has not achieved its objectives militarily while producing side effects which are both detrimental to our national interest and of questionable morality. For both reasons, then, this dual initiative has much to commend it.

I would appreciate it if you would make this letter and the accompanying resolution of the National Council of Churches a part of the record of the hearings on S. Con Res. 44 and S. Res. 180.

Thank you.

Sincerely,

ARTHUR S. FLEMMING.

RESOLUTION ON VIETNAM, ADOPTED BY THE GENERAL BOARD, SEPTEMBER 15,
1967, ATLANTA, GA.

This past summer has witnessed a heavy intensification of the war in Vietnam. We cannot speak of that war without recalling that in these months also there have occurred, among other things, riots in our cities, the emasculation of a once proud commitment to foreign aid for development, and an unresolved crisis in the Middle East. In each of these, there is much to suggest that a profound re-evaluation of the moral basis of U.S. life is overdue. Urgent issues are at stake:—among them, U.S. attachment to security and the status quo, as contrasted with U.S. commitment to justice and to freedom. There is urgent need to re-examine and to reaffirm the requirement of God for justice and freedom, upon which alone are based any security and order worth having.

In regard to Vietnam, recent developments suggest various courses of action that the U.S.A. might take.

One is greatly increased escalation of the military effort to secure defeat of North Vietnam and, therefore, the Viet Cong. This policy will involve vast destruction. It will greatly increase the danger of war with China and perhaps Russia. It will, in our judgment, employ means that will defeat our objectives in Vietnam. We therefore vigorously oppose escalation of the U.S. military effort there. We believe there is a better way to end the conflict.

Another course of action is to continue the military operation at generally the present level. Although this is high, it is still the level of limited and not all-out war. This course of action will almost certainly involve a long war. We do not believe this policy to be morally justified. In our judgment the destruction it would entail, both in meeting major military engagements and in a hamlet-by-hamlet operation, would defeat the U.S. objectives of helping to achieve a free and just society in Vietnam.

A further course of action is to de-escalate the U.S. military effort, e.g., by revising U.S. concepts of military strategy, and adopting a strategy of the defense of those areas now controlled by Government of Vietnam and U.S.A. forces. If accompanied by steps designed to secure a peaceful settlement of the war, such a policy of de-escalation offers greater hope of a just settlement than a policy which envisages either a long war or an escalated military effort.

We believe that measures designed to set in motion a process of peaceful settlement should be inaugurated at once. We fully recognize that heavy responsibility

for the war and the present condition of Vietnam rests with the National Liberation Front and Hanoi. Nevertheless, we believe that a solution achieved by military victory alone, if that were possible, would subvert the interests of security, justice and peace, and therefore would not serve the best interests of the U.S.A. We believe, therefore, that the following steps should be taken:

(a) We ask that the U.S. make clear to the newly elected government in Saigon the necessity of large-scale, convincing efforts to establish social justice in South Vietnam, and the necessity of prompt efforts to secure a just, peaceful settlement with the National Liberation Front and Hanoi. It is essential, in our view, that the U.S. declare that the Government of Vietnam should take its own initiatives and make its own decisions to secure an early, peaceful settlement of the future of Vietnam. We urge that the U.S. pledge its support of all such efforts. In the absence of such efforts, we urge the U.S. Government to re-examine its commitments in Vietnam.

(b) As the General Assembly of the UN is about to convene, we ask that there be a shift in U.S. policy at two points. The first is to stop the bombing of North Vietnam for an unspecified period of time. The second is, simultaneously with the first, to request the UN (preferably the General Assembly) or other international agency to take up the question: What steps should be taken and procedures adopted to secure a peaceful settlement in Vietnam? The newly introduced Senate resolution concerning reference of the Vietnam issue to the UN deserves popular support.

Such a change in policy, we believe, would help create a situation on the world scene and in Vietnam that would assist in securing a peaceful settlement of the war. As the United States takes these steps, we believe it should clearly restate its desire for an early peaceful settlement and its willingness to withdraw its military forces upon reasonable assurance of the security of the area involved. We believe that the highest morality now urgently requires the compromises which will produce a peaceful settlement and help secure conditions for the establishment of freedom and justice. We believe that U.S. moral strength will now be shown not by continuing a massive military program, but by making efforts toward peace which, though they may involve risk, are imaginative, sustained and credible. We support the positions of those in Congress and in the Administration who have clearly advocated these objectives.

In the urgency of our situation in September, 1967, we call upon all Christians to communicate effectively their views to the officials of our Government.

The General Board determines to commence the process of implementation of this resolution, under the leadership of the President of the NCC as follows:

(1) A representative group from the Executive Committee of the General Board, and others as deemed necessary by the President of the NCC, will present officially and in person to the highest officials of the United States of America and the Congress, the positions of the NCC on Vietnam.

(2) Each member communion through its appropriate officers and agencies will be requested specifically to witness to their support of the positions of the NCC on Vietnam by implementing in their respective communions the suggestions which follow and through other methods, in order that members of the churches may express their conviction on Vietnam. This request will be made also to councils of churches and church women.

to intensify their efforts to secure study, debate and action among their membership.

to seek out those in their membership who are prepared to act on these matters, calling them together in localities, regions, and nationally for the purpose of common action.

to secure actions about Vietnam from all possible church meetings, judicatories, and assemblies, and to publicize them.

to use available time on radio and TV for the purpose of debate concerning Vietnam.

to raise question with government officials and to inform them of their views, in face-to-face discussions or by letter or telegram. At this time, the Senate Concurrent Resolution 44 on reference to the UN, and a policy of deescalation are subjects of particular importance.

We also ask that urgent attention be given to the important Christian witness involved in the response of church members to Vietnam Christian Service, as part of the program of Church World Service. Such direct relief aid to the war sufferers in Vietnam demonstrates the moral sensitivity of Christian Americans and helps the cause of genuine reconciliation needed in the process of peace negotiations and especially of the eventual rehabilitation of the country.

Senator CLARK. Would the Senator yield briefly?
 Senator SPARKMAN. Yes.

INTRODUCTION OF DR. ELTON ATWATER

Senator CLARK. Dr. Elton Atwater of University Park, Pa., is one of my constituents and a personal friend. It will be impossible for me to come back this afternoon as I must go to Philadelphia to make a speech.

I would like, if I might, Mr. Chairman, to place in the record a brief statement about Dr. Atwater's qualifications, and express my regret to him that I will not be able to be here to hear his testimony.

I have, however, Doctor, read your excellent paper and find myself in accord with its conclusions.

Dr. Atwater is presently a professor of political science at Pennsylvania State University. He came to Pennsylvania State originally from American University. Before that, he had a distinguished academic career at American University, at the Graduate Institute of International Studies at Geneva, and as an associate professor of political science in both Elmira College and American University.

He is the associate director of the Quaker program at the United Nations; past director and is presently serving on behalf of the Friends Committee on National Legislation.

It was my pleasure last Sunday to speak before the United Nations Committee at State College and to address the group with respect to the 22d anniversary of the United Nations.

Dr. Atwater and his wife were very active indeed in persuading me to go up there and in making the arrangements for what was a very successful meeting.

I am sure the committee will be most interested in the testimony that Dr. Atwater will give us, and I regret very much that I cannot be here to hear him.

Senator SPARKMAN. Thank you, Senator Clark.

The committee will stand in recess until 2 o'clock.

(Whereupon, at 12:05 p.m., the committee recessed, to reconvene at 2 p.m., the same day.)

AFTERNOON SESSION

Senator MORSE (presiding). The hearing will come to order.

Senator Clark this morning introduced Dr. Elton Atwater. I want to associate myself with the introductory remarks and I want to insert in the record at this point, Mr. Reporter, a biographic sketch of Dr. Atwater.

(The biographic sketch of Dr. Atwater follows:)

ELTON ATWATER, PROFESSOR OF POLITICAL SCIENCE, THE PENNSYLVANIA STATE UNIVERSITY

ACADEMIC TRAINING

B.A. University of Rochester, 1934

M.A. The American University, Washington, D.C., 1936

Ph. D. The American University, 1939.

Diploma from the Graduate Institute of International Studies, Geneva, Switzerland, 1938

PROFESSIONAL EXPERIENCE

Assistant Professor of Political Science, Elmira College, 1939-1943
 Director, Foreign Service Training Program, American Friends Service Committee, 1946-1947
 Associate Professor of International Affairs, The American University, Washington, D.C. 1947-1950
 Associate Professor of Political Science, the Pennsylvania State University, 1950-1957; Professor of Political Science here since 1957.
 Head of the Department of Political Science, Pennsylvania State University, 1956-1957 and 1960-1963.
 Associate Director of the Quaker United Nations Program, New York City, and Non-Governmental Organization Representative accredited to the U.N. Economic and Social Council, 1957-1959. Responsibilities included the exploration of various ways whereby greater use might be made of U.N. programs in the field of technical assistance, economic development, and social welfare services. Since 1964, has been developing and directing a U.N. Intern Program for Penn State graduate students under which the latter work as research aides in U.N. Delegations and other offices for one or two terms.

PUBLICATIONS

(Co-author) World Affairs, Problems and Prospects. New York: Appleton-Century-Crofts, 1958.
 American Regulation of Arms Exports. Washington: Carnegie Endowment for International Peace, 1941.
 Contributor of articles on international relations to the 1964 edition of the World Book Encyclopedia.
 Have presented statements on several occasions before the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations in Washington, D.C. on foreign aid legislation and legislation relating to the United Nations.
 Contributor of articles to the American Journal of International Law, the Public Opinion Quarterly, Christian Century, and Friends Journal.
 (Co-author) World Tensions: Conflict and Accommodation (New York, Appleton-Century-Crofts, 1967).

Senator MORSE. For those in attendance, I want to say that we are about to listen to one of the experts in the field of international law. We are delighted, Professor Atwater, to have you with us. You may proceed in your own way.

STATEMENT OF ELTON ATWATER, PROFESSOR OF POLITICAL SCIENCE, THE PENNSYLVANIA STATE UNIVERSITY

Mr. ATWATER. Thank you very much, Mr. Chairman.

My name is Elton Atwater. I am professor of political science at the Pennsylvania State University. I am here today on behalf of the Friends Committee on National Legislation. Although this committee is widely representative of the views of many Friends or Quakers, it is not authorized to speak for all members of the Religious Society of Friends. No single organization is authorized to do this.

SUPPORT FOR MORSE RESOLUTION

I speak today in general support of the resolution, which you introduced, Mr. Chairman, calling on the President to request United Nations action on the Vietnam conflict through the Security Council or, if this is impossible, through the General Assembly.

The President has repeatedly stressed his desire for peace in Vietnam and said that he or his representatives would meet any time, any place, and with anyone authorized to engage in meaningful discussions on ending the conflict. As recently as last Monday, October 23, 1967, following the antiwar demonstrations in Washington, D.C., he said:

In every way we can, we search for peace in Vietnam. But we appear to be searching alone.

Your resolution offers a means of broadening that search by enlisting the help of the great majority of United Nations members who are also deeply disturbed by the Vietnam war, who do not feel that the problem can be solved by military measures, and who support the effort to bring both sides to the conference table.

VIETNAM CONFLICT SHOULD HAVE GONE TO U.N. LONG AGO

The Vietnam conflict should have been taken to the United Nations long ago before the President authorized U.S. military forces to engage in combat operations. Unlike the case of the Korean war, there has been no United Nations or international finding of "aggression" in Vietnam, and no U.N. or international authorization of military action. There have only been charges and countercharges of "aggression" by both sides, with each side apparently expecting the rest of the world to take its claims at face value.

No careful lawyer or judge would base his conclusions on the claims or statements of one party to the dispute, but this is in effect what we have been doing by not having earlier sought the United Nations authorization and action to deal with the Vietnam problem. Admittedly, the Vietnam case is much more complicated than that of Korea, involving initially charges of indirect aggression and subversion rather than direct military attack. But if the United States had had a really strong case, it should have been willing to let the United Nations evaluate it. And even if the Security Council had been unable to act because of a veto, more vigorous initiatives by the United States in the General Assembly might have produced a sufficient consensus to enable U.N. representatives to have exercised a moderating or mediating influence earlier in the conflict.

INITIATION OF STEPS TO ACHIEVE A CEASE-FIRE

But there is little to be gained now in attempting to assess responsibility for past failures. What is important at the moment is to initiate steps to achieve a cease-fire and to open negotiations looking toward some kind of settlement under which South Vietnam can freely establish its own internal political institutions, with international guarantees of its security and with international assistance for its economic rehabilitation and development.

I believe the United Nations can be helpful in initiating such action provided that the United States gives convincing evidence that it is prepared to reduce the level of military activity and enter into meaningful discussions.

SIMULTANEOUS ANNOUNCEMENT OF OUR WILLINGNESS TO HALT
BOMBING

At this point I would like to depart from my prepared statement long enough to agree with what was so ably said this morning by Mr. Gross as to the importance of accompanying the announcement of taking the case to the Security Council with a simultaneous announcement of our willingness to halt the bombing and to negotiate with all parties, including the National Liberation Front.

The United Nations is no superpower, and there are many severe limitations on what it can do, arising from the veto power in the Security Council and the fact that Communist China and North Vietnam do not sit in the United Nations and are strongly opposed at this moment to U.N. involvement.

As recently as September 16, 1967, Secretary General U Thant said at a press conference:

I would be the happiest man if the Security Council were in a position to contribute toward the settlement of the Vietnam problem . . . But the plain fact is that in matters of that nature involving peace-keeping, the Security Council will not act and cannot act in the face of opposition of one permanent member. That has been the experience of the United Nations in the last twenty-two years.

ROLE OF SECRETARY GENERAL

I might add at this point, Mr. Chairman, that it has been a little difficult for some of us like yourself who have been urging that the U.N. take up this matter, to find that the Secretary General has felt this was not a wise course of action. It has not been easy to maintain this point in the face of a position of this sort, and yet in view of the political realities which exist at the United Nations, the Secretary General, of course, has a very strong case.

Senator MORSE. May I say, Professor, that, when the Secretary General makes those statements, I always remember he is not the United Nations, just an officer of it, and the questions of policy, after all, rest for final determination not in his office but in the Security Council and in the General Assembly.

When I say that I do not in any way reflect against him. I have great admiration and respect for him. I happen to think that we must insist through the Security Council and the General Assembly that policy be formulated and then call upon the Secretary General to execute it.

Mr. ATWATER. I agree with you, and I feel that frequently member governments, our own Government in particular because of its tremendous influence, can often make the job of the Secretary General much easier by taking a stronger, more vigorous position in support of U.N. action. I hope we will do so in this case, and I think there is the opportunity here, as I am about to argue, to do exactly that.

IMPORTANCE OF GETTING SOVIET AGREEMENT

I do believe that simply referring the conflict to the Security Council or the General Assembly may not be very productive unless the Soviet Union modifies its present opposition to U.N. involvement in this case, and unless it also agrees to help get North Vietnam to the conference table.

I think we cannot emphasize too much the importance of getting Soviet agreement along the lines of this sort. I think there is a chance of persuading the Soviet Union to modify its position on these points if the United States were to announce an unconditional cessation in the bombing of North Vietnam and a willingness to negotiate with all interested parties, including the National Liberation Front. I certainly agree fully with U Thant's assessment that an unconditional cessation of the bombing of North Vietnam is the first priority in getting negotiations started. I am glad to see that the number of Senators and Representatives supporting such a move is steadily increasing.

Thus far, the President and the Secretary of State have objected to another unilateral bombing halt without some specific indication that Hanoi would undertake reciprocal action. But if the President were to call for a Security Council consideration of the Vietnam question, as contemplated by the Morse resolution, and if he simultaneously announced a cessation of the bombing and a willingness to negotiate with all interested parties, including the National Liberation Front, the political atmosphere would at once change for the better. The chances of getting a positive response from Hanoi would improve tremendously, and real possibilities would emerge for some American-Soviet consensus on Security Council action. I believe this might break the logjam, and this is why I feel it so important to link simultaneously with the call for United Nations action a U.S. declaration of a cessation of the bombing.

ISOLATED POSITION OF THE UNITED STATES

The United States would not now be searching for peace alone but would be enlisting the help of the entire United Nations machinery, including the very great assistance of the Secretary General. Action of this sort would go a long way toward overcoming the increasingly isolated position of the United States in the United Nations on the Vietnam issue.

This isolated position was very pointedly evident during the recent general debate in the U.N. Assembly during September and October. Out of 109 U.N. members who made foreign policy statements during this period, only five gave outright support to the U.S. policy in Vietnam—Thailand, Nationalist China, the Philippines, Australia and New Zealand. A few others—United Kingdom, Nigeria, Togo and Gabon—agreed with the United States that some reciprocal action by Hanoi should accompany a U.S. halt in the bombing. But there were no more than perhaps nine countries all together which indicated in this way some kind of direct support for U.S. military policies in Vietnam.

Mr. Chairman, I think that says a lot about where the United States stands on the Vietnam issue at the United Nations. Only nine out of 109 countries were willing to say publicly that they support our military policies.

On the other hand, 16 countries, including the Communist bloc, plus the United Arab Republic, Algeria, Syria, Yemen, the Congo (Brazzaville), Cambodia, Mali, and Mauritania, strongly condemned U.S. policy, while some 45, including several of our NATO allies like Canada, Belgium, Netherlands, Norway, and Denmark, called for a halt in the bombing.

When countries like Canada, Belgium, Netherlands, Norway, and Denmark say this kind of thing publicly, I think it is time we paid attention. I think this is the first year that many of these countries have spoken out as strongly in this way as they have.

STATEMENT ALONG LINES OF GENEVA AGREEMENT

A halt in the bombing, coupled with vigorous U.S. initiatives to secure United Nations action, would create an entirely different international political atmosphere and would, in my opinion, bring an almost unanimous U.N. effort to achieve a cease-fire and meaningful negotiations. From this point, the Security Council might reach a consensus on proposing a reconvening of the Geneva Conference to undertake negotiations for a broader settlement of the Vietnam question along the lines of the earlier Geneva agreements on this subject.

The United States has also called for a return to the Geneva agreements, as did 43 other delegations in the recent U.N. General Assembly debates, including the Soviet Union. Under the improved political atmosphere resulting from a U.S. bombing halt, I would expect that the Soviet Union could be persuaded to join with the United Kingdom as the other cochairman of the Geneva Conference in calling for a reconvening of that body.

SIMULTANEOUS MEASURES TO LOWER LEVEL OF MILITARY ACTIVITY

Here again, I emphasize the great importance of urging simultaneous measures to lower the level of military activity at the same time that we call for a session of the Security Council.

I feel, as Mr. Gross did this morning, that unless the United States is prepared to take that kind of action, it may be very unproductive if the Vietnam case comes up at the United Nations. Like Mr. Gross, I would also feel much better if the United States announced this position in advance, or simultaneously with taking the case to the Security Council, rather than waiting to see if the Security Council might demand a halt in the bombing. In the latter event, we would be in a much more awkward position.

So, for these reasons, Mr. Chairman, I hope the Senate will not only approve the Morse resolution, but will also take steps to urge upon the President the very great importance of taking simultaneous action to halt the bombing and to be prepared to negotiate with all parties. In this way, the United States, with the United Nations help, might at last get started on the long and difficult road towards a meaningful peaceful settlement.

COMMENT ON MANSFIELD RESOLUTION

If I might be permitted to add one word concerning the resolution of Senator Mansfield. I prepared this statement before I was aware of the text of his resolution and so did not include reference to it.

I have had occasion to look at it this morning. My quick reaction to it is that any resolution which would get this matter before the United Nations should be supported, although I prefer the stronger wording of your resolution. I think that the key idea, though, is to have

the Senate urge the President to take simultaneous action to stop the bombing and to indicate a willingness to negotiate with other parties. Whether you follow the weaker language of the Mansfield resolution or the stronger language of your resolution, Mr. Chairman, I think that other simultaneous action is essential if we expect to have successful results at the U.N. In getting greater Soviet cooperation to bring pressure to bear on Hanoi and to get steps initiated that would look toward peace talks.

Senator MORSE. Well, I share your view.

SUGGESTIONS FOR MANSFIELD RESOLUTION

As I have already expressed on this record, the Mansfield resolution would be very helpful in that it would do what I have referred to descriptively as building a bridge between this committee and the Congress and the White House in regard to this issue.

I have not any doubt that there will be suggestions for some word changes in it in this committee and in the executive session such as, for example, where it is said that the President "consider," in my judgment, ought to be changed to language in which the committee says that the Congress recommends to the President that he submit the issue to the United Nations.

Then I think there is some merit in the point of view of Mr. Gross this morning that language be included to make clear that it was the recommendation of the Congress that it go beyond the Security Council to the General Assembly if the issue gets bogged down in the Security Council.

VIETNAM ISSUE IS ALREADY ON SECURITY COUNCIL AGENDA

Mr. ATWATER. I would agree with both of those suggestions. If I might make one further point, I think that the Mansfield resolution points to one useful approach, and that is the fact that the Vietnam issue is already on the agenda of the Security Council as a result of the U.S. initiative in January of 1966. By reactivating that agenda item it is not necessary to go through the long procedural debate that we went through in January and February of 1966 at the U.N. to get it on the agenda of the Security Council. It could be done more quickly and possibly more usefully.

Senator MORSE. I think it is well that that be pointed out for the record.

It was my objective from the very beginning to have a resolution before the Security Council that would really be an effective one.

I violate no confidence, I am sure, when I say that Senator Mansfield and I have stressed the point in our conversations with the Administration, that in a sense the resolution that is sent up is not even vetoable, and that to get to the veto stage a bare majority would put it on the agenda, and that is where it is going to stay, in my judgment, until the United States makes some commitments.

The resolution carries no commitment from the United States. I think that in view of the developments in Asia, we have a clear obligation to commit ourselves to abide by the jurisdiction of the Security Council or the General Assembly, and that is why my resolution calls

for a cease-fire. It leaves no room for doubt that we are offering to submit it to the jurisdiction and abide by the jurisdiction of the U.N., provided it in turn carries out its concomitant and corollary responsibility of taking the necessary steps to enforce the peace under the procedures provided for in the charter.

RECOMMENDATION OF CONGRESS

I think that step has to be taken. But I am not taking the position now that the Mansfield resolution has to go that far. The hearings, the debate on the floor of the two Houses if, as, and when the resolution goes to the two Houses for a vote, will make the legislative record on these points, and the President will be in position to take note of them. The result will be to then place upon him the responsibility as far as executive action is concerned to submit a resolution which he thinks the executive branch ought to submit.

I have confidence that he is not going to ignore the judgment of the Congress because, as I have said so many times, I do not question his sincerity or his motivation in trying to find an honorable way out of the very serious situation that has developed in Asia threatening the peace of the world, most of the responsibility for which history will show rests squarely on the shoulders of the United States for reasons that I alluded to this morning.

ADVOCATION OF AN ALL-OUT ESCALATION

Suppose the President orders a suspension of the bombing—and, of course, I am for suspending it; I oppose its ever starting. I do not think we ever had the slightest justification for dropping a single bomb on North Vietnam or giving destroyer coverage to South Vietnamese navy boats that started the aggression against North Vietnam at the time of Tonkin Gulf. Many people do not know about that, not very many of them; they do not even like to hear it discussed. But don't forget that before Tonkin Gulf, there was not a single Administration witness who ever came before this committee when we put the question to them, "Do you have any evidence of troop infiltration from North Vietnam into South Vietnam?" Not a single witness before Tonkin ever said they had any evidence, the slightest evidence, of the historic case before this committee of any infiltration of troops into South Vietnam prior to Tonkin Gulf.

Many South Vietnamese went up to North Vietnam to be militarily trained, but we could not very well object to that in view of the training of foreign troops that we are participating in the very hour that I now speak. It was their right.

But you are going to hear the argument, and I want your opinion about it, that if the President orders a cessation of the bombing, and then the proposal for United Nations intervention breaks down either in the Security Council or the General Assembly, and that avenue is closed to us, which I hope will never happen, but let us assume it in my hypothesis, then do you think there will be an increased demand on the part of those in our country advocating an all-out escalation to urge that upon the Administration and upon the American people?

Do you think they would run that risk in the United Nations approach?

Mr. ATWATER. There is, of course, the risk that if the United Nations takes it up and then is unable to do anything immediately, there would be clamor, appeal for stronger, more vigorous U.S. action.

Of course, there is this risk. Any policy, as you have said so many times, has risks. The question is, what risks are you going to take?

MODERATE INFLUENCES MAY TAKE OVER

I feel that emphasis in much of our discussion today has been put upon the type of formal diplomacy which takes place at the U.N. in their formal meetings and, perhaps, not enough emphasis on the informal diplomacy which takes place in the corridors and behind the formal meetings, which is in many ways more productive and which is essential if there is to be agreement in the formal meetings.

I think the very fact that this question is on the minds of 122 governments, that they are seeking and working as hard as we are to find a way out of the dilemma immeasurably increases the opportunity for moderate influences to make themselves felt.

I think one of the great advantages of United Nations involvement lies in the moderating influence which comes from United Nations deliberations, from the value of considering other viewpoints and other approaches to the problem. We have seen this happen many times when the General Assembly has taken up a critical issue, such as in the Lebanese crisis in August 1958, when the General Assembly reached a consensus after the Security Council had been stymied by the veto.

The same thing happened again in the Congo crisis in September 1960, after the Security Council had been deadlocked by a Soviet veto.

The matter went to the Assembly, and here the broader discussions and moderate voices of other members helped to develop a consensus which was unanimously accepted and acquiesced in by even the Soviet Union which abstained in the voting. If the Vietnam question went before the United Nations, and if the United States simultaneously stopped the bombing of North Vietnam, I think there would be tremendous political pressure on governments to find a way of achieving a cease-fire by both sides.

There has been a lot of skepticism about unilateral U.S. action, but if we work through the United Nations we could generate considerable international pressure to get a genuine multilateral cease-fire. I think there would also be greater pressure on the Soviet Union to cooperate in this effort if the United States takes the position which I and others here have suggested.

So, of course, there is risk, but I think the risk is far less than the risk of continuing this bombing, because I see no end to that except a major land war in Asia.

Senator MORSE. I want to thank you very much for your comment on my question. I agree with your thesis.

COMMITMENT BY THE UNITED STATES

Mr. ATWATER. Might I make one other point in reference to something you said a moment ago, in reference to the importance of having in the resolution some commitment by the United States to follow whatever the Security Council or Assembly should recommend.

I certainly agree with this, although it might be important to point out that in the charter, the United Nations members are already obligated to do this. Article 25 of the charter specifically says that members of the U.N. agree to accept and carry out decisions of the Security Council.

The obligation to carry out Security Council decisions is in the background, then, of the United Nations procedures, but if it would be any easier to get a resolution through Congress without a clause committing us to support U.N. action it is, of course, quite possible that article 25 of the charter would cover the situation adequately.

Senator MORSE. I think that deserves very careful consideration.

If we find, as you say, we have a problem of getting that one vote over 50 percent, why, we had better consider it.

On the other hand, whenever you start a litigious matter that involves arbitration and mediation, although the parties are bound to abide by the results, the arbitrator or mediator always at the beginning of the case gets them to commit themselves to that commitment. When you are one of the defendants, as we are, anonymously speaking in this case, it is a good thing to assure others that they are dealing with a country that will agree to abide by the jurisdiction.

TIME SCHEDULE FOR U.S. WITHDRAWAL OF TROOPS

On the other point that you made, I only make this comment and then I will subside. If we should get to the point, speaking hypothetically, where a breakdown occurs in regard to a multilateral intervention to enforce the peace in Southeast Asia, my position always has been that once you reach that crossroads, the United States cannot justify continuing making war in Southeast Asia, but ought to announce a time schedule step by step, dropping back to lines of defense that we can hold to protect the men we have over there, give the countries in Asia a time schedule, x number of months, 3 or 6, to work out their own problems among themselves, following which we will withdraw.

It is only at that point that I would favor a withdrawal when there has been due notice, and give them time to prepare themselves in order to avoid the difficulties that would result from a precipitous withdrawal on our part.

It is not understood by many in this country. But if you cannot get other nations to participate in trying to prevent the spread of this war into a greater threat to the peace, if you give them an opportunity to do that, which this particular procedure we are holding hearings on seeks to give them, then I think the United States owes it to its own history and to mankind to announce that after a certain period of time we will withdraw our forces and we will leave an Asian war to Asians to handle, as we should have done in the first place.

Thank you very, very much, indeed.

Mr. ATWATER. Thank you, Mr. Chairman.

Senator MORSE. Our next witness will be Dr. Quincy Wright, professor of international law, University of Virginia.

Dr. Wright, please come forward and take the witness chair. I am going to ask Dr. Wright to close his ears for a moment while I address myself to a delegation of students that I see in the room, as well as others.

PRAISE FOR DR. QUINCY WRIGHT

I am always pleased when students attend our hearings because educational processes go on, may I say, in the Congress as well as in the classroom. To these students, I want to say that you have stepped into an opportunity this afternoon to hear, in my judgment, one of the greatest teachers in our country, and one of the keenest scholars of American academic life.

I shall not read all of Professor Wright's qualifying credentials. I shall put them in the record, and make comments about a few of them.

I told him this morning when I welcomed him that he should not be blamed for any viewpoint that I hold that is a mistaken one, for any viewpoint that I have fought for in connection with my work on the Foreign Relations Committee that is sound, he deserves no small credit for. Although I never sat at his feet in the classroom, I have sat at his feet as I have studied his writings and followed his brilliant career in international law for many years.

I cannot begin to tell you students how pleased I am to sit with you as a student this afternoon and listen to Dr. Quincy Wright. I should mention his teaching at Harvard and Minnesota and Chicago, and New Delhi, India, and now he is professor of international law at the University of Virginia.

You students need to do a great deal of reading of his writings. If I were back teaching, his writings in the field of international law would be on the compulsory reading list, such as the "Enforcement of International Law Through Municipal Law in the United States"; "Control of American Foreign Relations"; "Mandates Under the League of Nations"; "The Causes of War and the Conditions of Peace"; "Legal Problems in the Far Eastern Conflict"; "A Study of War"; "Problem of Stability and Progress in International Relations"; "The Study of International Relations"; "Contemporary International Law, a Balance Sheet"; "International Law and the United Nations"; "The Strengthening of International Law"; "The Role of International Law in the Elimination of War"; a few among his many scholarly writings in this whole field of international law and foreign relations.

(The biographic sketch of Dr. Quincy Wright follows:)

BIOGRAPHIC SKETCH OF DR. QUINCY WRIGHT, OF CHARLOTTESVILLE, VA.

Born: December 28, 1890, Medford, Massachusetts

Educated: Lombard College, A.B., 1912, Lombard College, LL.D., 1913, University of Illinois, Ph.D., 1915.

Experience:

1915-16—Research Fellow, University of Pennsylvania

1916-19—Assistant Professor, Institute International Law, Harvard

1919-21—Assistant Professor Political Science, Harvard

1921-22—Associate Professor Political Science, Harvard

1922-23—Professor, University of Minnesota

1923-31—Professor Political Science, University of Chicago

1931-56—Professor International Law

1956-57—Visiting Research Scholar Carnegie Endowment for International Peace

1957-58-62—Visiting Professor International Law, Indian School of International Studies, New Delhi

1962-1963—International Relations, Columbia University

1958-1961—Professor, International Law, University of Virginia

CONFERENCES ATTENDED AND OTHER ACTIVITIES

Member Board of Editors, American Journal International Law, Member, American Political Science Association, Member, American Philosophy Society, Member, American Society of International Law, Member, American Institute Pacific Relations, Member, Commission to Study the Organization of Peace.

PUBLICATIONS

Enforcement of International Law Through Municipal Law in United States, 1916
 Control of American Foreign Relations, 1922
 Mandates Under the League of Nations, 1930
 The Causes of War and the Conditions of Peace, 1935
 Legal Problems in the Far Eastern Conflict, 1941
 A Study of War, 1942
 Problem of Stability and Progress in International Relations, 1954
 The Study of International Relations, 1955
 Contemporary International Law, a Balance Sheet, 1955
 International Law and the United Nations, 1956
 The Strengthening of International Law, 1959
 The Role of International Law in the Elimination of War, 1961

Senator MORSE. Dr. Wright, we are honored to have you and we await the contribution that I know you will make to this historic hearing.

For you students, as I think you come to study the United Nations, are going to find even before you get through college that this hearing will be worthy of your careful analysis because every witness to date has contributed testimony which I think could be bound. I am not sure but what, when we get through with these hearings, we will not have a group of scholarly statements that I think should be published as a Senate document and be made available to the libraries of the country.

That is the way I feel about the hearings, and the way I feel about our present witness.

You take over, Doctor, and we will sit in your seminar.

STATEMENT OF QUINCY WRIGHT, PROFESSOR EMERITUS OF
 INTERNATIONAL LAW, UNIVERSITY OF CHICAGO AND THE
 UNIVERSITY OF VIRGINIA

Mr. WRIGHT. Thank you very much, Senator Morse.

I am glad to talk about this subject to which I have given a good deal of attention. You have probably seen an article I wrote about the legal aspects of the Vietnam situation in the American Journal of International Law.

Senator MORSE. I quoted from it in two speeches.

MORSE RESOLUTION FAVORED

Mr. WRIGHT. I am strongly for your resolution. I have not been able to study the Mansfield resolution, but I noticed in the paper yesterday that it seems to be considerably weaker than your resolution, and I am in favor of a strong resolution on this subject.

I favor your resolution because I think it is in the interests of the United States to have the Vietnam situation examined in the United

Nations. I think it is really an obligation of the United States to take a positive initiative.

I also think that it is in the interest of the United Nations to have a full discussion of the situation, and it is also an obligation of the United Nations to have such a discussion. Finally, I think United Nations discussion and recommendation is in the interests of mankind or the world as a whole.

IN INTEREST OF UNITED STATES TO STRENGTHEN UNITED NATIONS

Now, the United States has a national interest in this subject because it is in our interest to strengthen the United Nations. That is the first point I would make.

President Eisenhower, President Truman, and President Kennedy all said that the United Nations was the major instrument for the maintenance of peace in the world.

I think they were right, and they went on to say it was, therefore, in the interests of the United States to strengthen the United Nations.

If important questions that obviously are within the scope of the United Nations are not discussed there the United Nations is bound to be weakened. It is in our interest to maintain the prestige of the United Nations.

IN INTEREST OF THE UNITED STATES TO END VIETNAM WAR

It is also in our interest to make every effort to end the war in Vietnam with as much saving of face as we can get.

The prospects of negotiation seem to me pretty dim as long as it is on a bilateral basis. The United States offers the possibility of bringing about a conference or multilateral negotiation that would end the war. So for those two reasons the United States has a strong national interest in the purpose of this resolution.

OBLIGATION TO USE THE UNITED NATIONS

I also think it has an obligation. We should not overlook the fact that the first obligation undertaken in the United Nations Charter is to settle international disputes by peaceful means. That is a primary obligation.

While the United States has sought to place the matter on the agenda of the United Nations since January 1966, there has been no great pressure to do so. The Senate, by this resolution, may bring strong pressure on the Administration to carry out the obligation which we have undertaken to settle disputes peacefully.

PRESTIGE OF U.N. AT STAKE

Now, these interests and obligations of the United States are closely related to the interests and obligations of the United Nations.

The United Nations has an interest in discussing this because, as I said before, the United Nations loses in prestige by bypassing important questions which might be resolved by United Nations discussion.

There are, I am aware, people who say it is injurious to the prestige

of the United Nations if a matter is brought before it, but it does not succeed in bringing about a settlement.

I hope that the United Nations will bring about a settlement, but I think it is more injurious to the prestige of the United Nations if it bypasses matters which are clearly within its competence.

I believe the Secretary General has indicated that it is unlikely that the United Nations can act effectively in the Vietnam situation and the matter should be left to quiet diplomacy.

Well, I do not agree with him. Quiet diplomacy seems to have failed and it may be possible for the United Nations to deal effectively with the situation. In any case I do not think that it ought to be bypassed.

I should emphasize that the United Nations is under an obligation to take measures. Article 39 of the charter provides that "the Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken."

There is a positive obligation. Other articles say it is a "primary responsibility" of the Security Council "To maintain international peace and security." I do not think that the United Nations can properly, within the terms of its charter, escape the obligation to do what it can in this situation.

REFERENCE TO ARTICLE 51 OF CHARTER

I should also refer to article 51 of the charter by which the United States has sought to justify its action in Vietnam on ground that it is engaged in "collective self-defense against armed attack."

I will have something to say about that argument, which I know Senator Morse is interested in. But even if we are in Vietnam on that basis, I should like to call attention to the fact that this same article says that if an armed attack occurs against a member of the United Nations, and self-defense is undertaken, it can only be continued "until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter."

Even if the State Department's theory is entirely correct, that we are in there for the defense of South Vietnam, still the United Nations is under a responsibility, under the charter, to take such measures as it can to restore international peace and security.

The United Nations has, therefore, in my judgment, an obligation to do something and, as a member, an important member, of the United Nations, the United States should leave no stone unturned to see that the United Nations undertakes this responsibility.

POSITION OF THE SOVIET UNION

There has been a good deal of discussion on what the United Nations could do. It is said the Soviet Union will not allow a debate.

I think we should consider the position of the Soviet Union. It is certainly important that the United States and the Soviet Union should act together if there is to be effective action in the United Nations.

When those two countries have agreed there has nearly always been effective action in the United Nations as in the Suez episode in 1956 and the Palestine situation in 1949.

As I see it, the Soviet Union would like to have these hostilities stopped. They are giving assistance to Ho Chi Minh, and a lot of it, and they may give more so as to prevent the situation from being taken over by China.

No doubt there is rivalry between the Soviet Union and Communist China on which shall be the leader of communism in Asia, in Africa, and in other underdeveloped areas of the world.

The Soviets realize that geographically China is more able to assist Vietnam. They would not like to see China actually take over North Vietnam, and in my judgment, our policy may lead to China doing exactly that.

HISTORICAL ANTI-CHINESE ATTITUDE IN VIETNAM

Ho Chi Minh would greatly prefer to get aid from the Soviet Union. He is a Communist, but also a Vietnamese Nationalist. We must recall that for nine centuries Vietnam has struggled to maintain its independence against China.

I should also note that in 1946, after Ho Chi Minh had fought the Japanese, and the Chinese had come into portions of North Vietnam, in order to get the Chinese out, Ho Chi Minh invited the French to come in in place of the Chinese.

At that time the Chinese were the Chinese under Chiang Kai-shek, and the French had just recognized the Democratic Republic of Vietnam with Ho Chi Minh as its president. So Ho's invitation to the French is not surprising but it is an interesting indication of the desire of Ho Chi Minh to be protected even by the French against China.

To go on with the history a bit, very soon after this, France changed its position, decided it wanted to recolonize Indo-China, withdrew its recognition of Ho Chi Minh, and set up Bao Dai, who was a playboy who had been Emperor of Annam, as President of the Republic of Vietnam. Thus Vietnam as a whole was to be a protectorate of France. Then, of course, Ho Chi Minh turned against France, and the 7 years' war began.

This history indicates the desire of Ho Chi Minh to maintain a united, strong, nationalist Vietnam against the power of either China or France.

I think that the Soviet Union goes along with that. They would like to have a strong Communist Vietnam that would not be absorbed by China, and that would be a friend of the Soviet Union, maintaining its position in that part of the world.

Senator MORSE. May I interrupt for just a moment, Dr. Wright?

DELEGATION OF PARLIAMENTARIANS FROM GUATEMALA

A delegation of parliamentarians from Guatemala has been brought into the hearing room and the Chair would be honored if they would come up and take seats at the committee table while we listen to this distinguished American scholar discuss the issues before us. If they would like to, we will be glad to have them take seats at the committee table.

Mr. Reporter, at the end of the hearing today, please insert in the record the names and biographic material on our foreign visitors. (See p. 147.)

I am sorry for the interruption, but I know you would be pleased to have the parliamentarians from Guatemala listen to the testimony. I am honored to have them, particularly honored to have them hear you. You may proceed.

SOVIET UNION WANTS A COMMUNIST VIETNAM

Mr. WRIGHT. I think the Soviet Union would like to have this war stop, but they will not go against Ho Chi Minh. They want to build him up as a Communist power there against China about whom they are worried.

If this is correct, it seems to me there is a good chance of getting cooperation from the Soviet Union within the United Nations.

I think it would only be possible if we have an unconditional stopping of the bombing first. Ho Chi Minh has committed himself to no negotiation unless the bombing stops, and the Soviets have followed him in that. So I do not think we can possibly get any cooperation from the Soviets unless the bombings stop.

So I should think that this resolution might be effective in bringing the United Nations to deal with the matter in the Security Council or the General Assembly if there is first a stopping of the bombing.

QUESTION OF RECIPROCATION

Now, we have this question of reciprocation. I thought that Ernest Gross' argument was very convincing this morning when he said that if you had a full debate, and many countries committed themselves within the United Nations to the proposition that hostilities should stop, that they would feel a responsibility to get Ho Chi Minh to respond. As I read the record, Ho Chi Minh has indicated that he would respond if the bombing stops unconditionally, but what further demands would he be likely to make before he would meet in a conference?

I think we must realize, and this is evident from the bit of history that I gave, that Ho Chi Minh has dedicated himself to an independent, united Vietnam.

COMPARISON WITH AMERICAN CIVIL WAR

I have, to the discontent of some people, compared his position to that of Abraham Lincoln. I recently have been reading some of the documents in the early stages of the American Civil War. The Confederate leaders in their call to arms of the Confederacy said they were in grave fear that they were going to be the victims of aggression from the North. "Unprovoked aggression" is what Jefferson Davis called it, and "So we must defend ourselves against it."

I may say also that I had the opportunity to look over some secret correspondence of the British cabinet members of that time. Some of this material has recently been made available by Lord Mountbatten, whose wife was descended from Lord Palmerston. These documents include correspondence between Lord Palmerston, the prime minister

Lord John Russell, the foreign minister, Gladstone, chancellor of the exchequer, and other members of the British Government. The correspondence makes it clear that the British Government for various reasons, wanted the South to win for commercial reasons as well as Lord John Russell's argument that it was a case of self-determination, for obviously the South wanted to be independent. So the British planned to intervene. In fact, in September of 1861, Palmerston set a date for a cabinet meeting to recognize the Confederacy. I would say that the British relations to the South were similar to the relations of the United States to South Vietnam, but the British did not intervene.

The Cabinet meeting was called off because Lincoln, who was aware of the situation, changed the war from a war to save the Union to a war to abolish slavery, and the attitude of the British against slavery was so strong that once Lincoln had issued the preliminary Emancipation Proclamation, the British Government realized that it could not go into the war.

The British cabinet ministers had discussed the question: "Might we not get Lincoln to end the war by offering mediation on the basis of independence of the Confederacy and calling attention to the lives lost in the war, the barbarities of it, and the improbability that the North could win?" British intelligence was certain that the South would win in 1862.

But Secretary of State Seward convinced them that an offer of mediation would be rejected; that intervention would mean war—Seward had said it would be a serious violation of international law, and, as I said, they finally abandoned that idea.

Ho Chi Minh seems to be as much dedicated to a united, independent Vietnam as Abraham Lincoln was on that occasion. The people of South Vietnam are certainly less dedicated to independence than were the people of the Confederacy.

LEGAL ISSUE OF WHETHER VIETNAM UNITED OR NOT

The legal issue in this war is whether Vietnam is one or two. Now, as I said, when the war against France was being fought, both sides said there is just one Vietnam. The issue was: Who shall be the government of that Vietnam? Should it be Bao Dai with French protection or an independent democratic Vietnam under Ho Chi Minh who was recognized by both Communists and non-Communists as the symbol of Vietnamese nationalism?

That position was accepted by the Geneva Conference of 1954. After Ho Chi Minh had defeated the French at the battle of Dienbienphu, the French were hunting for a way to get out, and with the assistance of the British Foreign Minister, Anthony Eden, who also was anxious to have the war stopped, as were the Russians, they brought about the Geneva Conference.

There is no doubt about the intent of the Geneva Conference. It was to save the face of the French. It was to get Ho Chi Minh to stop fighting by accepting his desire for an independent, united Vietnam, and so the cease-fire was arranged between the armies of France which had been supporting Bao Dai, and the armies of Ho Chi Minh.

The cease-fire was signed by these two, and it explicitly said that

it was a temporary cease-fire line dividing Vietnam into two zones. The idea of two states was explicitly denied.

The cease-fire agreement went on to say that the administration of the northern zone should be under Ho Chi Minh and of the southern zone under the French. They were the two who had signed the cease-fire agreement. Each should be responsible for not allowing its zone to get any military assistance from outside beyond replacements or to make any alliances with an outside power.

The United States did not sign this. We were not asked to sign the cease-fire. It was only between the two armies.

There was, however, a resolution in the Geneva Conference which provided that there should be an election in July 1956 to terminate the cease-fire line, and to decide who would be the Government of the united Vietnam.

The United States, I regret to say, set about wrecking this settlement almost immediately, with collaboration of Diem who had succeeded to Bao Dai in the South after the French had withdrawn in 1955. It was the responsibility of the French to carry out the provisions of the Geneva Conference, but the French withdrew, perhaps under U.S. pressure as recently suggested by De Gaulle. That left South Vietnam with Diem, who said he was not bound by the Geneva agreements and at once welcomed the assistance of the United States to establish an independent South Vietnam.

REPORT OF CEASE-FIRE CONTROL COMMISSION

The Control Commission on the Cease-Fire, composed of a Canadian, a Pole, and an Indian, in an early report, found that there were violations of the cease-fire agreement by South Vietnam in importing arms beyond replacements and in making a virtual alliance, referring to the SEATO agreement. Dulles had made this, and while South Vietnam was not a party it was declared a protected zone under SEATO. The Control Commission said this was a virtual alliance.

Diem tried to justify these actions because he had not signed the conference resolution and, of course, he was not a party to the original cease-fire arrangements.

If that was the case, then when the French withdrew there was not any cease-fire arrangement because somebody in the southern zone had to be responsible for maintaining it. It is my opinion as an international lawyer that in law Diem succeeded to the obligations of France under the cease-fire arrangement and, therefore, when he got military assistance from the United States and made a virtual alliance, it was in violation of his obligation.

I was in India in 1958 lecturing at the Indian School of International Studies. India did not recognize either Vietnam but received consulates from both.

While I was there both Ho Chi Minh and Diem were invited to lecture at the Indian School of International Studies. Diem presented his point of view, that he was not a party to the arrangements, and that he was an ally of the United States.

Ho Chi Minh—and this was 1958—two years after the election was supposed to have been held, Ho Chi Minh was trying to get India to demand that the election which was called for be held. Well, Nehru

did. He had been bringing pressure to hold it as had France, England, and Russia but they had not succeeded because Diem and the United States were in control in the south.

Very soon after this Ho Chi Minh gave up on the Geneva agreement. He felt he had been sold down the river twice. He had been first sold down the river by France which had first recognized him, and then withdrawn in 1946, and now he had been sold down the river by the United States and Diem who had frustrated the Geneva arrangements.

It was only then that the Vietcong began guerrilla activity in the south and he began to infiltrate forces to help them. By that time he was convinced that his efforts to implement the Geneva agreement had failed.

I think that under international law he could properly say that the Geneva cease-fire was suspended. He agreed to it because it was to be temporary and would be ended by the election in 1956 which he was convinced he would win and would become the Government of the whole of Vietnam. In this, I may say, President Eisenhower agreed with him. President Eisenhower made a statement that all the information he had was to the effect that 80 percent of the population of Vietnam would vote for Ho Chi Minh. He was regarded as a nationalist leader of Vietnam.

LEGAL ASPECTS OF VIETNAM SITUATION ARE CONTROVERSIAL

I may say that this interpretation which I have given you of the legal aspects of the Vietnam situation is agreed to by about half the American international lawyers, and about half support the State Department's brief which holds that South Vietnam had become a defacto state. It is highly controversial among American international lawyers.

I attended a meeting of the Institute of International Law at Nice, France, last September. European jurists are very much interested in the Vietnam situation. And those with whom I talked agreed with my position on the law.

I think there is, in principle, only one Vietnam, not two, and that American action was not in collective defense against an armed attack from another state. The United Nations Charter in fact says article 51 refers only to an armed attack against a member of the United Nations, and South Vietnam is certainly not a member of the United Nations. I think, however, a broad construction would cover an attack against another state but not against a zone of a state, if the cease-fire agreement was legally suspended.

DR. WRIGHT'S ARTICLE ON THE LEGAL ISSUE

Senator MORSE. Dr. Wright, I am going to interrupt for a ruling. I want the attention of the official reporter. I would like to have you obtain from Dr. Wright a copy of his law article that he has been referring to. I would like to have it printed in full at the close of his testimony this afternoon, because undoubtedly some of the discussion that will take place between the witness and the Chair will deal with some of the points raised in this article. I want the article as part of the record.

Some of those points will relate to the discussion that the Chair had with Mr. Gross this morning. Let the record show, Dr. Wright, that my study to date satisfies me that not only do you have the substantial body of international lawyers in this country who share your analysis of the U.S. position in Vietnam vis-a-vis international law, but in other parts of the world as well. The international lawyers I have found overwhelmingly support the analysis that you have made.

We have one other group in our country represented primarily by the lawyers from the State Department who, I say most respectfully, I think have written as special pleaders more than as scholars.

You may proceed.

Mr. WRIGHT. What I have been saying I have thoroughly documented in the article referred to.

I think that most people in the United Nations, if this is brought before them, would say the issue is not to determine who is the aggressor or invoke penalties, but to stop the fighting.

SECURITY COUNCIL PROPOSES PROVISIONAL MEASURES

The charter provides that before denominating anybody the aggressor, the Security Council may propose "provisional measures" and, as a matter of fact, that has been the usual procedure of the United Nations.

Provisional measures usually mean getting a cease-fire without branding either side as being at fault. You are more likely to get it in that way and that, I suppose, would be the procedure if the purpose of this resolution is achieved.

I do not know what would happen if this was submitted to the Security Council.

Obviously, the first thing to do would be to invite all of the belligerents to attend. The charter provides that nonmembers of the United Nations can be invited when a dispute is being discussed and that, of course, would include North Vietnam, South Vietnam and, I think, what is called the South Vietnamese Liberation Front, or the Vietcong. They are a major party in the hostilities. Communist China also has a vital interest and its consent would be necessary to bring about peace.

I think it probable that some of these countries would not come. Communist China has said she would not come to another meeting of the United Nations. She was invited to come during the Korean affair, and did not get anywhere. She is not likely to come to another meeting until she represents China in the United Nations as she thinks she ought to. Ho Chi Minh also has said the United Nations is not the proper forum and without him the Vietcong would not attend.

RESUMMONING OF GENEVA CONFERENCE

That would mean that probably the best the United Nations could do would be to call for a cease-fire, and they might, if the United States should unconditionally stop bombing, get Ho Chi Minh to agree to that, provided they also recommended the resummoning of the Geneva Conference.

That Conference included all of the belligerent parties, as well as the great powers, but not the Vietcong. The latter should be invited as they are a principal belligerent and their present relations with North Vietnam seem uncertain.

As I said, the Geneva Conference was based on the assumption of one Vietnam.

The United States has said on occasion that it is ready to negotiate on the basis of the Geneva agreements and Premier Pham Van Dong of North Vietnam said the same on April 8, 1965, but I think they disagree on what the Geneva agreements meant.

If the United Nations recommended a resumption of the Geneva conference they would ask the two chairmen of that conference, the British and the Soviets, to summon it. The first matter on the agenda would be, what does the Geneva agreement mean? North Vietnam would say it meant one Vietnam, the government to be determined by an election; and very likely the United States would say it meant two Vietnams. The conference would have to argue on that question and there would have to be compromises. North Vietnam has suggested some compromises.

COMPROMISES SUGGESTED BY NORTH VIETNAM

First, Ho was demanding that the United States completely withdraw from the south and accept one Vietnam.

Premier Dong, however, on April 8, 1965, and the SVLF (Vietcong) on July 22, 1965, suggested that for a time there would have to be two Vietnams eventually to be united by the Vietnamese people themselves. I do not know whether some disagreements have arisen between the South Vietnamese Liberation Front (the Vietcong) and Ho Chi Minh.

Senator MORSE. I interpreted that as raising the possibility, Doctor, that the Vietcong are possibly thinking of two states with a federation between the north and the south as a possible compromise setting up a form of federal government with two sovereign states. They did not spell it out, so that we know enough what they had in mind. I only mention it because that is a bridge to be crossed.

We do not know what the final settlement will be, but the important thing, as you say, is to stop the fighting and stop the war which means, of course, that the United States, instead of maintaining a primary position over there ought to move as rapidly as possible into a secondary position and turn the final settlement over to neutral parties who, in turn, ought to get it turned over to the Asians themselves for their own self-determination as rapidly as possible.

Mr. WRIGHT. I agree with that estimate entirely.

I think there are various parties with different interests in this matter. I think the Soviets and the Chinese are not all together on the matter. I am not sure that North Vietnam and the Liberation Front think the same and, of course, the Government in Saigon looks different from all of them.

There are different views of what the settlement should be, and those views would have to be compromised in a conference in which all ought to appear.

But I was interested in this point. The constitution of South Vietnam, which was adopted last year says it is intended for Vietnam as a whole. The ballots in the recent election were printed in some of the papers and the Thieu-Ky ballot had on the top a map of Vietnam as a whole.

As well as I could make out, not only the winning military party but all the 10 candidates for president in South Vietnam wanted to have a united Vietnam. Of course, Ho Chi Minh does.

So all Vietnamese seem to be together on the conception of Vietnam as one state. But they have some differences on just what should be the government, what the constitution should be and how unity should be achieved.

I do not think there is much support in Vietnam for the American position that there must be two states. In fact, there were some qualifications to that even in the State Department's brief which said that at least for the time being there would have to be two states.

We cannot overlook the important fact that there is a sentiment of national unity in Vietnam, and that sentiment is something which, in the long run, is pretty likely to prevail.

I think that there is a possibility through the United Nations getting a cease-fire, and getting a real conference going if we want it enough to stop bombing in the North.

I think it is in our interest to do so and also in the interests of the United Nations. I believe that a strong Senate resolution of the kind proposed by Senator Morse would be of real importance in getting the Administration to working to achieve this result.

RELATIONS OF SECURITY COUNCIL AND GENERAL ASSEMBLY

There is one other point I might make, and that is the relations of the Security Council and the General Assembly.

It is possible that the Security Council will agree to a resolution but it would be necessary I think to convince the Soviet Union that we are not intransigently opposed to a conference which might prepare the way for a single government in Vietnam.

The Soviets might go along with this provided there is an unconditional cease-fire that I think is a prerequisite.

There is another factor, the exposition of positions. In preliminary speeches in the General Assembly some 50-odd United Nations members spoke on Vietnam and nearly all of them wanted peace.

This is clearly the view of most of the countries in Asia outside of the immediate Southeast Asian area and of the countries in Europe and Africa.

This has an influence on the great powers. I think it is significant in the Congo that the Security Council was able to reach important decisions although always with abstentions by some great power because it was obvious that most of the African countries wanted the resolution, and the great powers, neither the United States nor the Soviet Union nor Great Britain, wanted to offend the African powers. Since there have been a large number of unaligned states in the United Nations, which both the Communists and the anti-Communists are

interested in winning over or in keeping unaligned there has been a disposition not to exercise a veto in the Security Council, if it would be unpalatable to the unaligned states.

That is an influence which might make possible a resolution of some kind in the Security Council.

If there were not such a resolution and the Security Council bogged down, the issue could and should go to the General Assembly. That body can discuss any situation threatening peace placed before it by a member but can make recommendations only if the situation is submitted by the Security Council, or if the Security Council takes it off its agenda, or if, according to the uniting for peace resolution, which we put through in 1950 after the Soviets had come back in the Security Council during the Korean affair, a majority of the General Assembly decided that because of a veto the Security Council is unable to function.

It would not be difficult to get the Vietnam situation into the General Assembly if the Security Council is unable to reach a conclusion because of the veto.

I would agree with Senator Morse's resolution that it ought to go first to the Security Council. That body has first responsibility under the charter and I think there is a possibility, as I have said, of its voting a resolution. If it does not, then I agree it should go to the General Assembly. The Assembly might generate a debate manifesting what one could call a world public opinion.

"THE ESCALATION OF INTERNATIONAL CONFLICTS"

I made a study two years ago which was published in the *Journal of Conflict Resolution*, on "The Escalation of International Conflicts." It analyzed 45 conflicts which had occurred since 1914, including the two World Wars, and tried to answer the question: What were the factors that resulted in settlement or escalation of these conferences?

Two of these conflicts escalated into World War; some of them were settled without any hostilities, and then you had all degrees of hostility between.

I discovered that the factors that made for escalation were, first, perception by each party of a very strong national interest in the issue.

Second, perception by each that its military strength together with that available from its allies would give it in the long run superior military position.

The factors which made against escalation were first increasing costs. If either or both parties decided that the costs in lives and in money were greater than the national interest warranted, escalation might stop and there would be a stalemate or a settlement.

INFLUENCE OF WORLD OPINION

But the other factor inhibiting escalation which seems to have been important in these conflicts was world public opinion. A good many of them, as a matter of fact, were submitted to either the League of Nations or the United Nations, and world public opinion seems to have had an influence.

International law, I regret to say, had little influence except as it may have influenced world opinion. In the Vietnam situation law has had little influence, but applying my formula to the situation as it was in the summer of 1965 I concluded: "Hostilities in Vietnam are likely to escalate for a time, but eventually South Vietnam and the United States will win, unless mounting national and world opinion brings about a cease-fire or unless entry of the Soviet Union or China, or both, initiates World War III."

The idea, I believe, is in the mind of our Government, that if it exerts a little more pressure, the enemy will be ready to negotiate, gets little support from the cases I studied, nor does it, I think from a general study of history. If no strong national interest is felt on one or both sides, escalation may be avoided but if both sides feel a strong national interest, escalation is likely to continue until one side is obliged to surrender, as did our enemies in the two World Wars, or else a stalemate occurs because both suffer unbearable costs or a powerful public opinion demands peace.

Those are the two things which may bring about a cease-fire and a solution.

But military pressure when the other side believes that it is able to hang on, and that it has tremendous allies in the background, does not induce negotiation; it rather induces escalation.

That, I think, is the experience of history, and it is surprising to me that so few seem to realize that. It is commonly believed that there is a close positive correlation between the amount of military pressure and the willingness of the other side to negotiate. There is in fact a negative correlation until the point is reached where one side can fight no longer.

So I think that the bringing of world public opinion to bear on this situation through the United Nations might be a hopeful step.

Senator MORSE. I want to thank you very much, Dr. Wright.

I am going to have the reporter put your prepared statement in the record following the testimony that you have given.

(The prepared statement of Dr. Quincy Wright follows:)

STATEMENT OF PROFESSOR QUINCY WRIGHT BEFORE THE COMMITTEE ON FOREIGN RELATIONS ON S. CON. RES. 44

I favor this resolution because I consider U.N. consideration of the Vietnam situation (1) in the interest of the United States, (2) an obligation of the United States, (3) in the interest of the United Nations, (4) an obligation of the United Nations, and (5) in the interests of mankind.

1. The United States took a prominent part in the establishment of the United Nations and American Presidents and statesmen have said it is the major institution in the world devoted to peace and that it is a first interest of the United States to utilize it for this purpose. The United States is clearly competent under the Charter to lay the Vietnam situation before the United Nations (art. 35) and if efforts toward peaceful settlement through negotiation or mediation have failed, it is a national interest to utilize the United Nations to this end.

2. Even more it is an obligation of the United States to press for action by the United Nations. The United States is obliged to "settle its international disputes by peaceful means" (Art. 2, para. 3) and "to fulfill in good faith the obligations assumed by it in accordance with the Charter." (Art. 2, para. 2). The Charter also provides that the parties to a dispute shall "first of all seek a solution by negotiation, mediation—or other peaceful means of their own choice" (Art. 33) but if these fail and the dispute "endangers international peace and security" (Art. 34) the dispute must be considered by the United Nations (Art. 39). The United States reported its first major action, alleged to

be in "collective self defense" of South Vietnam to the United Nations as the Charter required (Art. 51) and it has subsequently submitted the matter to the Security Council, but its obligations under the Charter require that it insist that the U.N. use its powers to the utmost.

3. The first purpose of the United Nations is "to maintain international peace and security". (art. 1) It is in its *interest* to utilize all its resources to carry out this purpose. Its prestige can not but be adversely affected if it by-passes situations which are clearly serious breaches of international peace and security. I am aware that some believe its prestige will be adversely affected if it attempts to deal with problems which it can not solve, and that Vietnam, for various reasons, is in this category. I do not agree. An institution grows by action. I am sure the United Nations would gain more by doing its best in this situation than by ignoring it.

4. The United Nations is not only competent to act in the Vietnam situation, it is under a positive *obligation* to do so. According to the Charter "The Security Council *shall* make recommendations or decide what measures shall be taken—to maintain or restore international peace and security." (art. 39). Furthermore if hostilities arise from an action said to be in "collective self defense against armed attack." "The matter must be immediately reported to the Security Council and "shall not in any way affect the authority and responsibility of the Security Council" under the Charter. (art. 51) If the Security Council neglects to utilize all its resources to restore peace it violates a positive duty. In case of failure by the Security Council to act, the General Assembly is competent to consider the matter (art. 11) and it has imposed upon itself the responsibility to do so by the "Uniting for Peace Resolution" of 1950. I believe a strong United Nations is in the interest of the United States and of the world. The United States should, therefore, do everything in its power to strengthen the United Nations by insisting that it utilize all its resources to carry out its purposes and to discharge its responsibilities in the Vietnam situation.

5. Finally I am convinced that full debate in the United Nations and every effort to restore peace is in the interest of mankind. The Vietnam war can easily escalate into nuclear war and all people have a vital interest in stopping it now. My statistical study of the escalation of hostilities, covering forty five cases since 1914, indicates that the major factors involved are the estimates by the belligerents of the magnitude of their national interests, of the immediate and ultimate armed forces available to each, of the immediate and ultimate costs to each if escalation continues, and of the pressures of world opinion for peace. Both sides believe a vital national interest is involved. President Johnson so considers the maintenance of a non-Communist South Vietnam and Ho Chi Minh so considers the union of Vietnam which he has struggled for since 1945 and which he thinks was promised him by the Geneva Conference of 1954. Escalation is therefore likely to continue until one side is totally defeated, until a stalemate is reached because each finds its present and potential costs do not justify further escalation, or until world opinion demands peace. (*Journal of Conflict Resolution*, Dec. 1965, vol. 9, p. 434 ff.) It is possible that United Nations debate will manifest such a consensus of world opinion that it will be effective.

I do not know how debate in the United Nations would move. It is desirable that the parties engaged in hostility be invited to attend as provided in the Charter (art. 35, para. 2) and these should include the governments in Saigon and Hanoi as well as the South Vietnam Liberation Front (Vietcong), and Mainland China. Any settlement requires agreement of all of them. It is to be recalled that the armistice in Korea was signed by North Korea and Mainland China not recognized by the United States. If, as is likely, some of these governments refuse to attend a United Nations meeting, it may be that the United Nations will have to content itself by proposing an outside conference such as that held in Geneva in 1954.

In any case debate will be enlightening and may contribute to mobilizing world opinion of such force as to start things moving toward settlement of the extremely dangerous war in Vietnam.

U.S.S.R. AND U.S. POLICIES IN MIDEAST

Senator MORSE. I have a few questions. Do you see any relationship between the Soviet Union's present policies in the Middle East by

aiding the Arab countries and possibly running the risk of overextending herself there and the U.S. policies in Southeast Asia, with the possibility of our overextending ourselves there? In other words are these situations where both powers are supporting totalitarian regimes?

Mr. WRIGHT. Yes, I think that our policy in the Middle East has been greatly affected by the Vietnam war.

In the Middle East, we had far more commitments to Israel in regard to the Gulf of Aqaba than we ever had with South Vietnam. We did definitely commit ourselves in 1956 that we would see that the Straits of Tiran and the Gulf of Aqaba were kept open if Israel withdrew her troops. It was a positive commitment.

I think if we had acted, perhaps sending some naval vessels into the vicinity after Nasser had closed those straits, and it was quite clear that Israel was going to go to war unless they were opened, I think that we might have prevented the war.

We did not do anything, although President Johnson made a five-point statement in which he said that Israel should be permitted to go through the Straits of Tiran and through the Suez Canal, that there should be respect for the territorial integrity of all states in the area; and there should be a renunciation of belligerency against Israel by the Arabs and a settlement of the refugee problem.

I think it was a very good statement but nothing was done to support it and so we had a war.

We would probably have taken a more helpful position if we had not been tied up in the Vietnam war.

Senator MORSE. I quite agree with your statement about what I think we may have prevented if we had insisted that the straits be kept open.

SENATOR MORSE'S SENATE SPEECH ON MIDEAST

You remember at that time I made a speech on the floor of the Senate, after we heard the Secretary of State before this committee for over three hours give us a State Department briefing, and as a result of that speech I was called a hawk on the Middle East and a dove on Southeast Asia, when what I said, in essence, was that here, too, we ought to insist that the United Nations move in to enforce international law; that we could not stand by and permit Nasser to violate our international law rights in the straits and in the gulf, and the international law rights of every other maritime power, and suggested that we ought to make very clear we were not going to permit him, with the Soviet Union behind him, to establish a new status quo which he could make use of in connection with certain international law procedures he might subsequently develop. To wit, I said, the United States should proceed immediately to send up a commercial ship, and if Nasser blocks that commercial ship and thereby transgresses upon our rights of sovereignty, our international law rights on the high seas, we should send through a naval ship.

Well, that was supposed to make me a hawk in the Middle East. I said, of course, my position has been exactly the same in Southeast Asia.

IS UNITED STATES TRANSGRESSOR IN SOUTHEAST ASIA?

The only difference is that in Southeast Asia it is the United States that has been the transgressor from the beginning, and the United Na-

tions ought to enforce international law against us. As I expressed this morning, I just think the international law is completely against us in regard to our course of conduct in Southeast Asia.

I think we have been the No. 1 aggressor, the No. 1 violator of international law, and the United Nations ought to have been holding us to an account long ago.

There is no reason, just because we are the most powerful nation in the world, that we should be allowed to get by with our outlawry in Southeast Asia. We have been an outlaw Nation over there vis-a-vis our obligations under international law from the very beginning.

You heard the question that Senator Pell put to Mr. Gross this morning. I am so glad he did because I think this is one of the great issues that before we get through with the settlement of the south Asia problem we are going to have to reach some conclusions about.

I prepared for the President, at his request, early in his presidency, an international law brief on this matter, for which he has always been very grateful, and even in the very recent past has commented on it in the conference that was held in which I took the position that we did violate the United Nations Charter, we did violate the Geneva treaty, and that we have committed one international violation after another.

U.S. SUPPORT OF DIEM

I am not asking for agreement. I am asking for the benefit of your expert opinion. I would like to have you make whatever statement you care to in the record, in view of the fact that the issue was raised this morning, what your view is in regard to whether or not we have stayed within the framework of the United Nations Charter and international law when we proceeded to support Diem who, as you know, was an exile in this country.

The Secretary of State did a good job indoctrinating him, along with the Defense Department and the CIA, and we took him back to Saigon.

He sat out the war in Washington, D.C., and in New York City. We made him our boy and took him back to Saigon, set him up in government, financed him and militarized him, and then committed ourselves to him. That is where the commitment came from, from our own diplomatic illegitimate offspring, in my judgment, and that does not meet the tests according to my legal sights of compliance with international law or with the charter.

U.S. INTERVENTION UNDER SEATO

Remember the SEATO afterthought of Secretary Rusk, who apparently never thought of it in 1965 when he submitted his white paper seeking to rationalize State Department actions vis-a-vis international law. It was after that that he fell back upon some language in SEATO which he thought justified our course of action.

I replied to that, as other lawyers have, pointing out that a protocol state under SEATO does not justify our military intervention in the name of self-defense but rather indicts us with intervention, contrary to any of our international legal rights.

This great historic debate has been going on in this forum up here for quite some while, in addition to the academic forums of the country and in the conference of international lawyers.

This, in broad brush strokes, lays out the viewpoint of your chairman.

IS U.S. ACTION IN VIOLATION OF INTERNATIONAL AGREEMENTS?

I always welcome people who disagree with me as well as those who may share my point of view. I think in view of the fact that Senator Pell raised this question this morning, it would be very helpful to this committee if you would give us the benefit of your response to this question, as to whether or not you think the course of action that we have followed in Vietnam has been in violation of the United Nations Charter.

I would add to it a subsidiary question of whether or not you think our course of action in Southeast Asia has, in fact, transgressed upon the articles of the Geneva understanding to which the President of the United States and even Dulles at the time said that they would respect as tenets of international law.

I would like to have your comment on any of those observations.

Mr. WRIGHT. In regard to SEATO, I recall the Department of State brought that up as a second thought. SEATO was made after the Geneva agreements, and was made in connection with the efforts to destroy the Geneva agreements. It was referred to by the Control Commission as a quasi-alliance that Diem had made. He was not a party to it, but South Vietnam was within the area protected by the treaty. The Control Commission to supervise the cease-fire said that by the acceptance of this protection from SEATO, Diem had violated the cease-fire agreement.

So, far from justifying U.S. intervention, the agreement itself was a violation.

I think I have stated my legal position and I entirely agree with you. It is impossible to reconcile our behavior in Vietnam with our obligations under the United Nations Charter, or under the general principle of international law forbidding intervention in the internal affairs of another country. Those are basic principles.

STATES SHOULD OBSERVE INTERNATIONAL LAW

I have been teaching international law all my life so perhaps I am prejudiced, but I think we are not going to have a better world until states recognize that their national interests will be better preserved by observing the law than by violating it.

I think it is going to be a long time, before we can get a world federation because of the strong sentiments of nationalism and the great diversity of ideologies in the world. I am interested in the World Federalists, but I think it is a very long time development, and that the first step is to get states to appreciate in the nuclear age what their real national interests are. It is obvious, that if all states carried out their obligations under the United Nations Charter, there would not be any war, there would not be any nuclear war. All of them are bound by the charter "to refrain in their international relations from the threat

or use of force against the territorial integrity or political independence of any state." If every state were a member of the United Nations, and all of them observed that clear obligation there would not be any war, there would not be any danger of nuclear war. The building of confidence that states will observe the law is the first step to disarmament and cooperation to protect human rights and promote human welfare.

GREAT POWERS HAVE VIOLATED THEIR OBLIGATIONS

These observations apply primarily to the great powers. Great Britain and France violated their obligations in invading Suez in 1956. President Eisenhower, I remember, said over television we all ought to live up to our obligations under the charter, and, with parallel action by the Soviet Union, the United Nations brought about a withdrawal from Suez.

I do not think there is any doubt that China violated the obligation of the charter, although Communist China was not represented in the United Nations, when it invaded South Korea in 1950 and India in 1962. I think we violated the charter when we intervened in Vietnam. The situation was entirely different from our action in Korea because the cease-fire line was valid and the United Nations had found that South Korea was the victim of aggression and called on members to act.

I do not think there is any doubt that the Soviet Union violated the charter when it invaded Hungary in 1956.

Great powers, all of them, have violations against their names, and this has induced little powers to think they can do likewise.

When I was in India just after the Goa episode, I wrote an article on Goa in which I was very critical of the Indians, and I said, "You are doing in Goa exactly what you objected to the Chinese doing in your northern frontier." The Chinese said they were simply taking back territory that had been taken from them by imperial aggression during the British regime in India.

The argument the Indians made in going into Goa was that it was taken by the imperial aggressions of Portugal in 1415, 500 years earlier.

I talked with a member of the Indian Foreign Office, and he said, "Of course, we violated the charter in going in there."

There have been violations of the charter, and they have led to a lack of confidence in law and this serious situation threatening escalation to nuclear war. I think that the powers do realize that nuclear war would be suicidal and are not likely to deliberately initiate the use of nuclear weapons in war. I doubt whether we are anxious to use them against China, although some persons in the Pentagon may want to. But I do not think the Chinese want to be involved in a war which might bring this upon them.

There is mutual deterrence in the nuclear situation. But the danger of escalating smaller wars, such as the Vietnam war is very great if both sides think they have a strong national interest in the issue.

If they take the position that there is no substitute for victory, as General MacArthur said, then when escalation gets started it may escalate to the limit.

General von Clausewitz, who was the great writer on war in the post-Napoleonic period, said that every war tends to be absolute, that is, tends to escalate until each side is using all the forces and weapons it has.

So we must recognize the very real danger of escalation into a nuclear war which would do us all in.

Senator MORSE. I think this last point you make is so important, namely, that most wars become absolute. I think that is the great threat that hangs over the American people and mankind in Southeast Asia today.

EFFECT OF U.S. LAND INVASION OF NORTH VIETNAM

That comment causes me to raise this hypothetical question and I hope it always hypothetical, but I would like to have your judgment on it.

Let us assume that it is decided by our Government to have a land army invasion of North Vietnam. Do you think that would greatly increase the risk and create the probability that China might come into the war?

Mr. WRIGHT. Yes, sir; I do.

As you know, in the Korean affair, the Indian Government, which had an ambassador in Peking, told the United Nations and the United States that, "If you send a land army across the 38th parallel, China will come in."

General MacArthur said he had better information, and so he went in and China came in. I think that China in that war was motivated primarily by defensive considerations. It feared that if we went across the 38th parallel into North Korea, the next step would be into Manchuria, and then into China as a whole.

The assistance to North Korea before that had been primarily by the Russians. It was, at that time, their policy to expand into Korea, and not the Chinese. The Chinese did not come in until we moved north of the 38th parallel, and then they thought they were under a defensive necessity.

Well, they have intimated that they would likely go in if we send land forces into North Vietnam, north of the cease-fire line, and I think they probably would.

I think they would not start using nuclear weapons, which they have now in limited supply, but they have enormous land armies, and if they sent their armies into North Vietnam and we tried to deal with them we would be in trouble.

EFFECT OF NUCLEAR BOMBING OF CHINA

Senator MORSE. That might, because of the trouble that it would create, because of the large number of American troops needed if we were going to meet that land army in China, also cause those who follow the principle you enunciate that every war eventually becomes an absolute war, to advocate the dropping of nuclear weapons on China, would it not?

Do you think that the dropping of nuclear bombs on China—and still as a hypothetical—might have the result of bringing the Soviet Union in?

Mr. WRIGHT. I think it might.

There is trouble between China and Russia, particularly on the northeast frontier.

China does not like Soviet control in Mongolia and Sinkiang Province. I have seen on Chinese Communist maps shaded areas which they regard as having been taken from China by what they call imperialistic aggression during the 19th century. The largest such area is in Siberia. That is an objective, and the Russians know it, so there are serious difficulties on the frontier areas between China and Russia. That is very important. There is also rivalry in respect to Communist leadership in Southeast Asia and elsewhere, and there is conflict over interpretation of doctrine.

On the other hand, if the United States used nuclear weapons to bomb China, I do not know what the Russians would do. I think that it would be extremely difficult for them to see the other great Communist country in the world bombed out of existence.

So I would not be too sure that such a bombing would not bring China and Russia together.

Senator MORSE. I have waited a long time to have you before this committee. You have made a wonderful record this afternoon for this committee to dig into and to consider all of its implications. In behalf of the whole committee, I thank you most sincerely for the contribution that you have made.

Thank you very much.

Mr. WRIGHT. Thank you.

(The article of Mr. Wright's, previously referred to, follows:)

[From the American Journal of International Law, vol. 60, October 1966]

LEGAL ASPECTS OF THE VIET-NAM SITUATION

(By Quincy Wright, of the Board of Editors)

The Viet-Nam hostilities arose and have escalated because of the radically different perceptions of the situation by the principal parties.¹ A settlement might be possible if each side understood the image perceived by the other. An analysis of the interpretation of the situation which would result from an impartial application of international law, presumably reflecting the consensus of world opinion, might also be helpful.

The United States position has been repeatedly stated by the President and the Secretary of State² and was expounded in a fifty-two page memorandum, published on March 4, 1966, by the Legal Adviser of the Department of State, entitled "The Legality of United States Participation in the Defense of Viet-Nam."³

¹ The importance of distorted images and diverse perceptions of the situation, resulting from established stereotypes and ideologies, as well as from inconsistent desires and expectations for the future, in the initiation and development of international conflicts is emphasized in *The Craigville Papers, International Conflict and Behavioral Science*, Roger Fisher, ed. (N. Y., Basic Books, 1964), especially in contributions by Anatol Rapoport (p. 13), William Gamson (p. 27), Kenneth Boulding (p. 85), Morton Deutsch (p. 142), Urie Bronfenbrenner (p. 161), and Lester Grinspoon (p. 272). See also my comments in *A Study of War 1116, 1503, 1562* (University of Chicago Press, 1965); *Problems of Stability and Progress in International Relations 145, 165* (Berkeley, Calif., 1954); "International Conflict and the United Nations," 10 *World Politics* 38 ff. (1957); "The Escalation of International Conflicts," 9 *Journal of Conflict Resolution* 417 (1965).

² See Department of State, White Papers, December, 1961, and February, 1965; White House Statement, Oct. 2, 1965; and President Johnson's address at Johns Hopkins University, April 7, 1965, printed in *The Vietnam Reader* 123, 128, 193, 343 (Marcus Raskin and Bernard Fall, eds.) (hereinafter cited as Raskin and Fall). The White Papers of February, 1965, the Johns Hopkins address of April 7, 1965, and Secretary of State Rusk's address to the American Society of International Law, April 23, 1965 are printed in *Vietnam, History, Documents and Opinions* 284, 323, 330 (Marvin E. Gettleman, ed.; New York, Fawcett Publications, 1965) (hereinafter cited as Gettleman).

³ Department of State, Office of the Legal Adviser, *The Legality of United States Participation in the Defense of Vietnam*, March 4, 1966; reprinted in 60 *A.J.I.L.* 565 (1966) (cited hereafter as U.S. Legal Brief).

The United States holds that the cease-fire agreement of 1954 established a boundary between what became virtually independent states of North and South Viet-Nam, that North Viet-Nam, by infiltrating men and supplies to assist the Viet-Cong, was guilty of "armed attack" upon South Viet-Nam in violation of international law and the cease-fire agreement, that South Viet-Nam was justified in using force in self-defense, and that the United States was justified, under international law and Article 51 of the United Nations Charter, in assisting South Viet-Nam at its request by measures of "collective self-defense against armed attack," including the bombing of installations in North Viet-Nam. It contends, I believe correctly, that, in spite of the express limitation of Article 51 to defense against armed attack upon "a Member of the United Nations," the principle of the article, affirming a principle of customary international law, applies equally to a non-Member even if it is not a wholly independent state.⁴ Furthermore, the United States points out that it reported its action to the United Nations as required by Article 51, and that organization, by failing to take any action to restore international peace and security in accord with the authority and responsibility given it by Articles 39 and 51, has tacitly approved the United States position. Express approval of the United States position was given by the SEATO Council at its meeting in Canberra, Australia, on June 29, 1966, with the French representative abstaining and the Pakistan representative reserving.⁵

The North Vietnamese Government under Ho Chi Minh has been less explicit in defining its position⁶ but it seems to hold that the Democratic Republic of Viet-Nam, proclaimed in September, 1945, with Ho as its head, and recognized as a "free state" by France and Bao Dai, who had abdicated as Emperor of Annam, is one state; furthermore, that Ho, as the leader of Vietnamese nationalism, was justified by the principle of "self-determination" in resisting the French effort in 1946 to re-establish Bao Dai as head, not of an independent Viet-Nam, but of a "free state" within the French Community. It points out that after Ho's forces in a seven-year war had defeated France at Dien Bien Phu in 1954, Ho was in a position to establish his authority over the whole of Viet-Nam and that he agreed to the cease-fire line, established by the Geneva Conference of 1954, because the compromise settlement would prevent further foreign intervention and the temporary division of Viet-Nam would be terminated by an election to be held in July, 1956, which would result in union under his govern-

⁴ It has been argued that the Charter intended to permit "collective self-defense" only of "members of the United Nations" in order to prevent third-party intervention in behalf of a revolting community or colony whose independence the intervening state may have recognized. International law, however, permits defensive alliances. Art. 2, par. 4, of the Charter forbids armed attack upon any "state," and a valid cease-fire line forbids such attack upon the territory protected by it. It would, therefore, appear that a state can exercise "the inherent right of collective self-defense" (Art. 51) in behalf of any genuinely independent "state" the victim of "armed attack" in violation of Article 2, par. 4, or even an imperfectly independent state protected by an internationally valid cease-fire line. The United States assumed that it could collectively defend non-Members of the United Nations when it admitted Portugal (before it was a Member) and West Germany to NATO and when it made defensive alliances with Japan (before it was a Member) and South Korea. The Soviet Union made a similar assumption in making defensive alliances with certain of its "satellites" in Europe before they were Members.

⁵ New York Times, June 30, 1966, p. 12. The International Commission to supervise the Geneva Cease-Fire in Viet-Nam considered the *de facto* alliance of the Southern Zone of Viet-Nam with the United States and SEATO a violation of the cease-fire agreement. See 8th Report, 1957-58, par. 30; Special Report, 1962, par. 20 (Gettleman 175, 188); and below, notes 53, and 63. Endorsement of the United States position by SEATO has no weight in international law. The Harvard Research in International Law suggested that aggression could not be attributed to a state unless "duly determined by a means which that state is bound to accept" (33 A.J.I.L. Supp. 871 (1939)). While a necessity of self-defense permits a temporary unilateral determination of aggression by armed attack, such determination, whether by a state or an alliance, is not authoritative in international law because the other side is not bound to accept it. Failure of the United Nations to act cannot be assumed to indicate tacit approval of defense measures under Art. 51, unless the reasons for this failure so indicate.

⁶ The statements of the South Viet-Nam National Liberation Front (Viet-Cong) of Dec. 20, 1960, and of March 22, 1965, with notes by the North Viet-Nam government; the Policy Declaration by North Viet-Nam Premier Pham Van Dong, stating four points for negotiation of peace, April 14, 1965; and the Joint Statement by North Viet-Nam and the Soviet Union, April 17, 1965, are printed in Raskin and Fall 216, 232, 342, 362. The Vietnamese Declaration of Independence, Sept. 2, 1945; the Abdication of Bao Dai as Emperor of Annam, August, 1945; the French recognition of Viet-Nam as a "free state," March, 1946; and the Viet-Minh's directive for resistance of Dec. 20, 1946, are printed in Gettleman 57, 59, 61, 87. See especially Ho Chi Minh's letter to the heads of several states printed in the Washington Post, Jan. 29, 1966, p. A 12.

ment.⁷ On the basis of these facts, North Viet-Nam contends that the Diem Government in South Viet-Nam succeeded to the obligations of France under the Geneva Agreement (Article 27), even though Bao Dai's representative reserved on them at Geneva, and that it violated those obligations by refusing to implement the provisions concerning elections and by accepting United States military contingents in South Viet-Nam and establishing a *de facto* alliance. Ho Chi Minh is therefore convinced that these continuing violations of provisions of the Geneva Agreement which had induced him to accept it, justified him by 1958 in considering the cease-fire line suspended and in continuing his efforts, begun against France in 1946, to unite Viet-Nam by force. Ho Chi Minh, in short, contends that after he was defrauded, by a conspiracy of Diem and the United States, of the opportunity pledged by the Powers at Geneva to extend his government by peaceful means over the whole of Viet-Nam, then recognized as a single state, he became free to consider the cease-fire line suspended and to assist the Viet-Cong, his supporters in the south, in hostilities against the Diem and subsequent South Vietnamese governments which opposed the Geneva political settlement.⁸ The situation was therefore, in Ho's opinion, one of "civil strife" within the domestic jurisdiction of Viet-Nam, and the United States violated international law, the United Nations Charter, and the Geneva agreements by intervening with armed force.

The United States has replied to this position by asserting that, while ultimate unification of Viet-Nam by free elections is not ruled out, the Geneva Powers could not have really intended that Viet-Nam be united by an election in 1956 because conditions for "free general elections by secret ballot" to establish "fundamental freedoms guaranteed by democratic institutions," called for by the Geneva resolutions, could not be established by that date, especially in Communist North Viet-Nam. Consequently the failure to hold the elections did not suspend the cease-fire agreement which the United States insists was violated by North Viet-Nam first. Referring to the Geneva prohibition (Articles 16, 17) of the introduction into Viet-Nam of troop reinforcements and new military equipment (except for replacement and repair) and of adherence of either zone to any military alliance, and the use of either zone for the resumption of hostilities or to "further an aggressive policy," the United States seeks to justify its establishment of forces and bases in South Viet-Nam as replacements of personnel and equipment,⁹ as assistance to the South Vietnamese Government to fight Communism in its zone,¹⁰ or as resistance to infiltration or invasion from the north in violation of the Geneva Agreement. For the latter justification it cites: "the international law principle that a material breach of an agreement by one party entitles the other at least to withhold compliance with an equivalent, corresponding, or related provision until the defaulting party is prepared to honor its obligations."

⁷ In this he agrees with President Eisenhower who wrote in his memoirs, *Mandate for Change* 372: "I am convinced that the French could not win the war because the internal political situation in Vietnam, weak and confused, badly weakened their military position. I have never talked or corresponded with a person knowledgeable in Indochinese affairs who did not agree that had elections been held as of the time of fighting, possibly 80 percent of the population would have voted for the Communist Ho Chi Minh as their leader rather than Chief of State Bao Dai. Indeed, the lack of leadership and drive on the part of Bao Dai was a factor in the feeling prevalent among Vietnamese that they had nothing to fight for." See Robert Scheer, *How the United States Got Involved in Vietnam* 11 (Center for the Study of Democratic Institutions, Santa Barbara, Calif., 1965). It is unlikely that this estimate, if correct for 1954, would have changed radically by 1956. In an election in South Viet-Nam in 1955, Diem proved to be much more popular than Bao Dai, but there was never a test of his relative popularity with Ho Chi Minh.

⁸ For texts of Geneva Agreements, 1954, and other relevant documents, see 60 A.J.I.L. 629-649 (1966).

⁹ Premier Pham Van Dong of North Viet-Nam in his statement of April 8, 1965, indicated his willingness to go back to Geneva in a peace negotiation, provided it included the political as well as the military provisions (New York Times, April 14, 1965; Raskin and Fall 342). North Vietnamese assistance to the Viet-Cong across the cease-fire line would clearly be illegal if the cease-fire agreement were in effect, as insisted by the United States. In saying in this note "pending the peaceful unification of Vietnam . . . the military provisions of the 1954 Geneva agreement must be strictly respected," and referring to violations by the United States, he stated a bargaining position. This statement also recognized the autonomy of South Viet-Nam under the South Vietnamese Liberation Front and said "the peaceful reunification of Vietnam is to be settled by the Vietnamese people in both zones without foreign interference." (See note 20 below.)

¹⁰ U.S. Legal Brief 29; 60 A.J.I.L. 576 (1966).

¹¹ International Control Commission, Special Report, 1962, par. 6, referring to joint declaration of Vice President Johnson and Premier Diem, May 13, 1961, *Gettleman* 186, 205.

It therefore contends that:

"the systematic violation of the Geneva Accords by North Viet-Nam justified South Viet-Nam in suspending compliance with the provision controlling entry of foreign military personnel and military equipment."¹¹

It has been widely believed that Ho Chi Minh's activity has been motivated less by a nationalistic policy of uniting Viet-Nam than by a policy of expanding Communism to South Viet-Nam and other states;¹² and that the United States intervention has been motivated less by love for, or obligations to, the South Vietnamese people than by the Truman doctrine of containing Communism and preventing the fall of dominoes.¹³ Whatever motivations may have been influential, it is clear that international law does not recognize ideological differences, and that intervention by a state in the internal affairs of another state, even on invitation of the government which it recognizes, whether in behalf of a Communist faction to assist its "war of liberation" or in behalf of an anti-Communist faction to "contain Communism," violates traditional international law and the United Nations Charter.¹⁴ Consequently these possible motivations have not been referred to in the legal arguments. Cold War ideologies have undoubtedly been important in the Viet-Nam hostilities, but other political motives have also played a part—both nationalism and humanitarianism. Ho Chi Minh, although a Communist, was accepted by both Communists and anti-Communist Vietnamese as the leader of Vietnamese nationalism during the struggle against Japan and France, and during the Geneva Conference the representatives of both Ho Chi Minh and Bao Dai claimed to be the head of a single Vietnamese national state. The United States had given extensive educational and economic aid to South Viet-Nam, establishing friendly ties especially during the Diem period, and was shocked by the reports of purges and barbarities in North Viet-Nam and the flow of refugees, mainly from the North, after the Geneva Conference.¹⁵

¹¹ U.S. Legal Brief 30-31; 60 A.J.I.L. 577 (1966).

¹² See Ho Chi Minh, "The Path Which Led Me to Leninism," April 1960, and "Founding of the Communist Party," February, 1930, printed in Gettleman 30, 33.

¹³ The White House statement of Oct. 2, 1965, said: "The Security of South Vietnam is a major interest of the United States as other free nations. We will adhere to our policy of working with the people and government of South Vietnam to deny this country to Communism." (Raskin and Fall 128.) President Eisenhower's statement (note 7 above (3)) suggests that this motivation influenced the United States in seeking to prevent elections until the state of opinion in Viet-Nam had radically changed. The domino theory was first stated by President Eisenhower to indicate the United States' national interest in containment of Communism in Southeast Asia. Insofar as it implies a rigid and indiscriminating application of the containment policy, it is vigorously criticized by Don R. and Arthur Larson (Vietnam and Beyond 6 ff., Duke University, 1965); Hans J. Morgenthau (Vietnam and the United States 62, 77, Washington, Public Affairs Press, 1965, reprinted in Gettleman 365); George F. Kennan, who initiated the policy of containment in 1947 (Report to subcommittee of Committee on Foreign Affairs, House of Representatives, May 14, 1965, reprinted in Raskin and Fall 15); The American Friends Service Committee (Report on Peace in Vietnam 12 ff., 65, New York, Hill and Wang, 1966); Walter Lippmann (numerous columns in the New York Herald Tribune, 1965); 28% of 525 members of the New York Council on Foreign Relations polled in 1965 (American Dilemma in Vietnam, a Report on the Views of Leading Citizens in Thirty-Three Cities 14, New York, Council on Foreign Relations, 1965); J. W. Fulbright (Ark.), Chairman, Foreign Relations Committee (Mike Mansfield (Mont.), Dem. Floor Leader; Wayne Morse (Ore.); Ernest Gruening (Alaska); Frank Church (Idaho), and other Senators (quoted, Raskin and Fall 269, 281; Gettleman 376); Quincy Wright ("Principles of Foreign Policy" World View, Council on Religion and International Affairs, February, 1965, reprinted in Raskin and Fall 7).

¹⁴ Quincy Wright, "International Law and Ideologies," 48 A.J.I.L. 616 (1954); "International Law and Civil Strife," 1959 Proceedings, American Society of International Law 45 ff.; The Role of International Law in the Elimination of War 61 (University of Manchester Press, 1962).

¹⁵ Nearly a million refugees, mostly Roman Catholics and dependents of the colonial native army left North for South Viet-Nam after Geneva, and the land reform program in the North led to brutalities. General Nguyen Giap, Commander-in-Chief of North Vietnamese forces, in a speech of Oct. 31, 1956, admitted that the North Vietnamese government in this program had "executed too many honest people," resorted to "terror which became far too widespread," "failed to respect the principles of freedom of faith and worship in many areas," "attacked tribal chiefs too strongly," resorted to "disciplinary punishments and executions" instead of education, and "torture came to be regarded as a normal practice during party reorganization." These oppressions resulted in serious revolts among the peasantry which in Ho Chi Minh's home province had to be put down by the regular army. (See U.S. Legal Brief, p. 33; Bernard Fall, New York Times Magazine, July 10, 1966, p. 52.) Even worse brutalities were reported in the American press, whether if shorn of exaggerations they were worse than in the South during the Diem regime has been controversial. See Friends Service Committee, note 13 above, p. 45; Scheer, note 7 above, pp. 26 ff., 58 ff.; Devillers, note 16 below, Gettleman 222 ff.

The legal issues, clarification of which might contribute to a judgment of the validity of the diverse images of the Viet-Nam situation, may be stated as follows:

1. Are the hostilities between North and South Viet-Nam international hostilities or civil strife, *i.e.*, is Viet-Nam two states or one?
2. Was the requirement for an election in 1956 dependent on the development of conditions assuring that the election would be free and fair?
3. Was the requirement concerning elections in the resolutions of the Geneva Conference such an integral part of the Cease-Fire Agreement between France and the Democratic Republic of Viet-Nam (Ho Chi Minh) as to permit suspension of the cease-fire when the elections were frustrated?
4. If it is assumed that the cease-fire line continued in operation, was North Viet-Nam guilty of "armed attacks" upon South Viet-Nam justifying the United States bombing attacks north of the cease-fire line, which began in February, 1965, as measures of "collective self-defense"?

The following issues of international law and United States Constitutional law have been discussed, but are of less importance in clarifying the different images of the situation.

5. Did the reprisals undertaken by the United States in the Gulf of Tonkin episode of August, 1964, violate international law?
 6. Did the Congressional Resolution of August 7, 1964, after the Tonkin episode authorize the extensive military action ordered by the President since February, 1965?
 7. Did the United States have a binding commitment to use armed force in defense of South Viet-Nam before February, 1965?
1. The evidence suggests that Viet-Nam is one state and that the hostilities of Ho Chi Minh's government against the Saigon Government would be civil strife within its domestic jurisdiction unless forbidden by the cease-fire Agreement.

During the hostilities between the "Democratic Republic of Viet-Nam" under Ho Chi Minh and France, supporting the "Republic of Viet-Nam" under Bao Dai from 1946 to 1954 and during the Geneva Conference, both sides regarded Viet-Nam as one state, the legal issue being whether it was an independent state or a "Free State" within the French Community.³⁶ When the hostilities ended with French defeat, large areas of the south were occupied by Ho Chi Minh's forces, the Viet-Minh, and areas in the north by forces of France and Bao Dai. The Cease-Fire Agreement of 1954 signed by representatives of France and the Democratic Republic of Viet-Nam provided for the withdrawal of these forces

³⁶The underlying political issue was whether it should be a state with Communist or with Western orientation, but this was overshadowed by the desire for peace by all the Powers represented, except the United States and Bao Dai. See Donald Lancaster, former official in the British Legation, Saigon, "Power Politics at the Geneva Conference, 1954," from *The Emancipation of French Indochina* 313 ff. (London, 1961) reprinted in Gettleman 118 ff.; see also American Friends Service Committee, note 13 above, p. 41, and General de Gaulle's news conference, July 23, 1964, quoted in Raskin and Fall 268. There seems to have been a general expectation among the participants that the compromise settlement accepted by all the representatives, except those of the United States and Bao Dai, would result in elections which would unite Viet-Nam under Ho Chi Minh. "The Conference ended amid a flurry of mutual congratulations, while Molotov, giving further proof of the unusual amiability which had distinguished Soviet behavior throughout the proceedings, paid a fulsome compliment to Eden, stressing the latter's outstanding services and rôle in the Conference, a rôle which Molotov insisted 'cannot be exaggerated.'" (Lancaster, *loc. cit.*, Gettleman 136, 159.) "The disproportion between the monolithic power of the Vietminh, armed with the halo of victory, and the almost derisory weakness of the so-called Nationalist Vietnam was such that in the summer of 1954 almost no one thought that the two years' delay won by M. Mendès-France at Geneva could be anything but a respite in which to salvage as much as possible from the wreck. At the end of the period, unity would certainly be restored, this time to the benefit of the Vietminh, the basic hypothesis then acknowledged by all being that the Geneva Agreements would definitely be implemented." (Philippe Devillers, "The Struggle for Unification of Vietnam," *The China Quarterly*, London, Jan.-March, 1962, p. 3; reprinted in Gettleman 211.) "The opinion of the French at the time of Geneva (and that of most Western experts) was that the Accords would simply delay the eventual Viet Minh victory, since Ho's forces would surely win the elections scheduled for July, 1956" (Robert Scheer, note 7 above, p. 20). "If Geneva and what was agreed upon there means anything at all, it means . . . Taps for the buried hopes of freedom in South-east Asia! Taps for the newly betrayed millions of Indochinese who must now learn the awful facts of slavery from their eager Communist masters! Now the devilish techniques of brainwashing, forced confessions and rigged trials have a new locale or their exercise." (Cardinal Spellman, Speech, American Legion Convention, Aug. 31, 1954, quoted in New York Times, Sept. 1, 1954; Gettleman 239, and Robert Scheer, note 7 above, p. 21, who credits the Cardinal with much influence in inducing the United States to upset the Geneva settlement by building up Diem as head of an independent South Viet-Nam (p. 24).)

across the cease-fire line, substantially the 17th parallel, and very explicitly declared that this line was not an international boundary but a "provisional military demarcation line" and that the territories at each side were not states but "zones."¹⁷ The final resolutions of the Conference declared that "the independence, unity and territorial integrity" of Viet-Nam should be respected, and provided that elections "shall" be held in July, 1956, to determine the government of Viet-Nam. These resolutions did not constitute a formal treaty and were not signed by any of the delegates. They were, however, accepted by all of the delegates except those of the United States and Bao Dai's Republic of Viet-Nam, both of whom made statements "noted" by the Conference. In regard to the reservation by Bao Dai's representative, the Chairman at the final session of the Conference, Anthony Eden, said:

"We can not now amend our final act, which is the statement of the Conference as a whole, but the Declaration of the Representative of the State of Vietnam will be taken note of."¹⁸

It seems clear that the Conference recognized Viet-Nam as one state and provided that it should be united by one government in 1956.

After the Geneva Conference and frustration of a four-year effort by Ho Chi Minh to have the elections held, the Southern Zone, now under Ngo Dinh Diem, supported by the United States, declared itself independent and was recognized by some governments, placed under the protection of SEATO, and permitted to represent Viet-Nam in some international organizations, but it was not admitted to the United Nations.¹⁹ Ho Chi Minh, the Communist states and many unaligned states, including India, did not accept this situation. In 1956, Diem began to be actively resisted by the Viet-Cong, the name given to the Viet-Minh in the Southern Zone, and after 1958 Ho Chi Minh's government began to assist it by infiltrations of men and supplies from the Northern Zone. Diem's government, although supported by United States economic, educational and military aid, was not able to eliminate the Viet-Cong, which in 1960 organized the "South Vietnam National Liberation Front" in control of much of the Southern Zone

¹⁷ There was active debate at Geneva over the location of this line and the agreement put it further north than Ho's delegate wanted. The United States has argued that this indicates an opinion on both sides that the line would mark a division for a long time, probably beyond 1956, but it can also be argued that Ho gave way in spite of his strong military position because he thought the line would last for only two years. "The Vietminh was reluctant to agree to this partition, which left it slightly less than half of the territory of Vietnam despite the fact that at the time it controlled three-quarters. However, Ho Chi Minh's government was under strong Soviet and Chinese pressure to give way on this point. The concern of China and probably also the Soviet Union, was that a continuation of the war might cause the introduction of American military power—possibly atomic—in support of the French, a course of action which the United States did in fact come very close to taking. The Vietminh accepted this temporary loss because of the explicit promise in both the armistice agreement and in the Geneva Declaration that within a period of two years national elections would be held to unify the country. They had every reason to believe that these elections would take place because the agreements stipulated that France, the other party to the armistice, was to maintain control of civil administration in the South until elections were held. (Article 14a of the armistice agreement.) In effect, then, the elections and the military truce were interdependent." (Friends Service Committee, *op. cit.* note 13 above, p. 41.) This accorded with the expectation of most of the Powers at Geneva (see note 16 above).

¹⁸ Gettleman 159.

¹⁹ The U.S. Legal Brief (p. 12) says: "The Republic of Viet-Nam in the South has been recognized as a separate international entity by approximately 60 governments the world over. It has been admitted as a member of a number of the specialized agencies of the United Nations." Most of these sixty governments, including the United States, recognized the Republic of Viet-Nam (Bao Dai) before the Geneva division, though they accepted the Saigon Government as its representative after the division. A number of states recognized the Democratic Republic of Viet-Nam (Ho Chi Minh) before the Geneva separation and continue to accept the Hanoi government as its representative. Eight or nine states have missions with the National Liberation Front (Viet-Cong) in South Viet-Nam. (George A. Carver, Jr., 44 Foreign Affairs 347 at 367 (1966).) The Republic of Viet-Nam was admitted to UPU, UNESCO and WMO before Geneva, and to ILO, WHO, and FAO in 1950, and the Saigon Government has continued to represent Viet-Nam in these international organizations. These facts do not prove that South Viet-Nam is a "separate international entity" any more than the recognition by many states and the United Nations of the Republic of China, represented by the Government at Taipei (Chiang Kai-shek), proves that Taiwan is a separate political entity, though other facts may support this contention. The U.S. Legal Brief also says: "The United Nations General Assembly in 1957 voted to recommend South Viet-Nam for membership in the organization, and its admission was frustrated only by the veto of the Soviet Union in the Security Council." The brief does not notice that the Soviet Union proposed simultaneous admission of both Viet-Nams (Devillers in Gettleman 220), which the United States opposed, as it has opposed "two Chinas." The United States has also suggested that the extension of SEATO protection to South Viet-Nam soon after Geneva indicates that the Western-oriented states did not believe Viet-Nam would be united under a Communist government in 1956; but see notes 5 and 16 above.

outside of the major cities.²⁰ Diem became increasingly dictatorial and unpopular and was assassinated on November 1, 1963. The succession of unstable governments which have followed him have never controlled half of the territory of South Viet-Nam.

South Viet-Nam was clearly regarded as part of Viet-Nam before 1954 and as a "zone" of that state separated by a temporary cease-fire line by the Geneva Conference, and it seems not to have acquired sufficient governmental authority, stability, public support, or recognition to become an independent state under international law since then.²¹ Consequently, apart from the Cease-Fire Agreement and American intervention, hostilities in Viet-Nam should be regarded as civil strife.

2. Diem and the United States have contended that it was understood at Geneva that the election called for by the resolutions could not be held until conditions assured that the election would be free and fair. It is true that the resolution referred to "free general elections by secret ballot" and that General Bedell Smith, reserving for the United States on the Resolutions, said:

"In the case of nations now divided against their will, we shall continue to seek to achieve unity through free elections supervised by the United Nations to insure that they are conducted fairly."²²

The conditions in Viet-Nam which might impair the freedom and fairness of elections were, however, well known to the members of the Geneva Conference when they provided categorically for the holding of elections in July, 1956, for their supervision by the International Control Commission, and for consultations to prepare for them beginning on July 20, 1955. The delay of two years was "in order to ensure that sufficient progress in the restoration of peace has been made, and that all the necessary conditions obtain for free expression of the national will."²³ These political provisions resulted from compromises between the Western and Communist states represented at Geneva. They were believed necessary to achieve agreement and peace in Southeast Asia.²⁴ Failure to observe their precise terms would, therefore, jeopardize the entire agreement, as subsequent events demonstrated.

It would appear, therefore, that Ho Chi Minh was entitled to regard the holding of elections in July, 1956, as obligatory on the parties to the Cease-Fire Agreement, including France and its successor in South Viet-Nam, Diem. The premature withdrawal from Viet-Nam of the French, who were considered responsible for preparing for the elections in the Southern Zone has been criticized, but the government of the Southern Zone clearly succeeded to this responsibility.²⁵ General responsibility for carrying out the political provisions of the Geneva Conference lay with the "Co-Chairmen (Britain and the Soviet Union) and the Geneva

²⁰ The Viet-Cong were originally the supporters of Ho in the South when he was considered the symbol of Vietnamese nationalism, and the South Vietnamese National Liberation Front, which was formed in December, 1960, includes many non-Communist elements (see Devillers, note 16 above, Gettleman 229 ff.). The United States considers it a mere arm of Ho's government which should not be independently represented at any peace conference. (See Secretary Rusk's television statement, reported in the New York Times, Dec. 8, 1965.) The Front, however, Ho himself, other Communist states and some Americans like Senators J. W. Fulbright, Robert Kennedy, and the Friends Service Committee, credit it with an autonomous status which justifies its representation at any peace negotiation. The negotiating position stated by Premier Dong on April 8, 1965, and by the Front on July 22, 1965, appears to be a recession from Ho's original position in that it recognizes that two Viet-Nams will exist until united by "the Vietnamese people themselves," and thus converges toward the United States position stated by President Johnson on April 7, 1965, and by Secretary Rusk on Aug. 3, 1965. (See note 8 above, and Friends Service Committee, note 13 above, p. 56 ff.)

²¹ This is controversial. The United States argues that, whatever may have been the situation in 1956, the *de facto* existence of South Viet-Nam and its wide recognition probably gave it a status of independence during the Diem period and since, but that in any case it had become a "separate international entity" which the United States could defend from aggression (Legal Brief, p. 14). See note 19 above.

²² Gettleman 157; 60 A.J.I.L. 645 (1966).

²³ Gettleman 152; 60 A.J.I.L. 644 (1966).

²⁴ General de Gaulle, at a news conference on July 23, 1964, said: "At the time everyone seemed to desire it (an end of fighting) sincerely." Printed in Raskin and Fall 269. See also notes 16 above and 28 below.

²⁵ Art. 27 of the Geneva Cease-Fire Agreement (Gettleman 146; 60 A.J.I.L. 638 (1966)). At the same news conference (July 23, 1964) General de Gaulle referred to the "shock caused in the South by the withdrawal of our administration and our forces," which he attributed to the "determination of the Americans to take our place in Indochina" because of their assumption of an anti-Communist mission throughout the world, their aversion "to any colonial work which had not been theirs," and to the "natural desire in such a powerful people to ensure themselves of new positions." Raskin and Fall 269.

Powers" as indicated by the International Control Commission in its tenth report in 1960.²⁶

3. The evidence suggests that the provisions concerning elections in the final resolutions of the Geneva Conference were considered essential elements in the Cease-Fire Agreement. This agreement, therefore, became suspendable when the elections were frustrated by one of the parties and the other party, Ho Chi Minh, was free to consider his obligation to respect the cease-fire line suspended and to continue his long efforts to unify Viet-Nam by force.

There can be little doubt but that Ho Chi Minh regarded the Geneva resolutions as a part of the settlement to which he agreed. Military unification of Viet-Nam was within his grasp after the defeat of France at Dien Bien Phu if external aggression, especially by the United States, could be avoided. It is incredible that he would have agreed to the cease-fire, even though he desired it, in the hope that it would prevent such intervention, unless he was convinced that unification would shortly be effected by the peaceful method of elections.²⁷ A study of the diplomacy at Geneva suggests that the principal Powers except the United States were more interested in peace than in ideologies, and recognized that the political provisions of the settlement, which would probably result in a national Communist Viet-Nam, were the price of peace, and were therefore no less important than the military provisions.²⁸

The Department of State's legal brief emphasizes the principle of international law that:

"A material breach of an agreement by one party entitles the other at least to withhold compliance with an equivalent, corresponding, or related provision until the defaulting party is prepared to honor its obligations."²⁹ The brief used this principle to justify its escalation of hostilities in response to North Vietnamese infiltration contrary to the cease-fire requirements, but the principle seems more in point to permit North Viet-Nam to regard the obligation to respect the cease-fire line as suspended after the provision for terminating this temporary line in 1956 was frustrated by the refusal of South Viet-Nam to cooperate in carrying out the election. Not only was the provision for elections a major factor in inducing Ho Chi Minh to accept the temporary cease-fire, but it is expressly mentioned in the Cease-Fire Agreement, which provides:

"Pending the general elections which will bring about the unification of Viet-Nam, the conduct of civil administration in each regrouping zone shall be in the hands of the party whose forces are to be regrouped there in virtue of the present Agreement."³⁰

²⁶ See note 36 below.

²⁷ It has been suggested that the provision requiring that elections be free and fair, and the bargaining at Geneva on the location of the cease-fire line and the length of the cooling-off period before the elections, on both of which Ho's representative receded, indicate that Ho was more interested in the cease-fire than in the elections. This argument is not convincing. Ho undoubtedly wanted a cease-fire to avoid United States intervention, for which Dulles had been pressing, but he may have attached more weight to the positive dating of the elections than to their freedom, and cared less for the location of the cease-fire line than to its prospective termination in two years. See Bernard Fall, "How the French Got Out of Vietnam," *New York Times Magazine*, May 2, 1965, printed in Raskin and Fall 88, and note 17 above.

²⁸ The British, led by Anthony Eden, who with Molotov was co-chairman of the Conference, and the French, led by Mendès-France, who had succeeded Laniel as Prime Minister during the Conference, took the lead in the negotiations and favored compromises which would assure peace. In opposition to the desire of the United States, led by Secretary of State Dulles and later by General Bedell Smith, to contain Communism by military intervention. The British and French spirit of compromise was supported by the Soviet Union, represented by co-chairman Molotov, who was anxious to induce France to reject the pending "European Defense Community," and by China, represented by Chou En-lai, who was worried about United States intervention. President Eisenhower, who had recently negotiated peace in Korea after his election as a "peace" President, moderated Dulles' Cold-War position and later wrote in his *Mandate for Change* that "By and large, the settlement obtained by the French Union at Geneva in 1954 was the best it could get under the circumstances." (Scheer, note 7 above, p. 18.) The United States, therefore, tolerated the compromise settlement, though it did not subscribe to it. Frustration of the election was, therefore, not only a breach of faith with Ho but also with the major Powers. (See Lancaster, *op. cit.* note 16 above, and Friends Service Committee, *op. cit.*, note 13 above, p. 41.) Anthony Eden, while noting in his memoirs (Full Circle 143) that through the Geneva accords "the Vietnamese (i.e., Bao Dai) had saved more of their country than had at one time seemed possible," expressed his "regret" a dozen years after Geneva that these accords had not been accepted by the United States and carried out (44 *Foreign Affairs* 230 (1966)).

²⁹ U.S. Legal Brief, pp. 30, 31; 60 A.J.I.L. 577 (1966).

³⁰ Art. 14(a). See Gettleman 140; 60 A.J.I.L. 632 (1966).

This provision of the Cease-Fire Agreement could only be interpreted by reference to the conference resolutions which provided:

"The Conference recognizes that the essential purpose of the Agreement relating to Viet-Nam is to settle military questions with a view to ending hostilities and that the military demarcation line is provisional and should not in any way be interpreted as constituting a political or territorial boundary. The Conference expresses its conviction that the execution of the provisions set out in the present declaration and in the Agreement on the cessation of hostilities creates the necessary basis for the achievement in the near future of a political settlement in Viet-Nam.

The Conference declares that, so far as Viet-Nam is concerned, the settlement of political problems, effected on the basis of respect for the principles of independence, unity and territorial integrity, shall permit the Vietnamese people to enjoy the fundamental freedoms, guaranteed by democratic institutions established as a result of free general elections by secret ballot. In order to ensure that sufficient progress in the restoration of peace has been made, and that all the necessary conditions obtain for free expression of the national will, general elections shall be held in July 1956, under the supervision of an international commission composed of representatives of the member states of the International Supervisory Commission, referred to in the Agreement on the cessation of hostilities. Consultations will be held on this subject between the competent representative authorities of the two zones from 20th July, 1955, onwards.³¹

Although the Government of the Republic of Viet-Nam (Bao Dai) was not a party to these agreements, France was, and the Diem government established in the Southern Zone as successor to France was bound by them. Its failure to carry out the provisions, which were regarded as the essence of the agreement by the "Democratic Republic of Viet-Nam" (Ho Chi Minh), would relieve the latter of the obligation to respect the cease-fire line and would entitle it to continue its interrupted effort to unify Viet-Nam by force.³²

The resistance to this effort by the Saigon Government, therefore, constituted "civil strife" within the domestic jurisdiction of Viet-Nam, and American intervention involving the use of armed force against the Viet-Cong in the south and the bombing of installations in the north was a violation of traditional international law forbidding intervention in the domestic jurisdiction of another state and prohibited even to the United Nations,³³ unless the situation constituted a threat to or breach of the peace entitling it to take measures to restore international peace and security.³⁴

There is no doubt but that breach of a valid cease-fire line constitutes a violation of international law, as does violation of an international boundary. This was held in the Korean situation of 1950, as noted by the State Department's legal brief.³⁵ This brief does not discuss the question of whether the cease-fire line in Viet-Nam became suspendable after frustration of the conditions which induced its acceptance by one of the parties, nor is this question discussed by the International Control Commission, which continued to examine alleged violations of

³¹ Pars. 6, 7, Gettleman 150-151; 60 A.J.I.L. 644 (1966). These resolutions were not signed, but the P.C.I.J. recognized that oral agreements might be binding in the Eastern Greenland case (Series A/B. No. 53). See also Eberhard P. Deutsch, "The Legality of the United States Position in Vietnam," 52 American Bar Association Journal 436 at 440 (1966).

³² "When in a civil war a military struggle for power ends on the agreed condition that the competition will be transferred to the political level, the side which repudiates the agreed conditions must expect that the military struggle will be resumed." (Friends Service Committee, *op. cit.* note 13 above, p. 43.) The U.S. Legal Brief (p. 33) says: "The South Vietnamese Government realized these facts [that conditions for a fair election did not exist in North Viet-Nam] and quite properly took the position that consultations for elections in 1956 as contemplated by the accords would be a useless formality." The Brief adds in a footnote: "In any event, if North Viet-Nam considered there had been a breach of obligation by the South, its remedies lay in discussion with Saigon, perhaps in an appeal to the co-Chairmen of the Geneva conference, or in a reconvening of the conference to consider the situation. Under international law, North Viet-Nam had no right to use force outside its own zone in order to secure its political objectives." No reference is made to the fact that Ho Chi Minh had attempted all these remedies for four years without results. Not until 1958 did he conclude that Diem and the Powers had buried the Geneva agreements, and begin to give assistance across the cease-fire line to the Viet-Cong, which had renewed civil strife in South Viet-Nam in 1956, after the date for the elections had passed. See Devillers, in Gettleman 216 ff.; Fall, in Raskin and Fall 90.

³³ U.N. Charter, Art. 2, par. 7.

³⁴ *Ibid.*, Art. 39.

³⁵ U.S. Legal Brief, p. 13; 60 A.J.I.L. 570 (1966).

the Cease-Fire Agreement up to 1965, thus suggesting that it continued to operate and to bind the parties. The Control Commission's responsibility was, however, limited to supervising the execution of the military provisions of the Geneva Agreement and did not extend to judging the effect on these provisions of non-fulfillment of the political settlement reached at Geneva. It did, however, recognize the importance of fulfillment of these provisions and the responsibility of the Geneva Powers in the matter. In its tenth report in 1960 the Commission said:

"During the period under report, there has been no progress in regard to the political settlement envisaged in the Final Declaration. The parties have not held consultations with a view to holding free nation-wide elections leading to the reunification of Vietnam and thereby facilitating early fulfillment of the tasks assigned to the Commission and the termination of its activities. The Commission is confident that this important problem is engaging the attention of the Co-Chairmen and the Geneva Powers and that they will take whatever measures they deem necessary to resolve it."³⁶

The United States legal brief dismisses the contention that the hostilities were civil strife, by characterizing any analogy to the American Civil War as: "an entire fiction disregarding the actual situation in Viet-Nam. The Hanoi regime is anything but the legitimate government of a unified country in which the South is rebelling against lawful national authority."³⁷ There are undoubtedly differences in the two cases but there are also similarities. The issue of civil strife in America in 1861 and in Viet-Nam in 1965 was whether the Declaration of Independence of the United States of July 4, 1776, and the Declaration of Independence of the Democratic Republic of Viet-Nam of September 2, 1945, closely resembling it,³⁸ contemplated in each case a unified state as held by Lincoln and Ho Chi Minh, or permitted secession as held by Jefferson Davis and Diem. There is no doubt that a "unified country" did not exist in the United States during the period when the Confederate States of America occupied the South or in Viet-Nam when the Republic of Viet-Nam (Diem) occupied much of the southern half of that country. It is true the analogy is imperfect because the United States was a unified country for many years before 1861 and Viet-Nam has been in almost continuous strife with France of South Viet-Nam since its Declaration of Independence. Furthermore South Viet-Nam has received more recognition as a state than did the Confederate States.³⁹ Nevertheless the position of Ho in regard to the legal unity of Viet-Nam is similar to that of Lincoln in regard to the United States, and the position of the United States in Viet-Nam is similar to that which Great Britain would have had if it had intervened in behalf of the Confederacy as it threatened to do in 1861, giving rise to diplomatic notes by Secretary of State Seward and a resolution by Congress indicating that such a move would be an unfriendly act.⁴⁰

Giving full consideration to the military and political provisions of the Geneva settlement, it would appear that the cease-fire had lapsed by 1958 and the situation had become one of civil strife in which outside states were forbidden by international law to intervene even on the invitation of one side.

4. Even if the cease-fire line remained legally effective, North Viet-Nam could not be accused of "aggression" against South Viet-Nam unless it had launched an unjustifiable "armed attack" upon the latter prior to the United States bomb-

³⁶ Par. 68; Gettleman 181.

³⁷ U.S. Legal Brief, p. 12; 60 A.J.I.L. 569 (1966).

³⁸ Gettleman 57.

³⁹ There is also the ideological difference that in Viet-Nam the South professed the doctrine of individual freedom against Communism in the North, while in the United States the North professed this doctrine against slavery in the South. As noted above, such ideological differences are not recognized in international law except insofar as a state may have accepted covenants of human rights (note 14 above). This difference, however, probably prevented British intervention in behalf of the Confederacy after Lincoln had turned the Civil War into a war against slavery, rather than a war to preserve the Union, by the preliminary Emancipation Proclamation of September, 1862. (6 Moore, International Law Digest 7.) The difference also undoubtedly influenced U.S. intervention on the side of South Viet-Nam. Stereotypes about the offensive character of Communism and evidence of lack of respect for human rights in North Viet-Nam aroused American opinion against Ho Chi Minh, even though there was evidence of similar denials of human rights by Diem's Government, leading to his assassination, and the intervention itself resulted in increased brutalities against civilians from government and guerrilla activities on both sides and aerial bombings by the United States (see note 15 above).

⁴⁰ The British lost interest in intervention after the war became one against slavery, but France continued to urge intervention. See 6 Moore, Digest of International Law 6-10.

ing raids across that line in February, 1965.⁴¹ The basic American argument to justify these raids was that they were acts of "collective self-defense" permitted by Article 51 of the United Nations Charter.⁴² The meaning of this article has been controversial.

It is true that traditional international law permitted military action in self-defense if there were an "instant and overwhelming necessity permitting no moment for deliberation," *i.e.*, if hostile forces were about to attack. It seems clear, however, that the San Francisco Conference, by limiting self-defense to cases of "armed attack," intended to eliminate all preventive or pre-emptive action in order to maintain to the utmost the basic obligation of Members of the United Nations to "refrain in their international relations from the threat or use of force."⁴³

Furthermore it is clear that "armed attack" implies military action. Consequently military defensive action is not permissible under the Charter in response to economic, psychological, or other forms of subversion or intervention not involving military coercion. There can be no doubt but that bodies of armed "volunteers" crossing a frontier or cease-fire line, such as the Chinese in the Korean hostilities of 1950, or ostensibly private "military expeditions" or "armed bands" leaving one country for the purpose of attacking another, as the Cuban refugees in the Bay of Pigs affair of 1961, constitute, if of considerable magnitude, an "armed attack."⁴⁴

Finally an "armed attack" which constitutes a legitimate act of self-defense against an illegal "armed attack" cannot justify subsequent attacks by the aggressor.⁴⁵

According to the International Control Commission⁴⁶ there were frequent violations of the Cease-Fire Agreement after 1957. In that and subsequent years it noted violations by the Southern Zone by permitting the establishment of United States military personnel and aircraft in its area and by entering into a *de facto* military alliance with SEATO and the United States.⁴⁷ The United States legal memorandum sought to justify these actions by asserting that "from the very beginning, the North Vietnamese violated the 1954 Geneva accords" by leaving Communist military forces and supplies in the South and infiltrating Communist guerrillas from the North to the South.⁴⁸ The Control Commission's report of June, 1955, however, indicated that both sides were satisfied with the manner in which withdrawals and transfers required by the agreement were effected.⁴⁹ The United States brief asserted that 23,000 men were infiltrated from the North to the South from 1957 to 1962,⁵⁰ and the Control Commission noted charges of such infiltration during this period, but not until 1962 did it assess the allegations and the evidence to support them. On that date it submitted a Special Report which called attention to the "rapid deterioration of the situation,"⁵¹ and quoted a report of its legal committee, with the Polish member dissenting:

"... in specific instances there is evidence to show that armed and unarmed personnel, arms, munitions and other supplies have been sent from the Zone in the North to the Zone in the South with the objective of supporting, organizing

⁴¹ On this assumption, these raids, if of a magnitude to constitute "armed attack" and if not justifiable as "collective self defense" measures, would constitute aggression against North Viet-Nam, justifying that country in military action in defense. See Q. Wright, *The Role of International Law in the Elimination of War* 60.

⁴² The United States at first sought to justify these raids as "reprisals" in response to attacks on Pleiku and Tuy Hoa "ordered and directed by Hanoi" (White House Statement, Feb. 7, 1965). This was similar to the justification given for the Tonkin Bay action six months earlier, but legal examination indicated that the facts would not justify "reprisals" in either situation, and that in any case military reprisals are forbidden by the U.N. Charter. See notes 56-58 below.

⁴³ U.N. Charter, Art. 2, par. 4. See Philip Jessup, *A Modern Law of Nations* 166 (N.Y., Macmillan, 1948); Ian Brownlie, *International Law and the Use of Force by States* 273 (London, 1963); Q. Wright, *op. cit.* note 41 above.

⁴⁴ Q. Wright, "The Cuban Quarantine," 57 (A.J.I.L. 546 ff. (1963)).

⁴⁵ Note 41 above.

⁴⁶ The International Control Commission established by the Cease-Fire Agreement was composed of representatives of Canada, Poland and India, with the latter presiding. Its reports are printed in *British Command Papers*, 1955 to 1965, and extensive extracts are printed in Gettleman 166 ff., and Raskin and Fall 273 ff. In some of its reports either Poland or Canada abstained.

⁴⁷ Note 5 above.

⁴⁸ U.S. Legal Brief, p. 29; 60 A.J.I.L. 576 (1966).

⁴⁹ Interim Report, May-June, 1955. Gettleman 167.

⁵⁰ U.S. Legal Brief, p. 2; 60 A.J.I.L. 565 (1966).

⁵¹ Gettleman 185.

and carrying out hostile activities, including armed attacks, directed against the Armed Forces and administration of the Zone in the South. These acts are in violation of Articles 10, 19, 24, and 27 of the Agreement on the Cessation of Hostilities in Vietnam. . . . there is evidence to show that the PAV (Peoples Army of Vietnam) has allowed the Zone in the North to be used for inciting, encouraging, and supporting hostile activities in the Zone in the South, aimed at the overthrow of the Administration in the South. The use of the Zone in the North for such activities is in violation of Articles 19, 24, and 27 of the Agreement on the Cessation of Hostilities in Vietnam."⁵²

In the same report the Control Commission concluded that South Viet-Nam had violated Articles 16 and 17 of the Geneva Agreement by receiving military aid from the United States and Article 19 by making a *de facto* military alliance with that country.⁵³

In a Special Report of 1965 the Control Commission noted a joint communiqué of February 7, 1965, from the acting Premier of South Viet-Nam and the United States Ambassador announcing military action against military installations in North Viet-Nam in response to aggression by North Viet-Nam forces against Pleiku and Tuy Hoa; and also a communiqué of February 8, 1965, from the North Vietnamese mission protesting the bombing in North Viet-Nam on February 7 by air forces of "the United States imperialists." The Commission commented without concurrence of the Canadian member: "These documents point to the seriousness of the situation and indicate violations of the Geneva Agreement."⁵⁴

There seems to be no evidence that organized contingents of the North Vietnamese army crossed the cease-fire line until after the United States bombing attacks began in February, 1965. Whether infiltrations before that date were of sufficient magnitude to constitute "armed attacks" and whether they could be justified as defense measures against the military activities of South Viet-Nam and the United States in violation of the Geneva agreements is controversial. The Department of State's legal brief of March 4, 1966, says:

"In these circumstances an 'armed attack' is not as easily fixed by date and hour as in the case of traditional warfare. However, the infiltration of thousands of armed men clearly constitutes an 'armed attack' under any reasonable definition. There may be some question as to the exact date at which North Viet-Nam's aggression grew into an 'armed attack,' but there can be no doubt that it had occurred before February 1965."⁵⁵

The reports of the Control Commission indicating gradual increase in violations of the Geneva cease-fire by both sides after 1958 do not permit of a clear judgment on which side began "armed attacks." The problem is in any case irrelevant if the cease-fire line had become ineffective because of the frustration of the elections and United States intervention, as suggested above. There is no evidence of any action by North Viet-Nam which could be regarded as an armed attack upon the South prior to 1958, after Ho Chi Minh had engaged in four years of fruitless effort to carry out the resolutions of the Geneva Conference. In these circumstances Ho Chi Minh's action in support of the Viet-Cong did not constitute aggression or armed attack in international relations but civil strife within the domestic jurisdiction of Viet-Nam, similar to the action of the North against the South in the American Civil War. Whether called "intervention," "reprisals" or "collective defense," the United States response by bombings in North Viet-Nam, which began in February, 1965, violated international law, the United Nations Charter, and the Geneva Agreement, if the latter were in effect.

5. Reprisals in traditional international law were permitted only to remedy an injury resulting from violation by another state of its obligations under international law, after the injured state had made formal complaint and demanded reparation, and had unsuccessfully sought to obtain a remedy by all peaceful means available, and provided the measures of reprisal did not exceed in severity the injury complained of.⁵⁶ The United States "reprisals" in the Bay of Tonkin incident of August, 1964, seem to have conformed to none of these conditions,

⁵² Par. 9; Gettleman 187; quoted in part in U.S. Legal Brief, p. 3.

⁵³ Par. 20; Gettleman 188.

⁵⁴ *Ibid.* 189-190. There has been doubt whether the attack on Pleiku and Tuy Hoa actually proceeded from North Viet-Nam. It was probably made by Viet-Cong guerrillas. See Raskin and Fall 398.

⁵⁵ U.S. Legal Brief, pp. 3-4; 60 A.J.I.L. 566 (1966).

⁵⁶ The Nautilaa Arbitration, Portugal v. Germany, 1928, 6 Hackworth, Digest of International Law 154; William W. Bishop, Jr., International Law, Cases and Materials 747 (Boston, Little, Brown, 1962).

and the same was true of the Pleiku incident of February, 1965. There were no clear proof that an injury had been received because of a violation of international law by North Viet-Nam, no formal complaint to the North Viet-Nam government, no effort to obtain a remedy by peaceful means, and the response was far in excess of any alleged injury. Furthermore, the United Nations Charter abolished the traditional right of reprisals, as declared by the Security Council in April, 1964,⁵⁷ by requiring the Members to settle their international disputes by peaceful means and to refrain from the use or threat of force in international relations except in defense against armed attack or under authority of the United Nations.

The United States relied on the obsolete doctrine of reprisals in this case rather than on the right of self-defense against armed attack. It alleged that a United States naval destroyer had been attacked by North Vietnamese torpedo boats while patrolling beyond territorial waters on August 2 and 4, 1964, in the Bay of Tonkin. North Viet-Nam contended that the destroyers were within its territorial waters, which it had extended to twelve miles, and that surveillance of these waters was necessitated because of a South Vietnamese naval attack on its installations on July 31. The United States destroyers seem not to have been injured but the United States reprisals destroyed several North Vietnamese torpedo boats and the installations in five North Vietnamese ports. Congress endorsed this reprehensible "shooting from the hip" by passing a resolution almost unanimously on August 7 authorizing the President to take similar action in the future.⁵⁸

6. By this resolution Congress:

"Approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel armed attack against the forces of the United States and to prevent further aggression. . . . the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

The President has cited this resolution as justification for his extensive escalation of the hostilities in Viet-Nam, but it has been contended by some Senators that the action taken requires a declaration of war under the Constitution, and others have asserted that in voting for it they had in mind only limited actions such as that in the Bay of Tonkin. The text, however, goes much further. The issue seems unimportant in view of the broad Constitutional powers of the President to use armed force without Congressional support or declaration of war.

Practice and Supreme Court decisions make it clear that the President as Commander-in-Chief and under general legislation has extensive power to use the armed forces when he deems it necessary to defend American territory or citizens or to meet treaty obligations, but not as an instrument of policy. The major limitation upon such action appears to be the Congressional power to withhold appropriations.⁵⁹ In the Vietnamese situation Congress not only voted the funds requested by the President but authorized him to use armed force to assist SEATO states and states mentioned in the Protocol.

7. The United States has asserted that the SEATO Treaty and correspondence of President Eisenhower with Diem created a binding obligation to defend South Viet-Nam from armed attack. The correspondence does not seem to have involved a legal commitment to use armed force in defense of South Viet-Nam, but rather a United States policy of giving economic and military aid to build up a South Viet-Nam capable of resistance to subversion or aggression.

The SEATO agreement provides for consultation among the SEATO states in case one of them or an area covered by the treaty, such as South Viet-Nam, is in danger from action less than armed attack, and for collective defense in a case of armed attack.⁶⁰ There has been no agreement among SEATO Powers to

⁵⁷ Passed as a criticism of the British retaliatory raid during hostilities on the Yemen border. See I. F. Stone, "International Law and the Tonkin Bay Incidents," *I. F. Stone Weekly*, Aug. 24, 1964, reprinted in Raskin and Fall 307 ff. The Security Council had passed similar resolutions on other border incidents on Nov. 24, 1953, Jan. 19, 1956, April 9, 1962. See also *The Corfu Channel Case*, [1949] *I.C.J. Rep.* 35; and Rosalyn Higgins, *The Development of International Law through the Political Organs of the United Nations* 217 (London, 1963).

⁵⁸ See Raskin and Fall 396; 60 *A.J.I.L.* 580-581 (1966).

⁵⁹ Q. Wright, *The Control of American Foreign Relations* 286 ff., 294 ff., 307 (New York, Macmillan, 1922).

⁶⁰ Don and Arthur Larson, *Vietnam and Beyond* 17 ff. (Duke University, 1965), printed in Raskin and Fall 99 ff.; text of treaty and protocol in 60 *A.J.I.L.* 646 (1966).

take any form of collective action, and none of these Powers except Australia and New Zealand,⁶¹ which have contributed limited forces, have considered themselves under an obligation to engage in the defense of South Viet-Nam. A resolution in the SEATO meeting of June 29, 1966, endorsed the United States position but with abstention by the French representative and reservation by the Pakistan representative.⁶²

No American President seems to have recognized any legal commitment to use armed force to defend South Viet-Nam prior to 1965. The United States in signing the SEATO Treaty declared that its obligations under the treaty applied only in case of "Communist" aggression, and it stated at the Geneva Conference of 1954 that "it would view any renewal of aggression . . . with grave concern." It appears that American military action in Viet-Nam has been in pursuit of the policy of containing Communism rather than in fulfillment of any legal obligation and, as stated by the Control Commission, South Viet-Nam's acceptance of this action has violated the Geneva Agreement.⁶³

My study of the course of forty-five international conflicts since World War I indicated that the relative magnitude of national interests and present and future capabilities and vulnerabilities involved in the situation as perceived by the decision-makers, and their perceptions of the state of national and world opinion concerning the conflict, have had more influence than legal obligation or commitment in determining the escalation or settlement of these conflicts. The Viet-Nam conflict has been no exception. Applying the formula relating the magnitude of these factors as perceived by the parties, I concluded in the summer of 1965 that:

"Hostilities in Vietnam are likely to escalate for a time, but eventually South Vietnam and the United States will win, unless mounting national and world opinion brings about a cease-fire, or unless entry of the Soviet Union or China, or both, initiates World War III."⁶⁴

This inclusion seems applicable a year later.

Senator MORSE. Our next witness will be Mr. Neal Potter, acting president of the United World Federalists.

Mr. Potter, will you come forward.

BACKGROUND OF NEAL POTTER

I want the record to show before Mr. Potter proceeds to testify that Mr. Potter is an economist, educator, and author. He has been associated with the United World Federalists since its inception in 1947 in Asheville, N.C.

In 1951-54, he was field director for the association in the Pacific Northwest; served as vice president of its Washington, D.C., chapter from 1961-62, and as a member of its national executive committee in 1960-62 and 1966-67.

An associate of Resources for the Future, Inc., Mr. Potter is involved in research in natural resources. He is coauthor of two books, "Trends in Natural Resources Commodities, 1870 to 1957," and "World Trends in Natural Resources," both published by the Johns Hopkins Press.

Mr. Potter served as assistant to Wilson M. Compton, a delegate to the United Nations General Assembly in 1949, and even mentioning his name, Mr. Potter, brings back very many fine memories. I knew Mr. Compton and am the beneficiary of his help.

Mr. Potter taught at Washington State College at Pullman, and the Carnegie Institute of Technology at Pittsburgh. He is active in civic affairs. He helped organize the Montgomery County, Md., Citizens Committee for Fair Taxation; was a charter member of the Maryland Committee for Fair Representation; served for 2 years as president

⁶¹ The Philippines have discussed sending a small force.

⁶² Note 5 above.

⁶³ Note 13 above, and Gettleman 175.

⁶⁴ Q. Wright, "The Escalation of International Conflicts," 9 *Journal of Conflict Resolution* 440 (December, 1965).

of the County Citizens Planning Association, and won the Democratic nomination to the Maryland Legislature in 1966.

(The biographic sketch of Mr. Potter follows:)

BIOGRAPHY OF NEAL POTTER

Neal Potter is Acting President of the United World Federalists. Economist, educator and author, he has been associated with UWF since its inception in 1947 at Asheville, North Carolina. In 1951-54 he was field director for the UWF in the Pacific Northwest; served as vice president of its Washington, D.C. Chapter from 1961-62, and as a member of its National Executive Committee in 1960-62 and 1966-67.

An associate of resources for the Future, Inc., Mr. Potter is involved in research on natural resources. He is co-author of two books, *Trends in Natural Resources Commodities, 1870-1957*, and *World Trends in Natural Resources*, both published by the Johns Hopkins Press.

Mr. Potter served as assistant to Wilson M. Compton, a delegate to the United Nations General Assembly in 1949. He has taught at Washington State College, Pullman, and at Carnegie Institute of Technology, Pittsburgh, Pennsylvania.

Active in civic affairs, he helped organize the Montgomery County (Md.) Citizens Committee for Fair Taxation; was a charter member of the Maryland Committee for Fair Representation; served for two years as president of the County Citizens Planning Association; and won a Democratic nomination to the Maryland Legislature in 1966.

Senator MORSE. I am sorry you have had to wait so long to testify. We look forward to your testimony.

STATEMENT OF NEAL POTTER, ACTING PRESIDENT, UNITED WORLD FEDERALISTS

Mr. POTTER. Mr. Chairman, it has been a pleasure to be here these two hours because there has been a lot of education in it for me, as for the rest of us, I hope, in this room. We all respect Dr. Wright's tremendous background and his opinions on these very difficult matters before us.

Let me add just one thing about the United World Federalists, to what you read, that we are a completely voluntary nonpartisan organization with nearly 100 chapters across the United States. Similar organizations do similar work in 32 other countries.

Our work is dedicated to strengthening the United Nations so it can be effective in making and protecting a just and lasting peace.

We want to say that we support both the Senate resolutions now before us, calling for new initiatives by this country to involve the United Nations in bringing an end to the conflict in Vietnam.

INTERNATIONAL NATURE OF VIETNAM PROBLEM

We believe that the failure to internationalize the Vietnam problem is a source of much of the difficulty which now confronts the country. Because the United States acted without United Nations decision or directive, the Vietnam war appears to many peoples of the world as an attempt by an imperialist western power to impose its will through the unilateral use of force against a small Asian nation. The whole effort to contain Communist expansion is thus confused and enormously handicapped by this position into which we have put ourselves.

Bringing the Vietnam matter to the United Nations will help to reduce this handicap. However, the Security Council or the General Assembly may ultimately decide the matter, it is likely to put American efforts to restrain international lawlessness on a higher plane.

No unauthorized party can undertake to provide order in any community without the profoundest handicaps of misunderstanding and opposition. In such a case there is no body of law and no court to determine who is an aggressor and who is the policeman, who is authorized to use force and who is not. We believe that this Nation should use military force only as conceived by the United Nations charter: that is, only when the proper United Nations body has considered and acted upon the threats to the peace or the breaches of the peace to which the United States or other concerned country has brought the U.N.'s attention. The only exception to this awaiting the U.N.'s decision should be the necessary quick response to direct attack, as in Korea; and in such a case the matter should be brought at once to the United Nations, as it was in June 1950.

We are aware that if the Vietnam matter is brought before the Security Council, a veto may prevent action. Though such a veto may handicap the United Nations in bringing peace, discussion and voting on alternative proposals by the world body will help to clarify the position of the United States, and end its present appearance of unilateral intervention.

We World Federalists are also aware that the United Nations has been handicapped in the Vietnam affair by the fact that neither North nor South Vietnam, nor mainland China is a member of the U.N. We have regretted and opposed the U.S. resistance to admission of China and her satellites to the United Nations. We would urge that these countries be invited to appear before the Security Council to take part in the discussions proposed. If they refuse, they should be invited to suggest arrangements by which their participation could be brought about, whether by the Geneva conference being resumed or otherwise.

TERMS AND CONDITIONS OF U.S. PROPOSALS

We believe that the terms and conditions, implicit or explicit, which the United States may put upon its proposals to the Security Council have a great deal to do with the capacity of the Council to respond. Since the United Nations is dependent on voluntary compliance—since it has no power to enforce its decisions—a threat of veto or of defiance is likely to deter the U.N. from acting at all. This barrier should be and, we believe, has been removed as far as it can be by the United States, though it might help further by exactly committing itself not to cast a veto and to abide by the proper majority votes.

If the U.N. can be brought to act on this matter, and if the Communist nations then block U.N. action, it will at least be clear who is responsible for preventing settlement. The United States should not share the blame by standing in the way of U.N. discussion and action. We support a Senate resolution for an advance U.S. pledge to carry out the decision of the Security Council.

The United States could give further support to U.N. efforts to bring peace, by making it clear that the United States will negotiate with any of the parties to the dispute, including the Vietcong, and that it will be glad to suspend bombing or any other hostilities which would not seriously jeopardize the United States-South Vietnamese military positions.

Both Senate Concurrent Resolution 44 and Senate Resolution 180 are steps in the right direction, to put the Vietnam war into the United Nations. It is clear that the interests of the United States and of the world are dependent on the participation of the United Nations in all matters relating to threats to the peace and breaches of the peace. Passage of either resolution will help to restore the United States to a position of leadership as a seeker of peace with justice, and as a supporter of lasting world peace under world law.

Senator MORSE. Mr. Potter, I am very pleased to have that statement, in the record.

Senator Pell, any questions?

Senator PELL. No questions.

Senator MORSE. Thank you very, very much.

Mr. POTTER. Thank you, Mr. Chairman.

(The list of the delegates from Guatemala, previously referred to, follows:)

DELEGATION FROM THE CONGRESS OF GUATEMALA

October 27, 1967

His Excellency Francisco LINARES ARANDA, Ambassador of Guatemala

Congressional Delegation

Gonzalo LOPEZ Cifuentes
Luis Jorge CAMPOLLO y Campollo
German Ovidio CASTANEDA y Casteneda
Luis Humberto CHINCHILLA Salazar
Oscar Manuel MARROQUIN Gomez
Victor Manuel MARROQUIN Gómez
Mauro Gilberto MONTERROSO
Juan Francisco QUINTANA de Leon

Senator MORSE. While you were absent, Senator Pell, I had a dialog with Dr. Wright in regard to your question this morning.

Senator PELL. So I was informed, my good friend. I understand the answer was in the affirmative.

Senator MORSE. He put in his legal brief that it is in the affirmative. I wanted it in the brief because I know you are as anxious as I am to get all points of view. I have made it a part of the record so that we could have it before us when we have our markup.

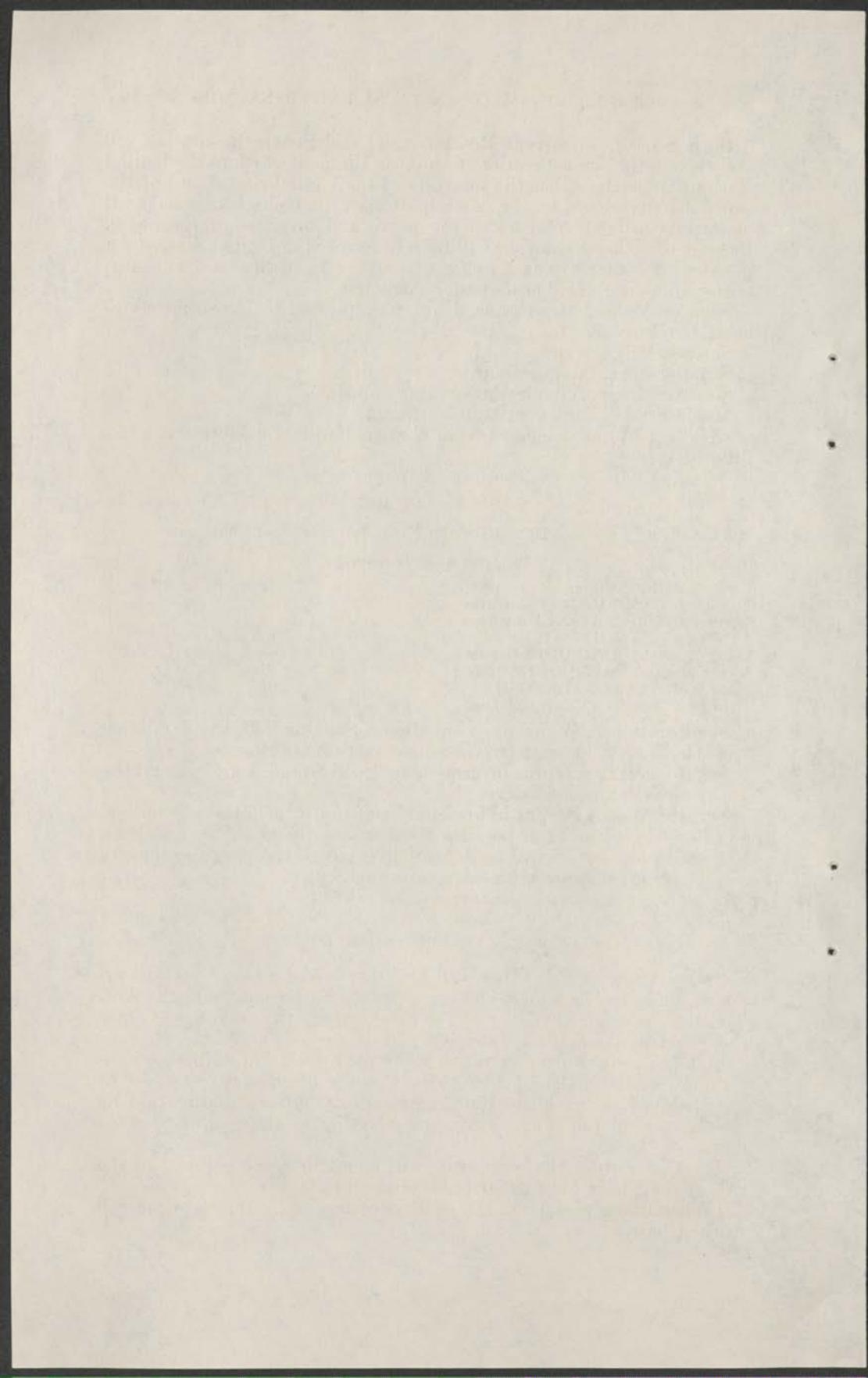
Senator PELL. Thank you very much.

APPEARANCE OF AMBASSADOR GOLDBERG

Senator MORSE. The Chair and Dr. Marcy had a telephone conversation with Ambassador Goldberg yesterday afternoon, and the Ambassador repeated his desire at the first opportunity to appear before the committee to make a statement and answer our questions. He cannot make a commitment as to how early next week that will be because they are in the midst of a Security Council discussion in respect to the Middle East problem. But Ambassador Goldberg told us that he would keep in touch and advise us when he would be able to come down.

The Chair rules the committee will stand in recess, subject to the call of the Chair for further public hearings.

(Whereupon, at 4 p.m., the committee recessed, subject to the call of the Chair.)



SUBMISSION OF THE VIETNAM CONFLICT TO THE UNITED NATIONS

THURSDAY, NOVEMBER 2, 1967

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 4221, New Senate Office Building, Senator J. W. Fulbright (chairman) presiding.

Present: Senators Fulbright, Sparkman, Mansfield, Morse, Gore, Lausche, Symington, Pell, McCarthy, and Aiken.

The CHAIRMAN. The committee will come to order.

We meet this morning to continue a series of hearings on the role that the United Nations should play in settlement of the Vietnam conflict. The committee is considering two resolutions covering the question of submitting the Vietnam war to the United Nations Security Council. Both Senate Concurrent Resolution 44, introduced by the distinguished Senator from Oregon, Senator Morse, and Senate Resolution 180, introduced by the senior Senator from Montana, Mr. Mansfield, with 57 cosponsors, are being considered by the committee.

We are very happy indeed this morning to welcome the Representative of the United States to the United Nations, Ambassador Arthur Goldberg. Mr. Ambassador, will you proceed?

STATEMENT OF HON. ARTHUR J. GOLDBERG, U.S. REPRESENTATIVE TO THE UNITED NATIONS, ACCOMPANIED BY JOSEPH J. SISCO, ASSISTANT SECRETARY OF STATE FOR INTERNATIONAL ORGANIZATION AFFAIRS

Ambassador GOLDBERG. Thank you very much, Mr. Chairman and members of this committee. I should like to say I am accompanied here today by Mr. Joseph Sisco, the able and dedicated Assistant Secretary of State for International Organization Affairs.

Mr. Chairman and gentlemen, I appreciate very much your invitation to appear before this committee and to give testimony in public session on the important subject of the responsibility of the United Nations in the search for peace in Vietnam. This is the gravamen of Senate Concurrent Resolution 44 introduced by Senator Morse, and of Senate Resolution 180 introduced by Senator Mansfield and many other Senators.

I should like also, Mr. Chairman, to express my appreciation to the committee which had scheduled me to appear last week to defer my appearance which was impossible at that time because of a meeting

of the Security Council and other consultations on the Middle Eastern crisis at the U.N. I should like also to thank Dr. Marcy who was so kind as to arrange for this day which was more convenient.

At the very outset let me say that I agree completely with the concept of the responsibility of the United Nations which underlies both resolutions.

In preparing my testimony I have taken note of Senator Morse's comment in the hearings before this committee on October 26, referring to Senator Mansfield's resolution and I quote Senator Morse, who said in part: "I think it probably would be the most appropriate type of resolution to send to the President, for, after all, this ought to be a teamwork play."

I need scarcely add at this time that the Senator made it very clear this was without prejudice to his own views in the matter.

It is my considered view as the U.S. Representative to the United Nations that the adoption of Senator Mansfield's resolution at this time will support the efforts I have been making at the United Nations at the direction of the President to enlist the Security Council in the search for peace in Vietnam.

U.N. RESPONSIBILITY UNDER THE CHARTER

Any analysis of the problem of U.N. involvement in Vietnam must start with the United Nations charter. Under the charter, the United Nations and its members have a specific obligation to cooperate in the maintenance of international peace and security. This obligation is clearly set forth in the provisions of the charter, including specifically the following:

Article 1, paragraph 1, which states the first purpose of the United Nations as:

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.

Article 2, paragraph 3, which includes among the principles binding upon all members the following:

All members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice are not endangered.

Article 24, paragraph 1:

In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

Article 25:

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

And to these provisions should be added all of chapters VI and VII of the charter which confer broad powers on the Security Council for the maintenance of international peace and security.

Moreover, it is obvious that these powers and obligations of the United Nations apply to the situation in Southeast Asia in general and Vietnam in particular.

In saying this I am mindful of the argument that is sometimes made, both in and out of the United Nations, that several of the principal parties—the Democratic Republic of Vietnam, the Republic of Vietnam, and the People's Republic of China—are not in the United Nations and that it is, therefore, not a suitable place to deal with the Vietnam question. The premise is, of course, a fact, but the conclusion is incorrect. The charter explicitly provides for the responsibility and participation of nonmembers; for example:

Article 2, paragraph 6, provides—

The Organization shall ensure that states which are not Members of the United Nations act in accordance with these principles so far as may be necessary for the maintenance of international peace and security.

And article 32 provides in part, and I again quote, that—

Any state which is not a member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute.

It is clear, therefore, Mr. Chairman, that the United Nations has a duty to act for peace in Vietnam, and that the involvement of nonmembers is no obstacle to such action. The question therefore arises: Why has such action not taken place?

I believe it would be useful to the committee if I review briefly the record of our endeavors in the Security Council to obtain such action.

CAMBODIA COMPLAINT IN 1964

I begin with the Cambodia complaint in 1964, although I might have begun with the complaint of Thailand which preceded this, where Thailand in 1954 brought one aspect of its security in Southeast Asia to the Security Council. In this case, the Security Council was frustrated from acting in that situation by a Soviet veto.

But more relevant and more immediately involved is the Cambodia complaint of 1964.

In May 1964 Cambodia brought to the Security Council a complaint over incidents on its border with South Vietnam. After extended debate the Council decided by a vote of nine in favor (Bolivia, Brazil, China, France, Ivory Coast, Morocco, Norway, United Kingdom, United States), none against, and two abstentions (Czechoslovakia and the U.S.S.R.) to send three of its members as a mission to the scene of the trouble. As the tally shows, the Soviet Union abstained on this step. Its representative contended that the existing machinery set up under the Geneva agreements was sufficient and a Security Council mission was therefore, and I quote him, "not justified."

Nevertheless, the mission was sent. Its recommendations included sending a group of United Nations observers to Cambodia. Both the United States and the South Vietnamese Governments supported this proposal. But at that point the Cambodian Government termed the proposal "unacceptable to Cambodia" and asked that its complaint "should be placed on file." The matter was thereupon dropped at the request of Cambodia, the original complainant.

TONKIN GULF INCIDENT

I now turn to the next chapter, the Tonkin Gulf incident.

In August 1964, the United States took the initiative in requesting a Security Council meeting to consider the Tonkin Gulf incident. The Soviet Union proposed that North Vietnam be invited to take part in the discussion. The United States made no objection to such an invitation but further proposed that South Vietnam also be invited. The President of the Council thereupon consulted with the members and reported to the Council that his consultations had resulted in agreement among the members on the participation of both North and South Vietnam in the proceedings. He made clear that under this agreement the North and South Vietnamese Governments would both be welcome to give information to the Council either by taking part in the discussions or in such form as they might prefer. It should be added that the question of participation by Peking was not raised at that time.

In response to this invitation, the Foreign Minister of South Vietnam replied to the Council in a long letter on August 15, giving his Government's side of the dispute and placing the South Vietnamese permanent observer to the United Nations at the Council's disposal, and if I recall that letter correctly it also indicated that the South Vietnamese Government was prepared to send a delegation to participate in the discussion.

The response from Hanoi was a flat rejection of the competence of the United Nations to deal with the matter at all. I would like to quote from the North Vietnamese telegram to the President of the Security Council, dated August 19, 1964:

The consideration of the problem of the acts of war by the U.S. Government against the Democratic Republic of Vietnam and of the problem of the United States war of aggression in South Vietnam lies within the competence of the 1954 Geneva Conference on Indo-China, and not of the Security Council;

Should the Council take an illegal decision on the basis of the U.S. "complaint", the Government of the Democratic Republic of Vietnam would regretfully find itself obliged to consider that decision null and void.

In view of this attitude of Hanoi, the members of the Council determined that it would be useless to proceed further.

I now turn to the efforts in summer 1965. On June 25, 1965, President Johnson invited members of the United Nations, and I quote him "to use all their influence individually and collectively to bring to the table those who seem determined to make war."

On my appointment as U.S. Representative in July 1965, at the direction of the President, I made the Vietnam question my very first order of business. On July 30 I sent a letter to the President of the Security Council, summarizing previous U.S. efforts to open a path to peace in Vietnam and expressing our willingness, and I quote from that letter—

to collaborate unconditionally with members of the Security Council in the search for an acceptable formula to restore peace and security to that area of the world.

And I added in conclusion:

It is the hope of my Government that the members of the Security Council will somehow find the means to respond effectively to the challenge raised by the present state of affairs in Southeast Asia.

Mr. Chairman, I then initiated an intensive personal canvass of members of the Security Council, with a view to gaining their support for a move by the Council on Vietnam. This canvass disclosed a broad consensus among the members, regardless of their views on the substance of the Vietnam issue, that any effort to have the matter considered in the Council at that time would be unproductive.

EFFORTS IN CONNECTION WITH THE 1965-66 BOMBING PAUSE

In December 1965, as the committee will recall, the United States suspended the bombing of North Vietnam, and accompanied this step with an intensive diplomatic effort for peace in Vietnam. The bombing pause lasted 37 days, during which, at the direction of the President, I went to Europe to consult with the heads of government of several countries and His Holiness the Pope and various other emissaries were sent to other capitals.

Upon my return in January 1966, while the pause was still in effect and again expressing the view that the Security Council ought to aid in the search for peace in Vietnam, I also again consulted privately with members of the Security Council to determine whether action by the Council would, in their view, be appropriate and helpful in the cause of peace. This was early in January while the bombing pause was in effect.

My canvass disclosed a general view of the members of the Council that a meeting of the Council at that point would jeopardize diplomatic efforts which were then underway.

These diplomatic efforts, as we all know very regrettably failed late in January, and the bombing of North Vietnam was resumed. On January 31, I requested a meeting of the Security Council on Vietnam. The Council convened the next day February 1. We laid before it a United States draft resolution, the text of which is as follows:

The Security Council, deeply concerned at the continuation of hostilities in Vietnam, Mindful of its responsibilities for the maintenance of international peace and security, Noting that the provisions of the Geneva Accords of 1954 and 1962 have not been implemented, Desirous of contributing to a peaceful and honorable settlement of the conflict in Vietnam, Recognizing the right of all peoples, including those in Vietnam, to self-determination,

1. Calls for immediate discussions without preconditions at (blank) on (date) among the appropriate interested governments to arrange a conference looking toward the application of the Geneva Accords of 1954 and 1962 and the establishment of a durable peace in Southeast Asia;
2. Recommends that the first order of business of such a conference be arrangements for a cessation of hostilities under effective supervision;
3. Offers to assist in achieving the purposes of this resolution by all appropriate means, including the provision of arbitrators or mediators;
4. Calls on all concerned to cooperate fully in the implementation of this resolution;
5. Requests the Secretary General to assist as appropriate in the implementation of this resolution.

The Security Council discussed the matter for two days, on February 1 and 2, 1966. The position of the Soviet Union with respect to United Nations competence to deal with the Vietnam conflict was stated by its Representative, Ambassador Fedorenko, my colleague in the UN, during the debate in these words:

The Soviet delegation deems it essential to state that it objects to the convening of the Security Council for the discussion of the question of Vietnam and

declares itself to be against the inclusion of the present item in the agenda of the Security Council.

And at a later point in the debate Ambassador Fedorenko went on to say, and again I quote:

I should like to quote a message stating the position of the National Liberation Front of South Vietnam. This organization today published a statement in reply to the decision of the United States of America to bring the problem of Vietnam to the Security Council. In that statement it is pointed out that the Security Council has no right to take any decisions on questions involving South Vietnam and that all resolutions of the Security Council on the question of Vietnam will be null and void as far as the National Liberation Front is concerned.

It is also pertinent, Mr. Chairman, to note the observations of the Representative of France, then Ambassador Seydoux, on this question, and I single these quotations out, Mr. Chairman, because they are from the permanent members of the Council and carry important implications:

My government does not believe that the United Nations constitutes the proper framework for achieving a peaceful solution of the Vietnam conflict * * *. A debate before the Security Council might run the risk of resulting ultimately—as has happened in the past—only in a vain confrontation and in demonstrations of purely formal character.

VERBATIM RECORDS OF COUNCIL MEETINGS

I should like with your permission, Mr. Chairman, to submit to the committee the verbatim records of the three Council meetings which took place on those dates so that the views of all of the members can be before the committee.

The CHAIRMAN. They will be included in the record.
(The material referred to is on file with the committee.)

INSCRIPTION DEBATE TO PLACE MATTER ON COUNCIL AGENDA

Ambassador GOLDBERG. As the committee knows from its very close attention to this problem which it has always manifested, the inscription of an item on the agenda of the Security Council is, under the Council's rules, a procedural question, and when we use the word "inscription" in the U.N., it means the adoption of the agenda placing the matter before the Council for substantive discussion.

Since inscription is procedural it is therefore not subject to the veto under article 27 of the charter, but can be accomplished by any nine affirmative votes. On the afternoon of February 2, we proceeded to a vote. The result was: For inscription, nine: Argentina, China, Japan, Jordan, New Zealand, Netherlands, United Kingdom, United States, Uruguay. Opposed, in other words, voting no, Bulgaria, Soviet Union. Abstentions, four: France, Mali, Nigeria, Uganda. While there is a difference between noes and abstentions, the net effect of a combination of no and abstention votes if seven in number would be to defeat inscription.

Let me point out that a number of the favorable votes on inscription—

The CHAIRMAN. That isn't quite right: not nine in number of abstentions and noes; It would take nine affirmative votes.

Ambassador GOLDBERG. Yes, it takes nine affirmative votes so if you could not get the nine because of abstentions and noes then it could not be inscribed. I was merely trying to say that for all practical

purposes an abstention is the same as a no and the no is the same as an abstention on procedural matters. On a substantive matter a no vote by the Soviet Union would be a veto and that would end the matter as far as the Council's decision is concerned.

Let me point out that a number of the favorable votes on inscription were cast on the understanding that the Council would not proceed forthwith to consider the matter substantively, but that instead informal consultations would be held as to the future course of action. Only on this basis was it possible to obtain the necessary nine votes for inscription.

Accordingly, immediately after the vote the President of the Council who was then, my colleague, Ambassador Matsui of Japan, adjourned the Council with the consent of the members so that the agreed-upon consultations could be held, and very intensive consultations were then held by Ambassador Matsui very skillfully over the three weeks that followed. He summed up the results of these consultations in a letter to the members of the Council dated February 26. He reported that he had found differences of view among the members, principally on, and I quote him, "the wisdom of the Council considering the problem of Vietnam at this particular juncture." He added that these differences had "given rise to a general feeling that it would be inopportune for the Council to hold further debate at this time."

AMBASSADOR MATSUI'S LETTER

Ambassador Matsui's entire letter is pertinent to the committee's inquiry, and with your permission, Mr. Chairman, I should like to submit it for the record.

The CHAIRMAN. Without objection, it will be included.
(The letter referred to follows:)

LETTER DATED 26 FEBRUARY 1966 FROM THE PRESIDENT OF THE SECURITY COUNCIL TO THE SECRETARY-GENERAL

I have the honour to transmit herewith the text of a letter dated 26 February 1966, addressed by me to the members of the Security Council. I should be grateful if Your Excellency would kindly have this letter reproduced as a document of the Security Council.

Please accept, etc.

(Signed) AKIRA MATSUI,
President of the Security Council.

As you know, at the 1273rd meeting of the Security Council on 2 February 1966, following the adoption of the agenda for that meeting, namely, the letter dated 31 January 1966, addressed to the President of the Security Council by the Permanent Representative of the United States of America (S/7105), I suggested that informal and private consultations be held in order to decide on the most effective and appropriate way of continuing our debate in the future, and that, to this end, the meeting be adjourned until an exact date and time could be arranged for the next meeting.

That suggestion was approved without objection and it was so decided by the Council.

Pursuant to that decision, I felt obliged, as President of the Council for the month of February, to make myself available in arranging the informal and private consultations envisaged by the Council in its decision. I have endeavoured to carry out this task with members of the Council both individually and collectively. I have also conferred with the Secretary-General, who has expressed to me his own views of the situation.

It is clear to me that members of the Council have every right to be informed of the results of these consultations. I feel, indeed, that it is my duty, as President of the Council, so to inform members.

A useful exchange of views has taken place; on the other hand, some serious differences of views remain unresolved.

The principal difference among members on the procedural question at issue relates to the wisdom of the Council considering the problem of Viet-Nam at this particular juncture. Although it was felt by a number of members that the Council might find some way to contribute towards a solution of the Viet-Nam problem, others took the position that consideration of the problem in the forum of the Council would not be useful under present circumstances; some members, adhering to positions they had expressed when adoption of the provisional agenda was discussed on 1 and 2 February, did not choose to participate in consultations.

These differences of views have made it impossible for me to report, at this stage, agreement on a precise course of action the Council might follow. They have also given rise to a general feeling that it would be inopportune for the Council to hold further debate at this time and, rather than a formal meeting of the Council, a report by me in the present form has appeared to be the most appropriate step that could be taken. I have decided, therefore, to take this step under the present extraordinary circumstances.

It would not be appropriate for me to refer, in a formal and public document such as this, to the views that individual members expressed in the course of informal and private consultations. Nevertheless, throughout the Council's proceedings of 1 and 2 February and the consultations stemming therefrom, I believe I could detect a certain degree of common feeling among many members of the Council which might be summarized as follows:

1. There is general grave concern and growing anxiety over the continuation of hostilities in Viet-Nam and a strong desire for the early cessation of hostilities and a peaceful solution of the Viet-Nam problem;
2. There appears also to be a feeling that the termination of the conflict in Viet-Nam should be sought through negotiations in an appropriate forum in order to work out the implementation of the Geneva Accords.

It is my understanding that the Council, having decided on 2 February to place on its agenda the item contained in the letter dated 31 January by the Permanent Representative of the United States of America (S/7105), remains seized of the Viet-Nam problem.

May I conclude by expressing my personal hope that efforts will be continued, within and outside of the United Nations, by whatever means may be deemed appropriate, to find an early, peaceful solution of the Viet-Nam question.

I am requesting the Secretary-General to reproduce this letter as an official document of the Council.

I avail myself, etc.

(Signed) AKIRA MATSUI,
President of the Security Council.

ATTITUDE OF COUNCIL MEMBERS TOWARD DEBATE

Ambassador GOLDBERG. It is important to note also, Mr. Chairman and gentlemen, that the Soviet Union and Bulgaria refused throughout to even join in the consultations which Ambassador Matsui held among the Council members. The Soviet representative, Ambassador Fedorenko, sent a letter to the President of the Council stating his "strong objections" to the procedure followed by Ambassador Matsui, and charging him with "steps that go beyond the limit of his confidence and violate the Security Council's rules of procedure and established practice." A similar letter was also sent by the Bulgarian representative. I need scarcely add, Mr. Chairman, that in our view and I think in the view of many members of the Council Ambassador Matsui acted quite properly in doing what he did and quite within his authority as President of the Council in reporting to the members of the Council the results of his consultations.

My own canvass taken independently of that of Ambassador Matsui confirmed his assessment that the members of the Council were generally unwilling to proceed with a substantive discussion despite the strong and express preference of the United States that we get on

with the debate. I should also like to add we did have somewhat of a substantive debate as happens in the U.N. even in the process of inscribing an item. I made a statement of a substantive character in support of inscription because I could hardly avoid it, and other members spoke to the substance in dealing with the inscription matter as is apparent from the record you have kindly allowed me to file with the committee.

Indeed my canvass showed that this unwillingness to get on with the debate was found even among those members who had voted affirmatively on inscription in the hope that such a vote might sway the negative attitude of the Soviet Union and France in particular.

U.S. CANVASS ON COUNCIL MOOD TO RENEW VIETNAM CONSIDERATION

Since that time, a year and a half ago—it seems to me a very long time, Mr. Chairman, in light of our work at the U.N.—my associates and I at the U.S. mission have periodically reviewed the possibility of renewed consideration of Vietnam by the Security Council. We made a particular point of this during the Tet bombing pause at the beginning of 1967. This also happened to be the time when several of the nonpermanent seats on the Council changed hands, and we engaged in detailed consultations with the members just coming on the Council as well as with those remaining on the Council. But the results of this canvass were no more encouraging than those that had preceded it.

Then, as recently as September of this year, scarcely two months ago, and largely at the initiative of Senator Mansfield and Senator Morse who indicated, as they have previously, strong interest in this matter, at the request of the President I once again conducted an intensive canvass of the members of the Security Council. In these informal consultations in order to attempt to meet the point of view of those who in 1966 had argued that inscription was not desirable because of the competence of the Geneva machinery, we discussed the possibility of Council action, either on the resolution we had offered in January 1966 or on a new formulation. Now the new formulation was designed to take into more specific account the views of those who had argued that the Geneva Conference was the proper forum, not the U.N., and this new draft was as follows:

The Security Council,
Having considered the problem of Vietnam,
Deeply concerned at the situation in Vietnam and the threat it poses to international peace and security,

Believing in the principle of the inviolability of, and respect for, the sovereignty and territorial integrity of states,

Convinced that a solution to this problem is to be found through political and not military means, and that a peaceful solution should be found through negotiations,

Considering, that the Geneva Agreements of 1954 and 1962 constitute a workable basis for peace in Southeast Asia.

1. Reaffirms, on the basis of the Geneva Agreements, the following principles:

(a) That there should be a complete cease-fire and disengagement by all armed personnel throughout North and South Vietnam at an agreed upon date.

(b) That there should be no military forces or bases maintained or supported in North and South Vietnam other than those under the control of the respective governments, and all other troops and armed personnel should be withdrawn or demobilized, and all other military bases abolished as quickly as possible and in accordance with an agreed time schedule, during which introductions of additional armed personnel should be prohibited.

(c) That the international frontiers of the states bordering on North and South Vietnam and the demilitarized zone between North and South Vietnam should be fully respected.

(d) That the question of reunification of Vietnam should be settled peacefully by the Vietnamese people in both North and South Vietnam, without any foreign interference.

(e) That there should be international supervision of the foregoing through such machinery as may be agreed upon.

2. Calls for the convening of an international conference for the purpose of establishing a permanent peace in Southeast Asia based upon the principles of the Geneva Agreements.

I regret to report that this recent canvass, once again shows a general unwillingness for the Security Council either to resume its consideration of the agenda item and draft resolution which we proposed in early 1966, or to consider this new draft, or to take any other action on the matter.

COMMENTS OF HANOI, PEKING, AND NLF ON U.N. INVOLVEMENT

It is relevant at this point, Mr. Chairman, and distinguished members of the committee, at this point to note the attitudes of Hanoi and Peking, as well as the National Liberation Front, toward United Nations involvement in the search for peace in Vietnam. All of these have made known their views on the subject many times. I shall cite only a few representative examples, although I have a more comprehensive summary which, with your permission, I shall file with the committee.

The CHAIRMAN. Without objection.

Ambassador GOLDBERG. In late January 1966, the North Vietnamese Foreign Minister declared:

The Government of the Democratic Republic of Vietnam reaffirms once again that on the international plane, the consideration of the United States war acts in Vietnam falls within the competence of the 1954 Geneva conference on Indochina and not the United Nations Security Council. Any resolution by the United Nations Security Council intervening in the Vietnam question will be null and void.

In June 1966, the North Vietnamese Foreign Ministry said:

The United Nations has absolutely no competence in the Vietnam problem. The fact that the Saigon puppet administration, at U.S. bidding, proposed that the United Nations send its observers to supervise the election farce in South Vietnam is completely illegal and runs counter to the 1954 Geneva agreements on Vietnam and international law.

Then in September 1966, the Premier of North Vietnam, Pham Van Dong, said in a speech:

On the occasion of the current session of the United Nations General Assembly, they are trying again to use the United Nations as an instrument for their aggressive policy in Vietnam. But the United Nations has absolutely no right whatsoever to intervene in the Vietnam issue.

And recently, when I was conducting soundings in late August and early September of this year among members of the Security Council, and this fact became known, through statements made by other people, other than ourselves where we consulted very broadly as we had been, Hanoi's major daily, Nhan Dan, which reflects the official view, said:

The United States ruling circles are actively trying to get the United Nations to interfere in the Vietnam problem on the occasion of the forthcoming 22d Session of the United Nations General Assembly. United States delegate to the

United Nations Arthur Goldberg has met a number of representatives of various countries * * *.

The Vietnamese people have many times clearly stated that the United Nations has no right whatsoever to interfere in Vietnam. The Vietnam question can only be settled on the basis of the four-point stand of the DRV Government and the five-point stand of the NFLSV

The position of the National Liberation Front has been identical with that of Hanoi, as illustrated by the following statement by the central committee of the front on February 2, 1966:

The NFLSV is determined to expose before the public the United States imperialists' perfidious plot to hide behind the United Nations flag to accelerate the aggressive war in South Vietnam and the war of destruction against North Vietnam. The NFLSV solemnly declares: The United Nations has no right to make decisions concerning the affairs of the South Vietnamese people.

A similar attitude has been expressed by the Peking government, as can be seen in the following examples.

In April 1965, the People's Daily in Peking ran an editorial which stated:

The Vietnam question has nothing to do with the United Nations. The 1954 Geneva agreements were reached outside the United Nations and the latter has no right whatsoever to interfere in the affairs of Vietnam and Indochina. It is the duty of the countries participating in the Geneva conference to safeguard the Geneva agreements and no meddling by the United Nations is called for, nor will it be tolerated. This is the case today as it was in the past, and so will it remain in the future.

Then, on August 7, 1965—just as I was holding my first consultations with members of the Security Council—the People's Daily said in an editorial:

It is * * * clear to everyone that the United Nations has no right whatever to meddle in the Vietnam question, nor can it solve the issue. The Vietnam question has nothing to do with the United Nations.

We have many other statements from Peking to the same effect, including some of quite recent date, which are included in the document which you have kindly given me permission to file.

(The summary referred to follows:)

SUMMARY OF COMMENTS OF HANOI, PEKING, AND NLF ON U.N. INVOLVEMENT IN SEARCH FOR PEACE IN VIETNAM

LIBERATION FRONT STATEMENTS ON THE VIETNAM QUESTION IN THE UNITED NATIONS

September 20, 1965.—Liberation Radio (Clandestine) in Vietnamese to South Vietnam 2330 GMT 20 September 1965.

The Liberation Front attacked the US in a commentary entitled "What is purpose of US in making approaches to bring Vietnamese problems before United Nations." The Front charged that, since Johnson's other attempts to "sell the false goods of peace negotiations" have failed, he has now sought to bring the Vietnam problem before the United Nations. The Liberation Radio also alleged that "Johnson intends to use the UN intervention in Vietnam as a means for the US imperialists to withdraw from the present impasse," and that Johnson hopes through "the UN organization, which is controlled by the United States, he will obtain a resolution condemning the Vietnamese people and legalizing the participation of a number of new countries in the dirty war." Finally, the Front claimed that its statement of 22 March 1965 provided "rational and reasonable basis" for settlement, and "apart from that, the South Vietnamese people will not recognize any decision of any organization which wants to solve problems in another way."

October 4, 1965.—Hanoi VNA International Service in English 0533 GMT 4 October 1965.

In a commentary broadcast over Hanoi radio, the Liberation Press Agency stated that "the United Nations has no competence to discuss the Vietnam question, and that "by dealing with the Vietnam issue, the United Nations is helping the US imperialist abolish the 1954 Geneva agreements on Vietnam." The commentary accused the US of looking for means to "legalize their violation of the 1954 Geneva agreements on Vietnam" by use of the "UN banner to cover up their brazen acts of war and aggression in Vietnam in an attempt to urge the Vietnamese people to let the American troops continue occupying their country."

February 2, 1966.—Liberation Radio (Clandestine) in Vietnamese to South Vietnam 2330 GMT 2 February 1966.

In an official statement, the Central Committee of the Liberation Front stated on 2 February that "the United Nations has no right to make decisions concerning the affairs of the South Vietnamese people." The Front asserted further that it "will regard all decisions of the UN Security Council as worthless and as violations of the principles relating to the independence, sovereignty, unification, and territorial integrity of Vietnam as guaranteed by the 1954 Geneva Accords."

December 20, 1966.—Peking Domestic Service in Mandarin 1245Z 20 December 1966.

Acting Chief of the Front delegation in China Nguyen Minh Phuong spoke at a reception in Peking marking the sixth anniversary of the Front. Phuong stated that "the people of South Vietnam will never allow US imperialism to utilize the United Nations to interfere with the South Vietnam question."

September 12, 1967.—Moscow in English to North America 2200 GMT 12 September 1967.

In a Moscow press conference, the front representative to the USSA Dang Quang Minh replied to a question by pointing out that the United Nations has no right to tackle the Vietnam problem.

CHINESE COMMUNIST STATEMENTS DENYING RIGHT OF UN TO TAKE UP VIETNAM ISSUE

The United Nations is a tool used by the United States to carry out its policies of aggression and war. It has nothing to do with Vietnam. Nor has it any right to intervene in the affairs of the Vietnamese people * * *. The United States will never succeed in its attempt to make use of the United Nations to intervene in Vietnam.—NCNA broadcast, September 3, 1965.

At the present the Johnson administration is plotting to interfere in the internal affairs of the Vietnamese people through the United Nations, though the Vietnamese question has nothing whatsoever to do with the United Nations which has absolutely no right to intervene.—NCNA broadcast, September 23, 1965.

The Lyndon Johnson administration, having resumed the bombing of DRV territory, tried to pursue its war blackmail through the U.N. Security Council, which has no authority to meddle with the Vietnam question, and to gloss over its escalation of the war of aggression against Vietnam.—NCNA broadcast, February 1, 1966.

It is universal knowledge that the United Nations has nothing to do with the Vietnam question and has no right whatever to interfere in it. Whoever proposes, and by whatever manner he may propose, to discuss the Vietnam question in the United Nations is illegal and will be opposed and condemned by the Vietnamese people.—*People's Daily* editorial entitled, "The United Nations Has No Right to Poke Its Nose into the Vietnam Question," September 24, 1966.

The United Nations is a tool in the hands of the U.S. imperialism, and U Thant is a faithful flunkey of the U.S. imperialists. The several plans so far put forward by U Thant for the alleged purpose of solving the Vietnam question were all in the service of U.S. imperialism. The Vietnam question must be resolved by the Vietnamese people themselves. The United Nations has no right whatsoever to meddle with it, nor should U Thant be permitted to intervene.—*People's Daily* Commentator Article, March 31, 1967.

The people of the world know full well that the Vietnam question has nothing to do with the United Nations. Vietnam's affairs must be settled by the Vietnamese people themselves and they permit no interference from any outsider. The United Nations has absolutely no right whatsoever to interfere in the question.

The Vietnamese people have always resolutely opposed U.N. intervention in the Vietnam question.

At this crucial period in the Vietnam war against U.S. aggression and for national salvation, anybody who participates in U.N. maneuvers to interfere in

Vietnam is aiding and abetting U.S. aggression in Vietnam and betraying the Vietnamese people. This is utterly impermissible.—*People's Daily* editorial, September 27, 1967.

NORTH VIETNAMESE STATEMENTS DENYING UN COMPETENCE ON VIETNAM

"The US authorities * * * have requested help from the UN membership at large in getting peace talks started.' This is a maneuver to use the UN to impose on the Vietnamese people negotiations under US terms. The DRV Government has on repeated occasions declared that internationally speaking the consideration of the US Government's war acts against the DRV and the US war of aggression in SVN falls within the competence of the participants in the 1954 Geneva conference on Indochina, and not of the UN. Any UN resolution in furtherance of the above US scheme will be null and void and will completely discredit the UN."—FBIS Daily Report of September 23, 1965 Hanoi VNA in English of September 23, 1965, quoting DRV Foreign Ministry Memorandum of September 23, 1965.

"The DRV Government has on many occasions declared that on the international field it is within the competence of the participating countries of the 1954 Geneva conference on Indochina, but not of the UN, to consider the acts of war of the US Government against the DRV and the US aggressive war in South Vietnam. * * * Any resolution of the UN on the above questions are completely illegal and null and void, and only impair still further the US prestige."—FBIS Daily Report of September 24, 1965 Hanoi VNA in English of September 23, 1965, quoting a DRV Foreign Ministry statement of September 23, 1965.

"The UN has no right to discuss the Vietnam problem * * * any UN resolution on the Vietnam problem will be completely illegal and null and void. By so doing, the UN itself will trample upon its charter and bring discredit to itself. If it has real power, the UN should compel the US—one of its members—to stop its aggressive war in Vietnam."—FBIS Daily Report of September 27, 1965 Hanoi VNA in English of September 24, 1965, quoting *Nhan Dan* editorial of September 24, 1965.

"The spokesman of the DRV Foreign Ministry today issued a statement protesting the US renewed attempt to raise the Vietnam question before the UN Security Council * * *. The government of the DRV reaffirms once again that on the international plane, the consideration of the US war acts in Vietnam falls within the competence of the 1954 Geneva conference on Indochina and not of the UN Security Council. Any resolution by the UN Security Council intervening in the Vietnam question will be null and void."—FBIS 102 of February 1, 1966 Hanoi VNA in English February 1, 1966.

"The UN is being controlled by the US imperialists. It has no right whatsoever to interfere in the Vietnam issue."—FBIS 33 of October 6, 1966 Hanoi VNA in English October 6, 1966.

"The Government of the DRV has many times declared that the UN absolutely has no right to interfere in the Vietnam problem. All the decisions, resolutions, or other acts of the UN, in any form concerning the Vietnam problem, are null and void."—FBIS 16 of October 8, 1966 Hanoi VNA in English October 8, 1966 on "US schemes".

"The Brown (British Foreign Minister) program advocates an international supervision and control of the implementation of the preceding (four) points. This runs completely counter to the Geneva Agreements on Vietnam. To include many countries of the international supervision and control commission in Vietnam and to set up an internal police force in Cyprus are a maneuver of the British Government to make the UN interfere in the Vietnam problem. What right has the UN in Vietnam?"—FBIS 44 of October 8, 1966 Hanoi VNA in English October 8, 1966.

"To call on both sides to cease fire and hold unconditional negotiations while the US is committing aggression against Vietnam and taking serious steps in its military escalation in both zones of Vietnam is to make no distinction between the aggressor and the victim of aggression, to depart from reality, and to demand that the Vietnamese people accept the conditions of the aggressors.

By the way, it is necessary to underline once again the views of the Government of the DRV, which has pointed out that the Vietnam problem has no concern with the United Nations and the United Nations has absolutely no right to interfere in any way in the Vietnam question."—FBIS Daily Report (Asia and Pacific) of March 28, 1967 DRV Foreign Ministry Comment on U Thant's statement quoted in UN Bulletin 24 Hanoi VNA in English of March 27, 1967.

"By getting (sic) the UN to interfere in Vietnam is a shopworn plot of the US imperialists in their aggression against Vietnam. The US has long been schem-

ing to get its henchmen seated in the UN over the past years, and it has many times attempted through the UN to legalize its war of aggression against Vietnam . . . The Vietnamese people have many times clearly stated the the UN has no right whatsoever to interfere in Vietnam."—FBIS Daily Report (Asia and Pacific) of September 11, 1967 Hanoi VNA in English of September 10, 1966 quoting a *Nhan Dan* commentary of September 10, 1967.

EFFORTS ON BEHALF OF THE ADMINISTRATION

Now, Mr. Chairman, this is the record of my efforts on behalf of the Administration and the President to enlist the United Nations and specifically the Security Council in the search for peace in Vietnam.

I must confess that the failure of these efforts has been my keenest disappointment and my greatest frustration during my service for our Government at the United Nations. I frankly had hoped for a much more constructive and positive role of the United Nations when I took on this assignment for our country. But, Mr. Chairman, in spite of these rebuffs, I do not intend, as long as I occupy my present post, to diminish my efforts in this cause.

I repeat my conviction that Senator Mansfield's resolution, if it is adopted by the Senate, as I hope and trust it will be, will support the efforts I am making at the United Nations at the President's direction. The resolution, as I understand it, is intended to express the sense of the Senate and appropriately leaves the timing and circumstances of action in the Security Council for Presidential determination.

For my part, I promise this committee and the American people, in keeping with the spirit of the resolutions that you are considering, to persevere with all the resources at my command to the end that the Security Council may carry out its clear responsibilities under the charter with respect to Vietnam. I shall do so in the conviction that if there is any contribution that diplomacy—in or out of the United Nations—can make to hasten the end of this conflict, none of us can in good conscience spare any effort or any labor to make that contribution—no matter how frustrating past efforts may have been, or how many new beginnings may be required. The admirable courage and perseverance of our men on the battlefield must be fully matched by our perseverance in seeking, through diplomacy, to find the common ground on which a fair and honorable political settlement can be built.

I thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Ambassador.

I think that is an extraordinarily clear and very fine statement, and I think it does great credit to your representation of this country in the United Nations.

There are a few questions I want to go into quickly, much quicker than I would like, in order that other members may have an opportunity to put questions.

INTENTION TO RECONVENE GENEVA CONFERENCE

May I ask regarding the current proposal that you have or expect to submit, which—

Calls for the convening of an international conference for the purpose of establishing a permanent peace in Southeast Asia based upon the principles of the Geneva Agreements.

Is it proper to interpret that as meaning the same as the reconvening of the Geneva conference under the cochairmanship of the United Kingdom and the U.S.S.R., with the same membership participating?

Ambassador GOLDBERG. Yes, Mr. Chairman.

It is intended to reaffirm our willingness to have that done. It is also intended to add a little more flexibility because there have been some indications from the other side that perhaps some other conference might be desirable. But we would be entirely willing, and we would be interpreting this clause to mean that the Geneva conference, with the same membership should be reconvened.

The CHAIRMAN. On several occasions, the other side, the North Vietnamese and, I think, as one of your citations of the Chinese said, that that is the competent forum in which this matter should be settled; is that not correct?

Ambassador GOLDBERG. There have been some recent statements particularly from China further qualifying their former position, and our formulation was intended to be more encompassing so as not to exclude any type of international conference, but we believe the most appropriate would be the reconvening of the Geneva Conference as you have said.

The CHAIRMAN. And from time to time, the Soviet Union has also stated that the conference was a proper forum; is that not correct?

Ambassador GOLDBERG. That is correct, but the Soviet Union has not responded to our repeated invitation to them to join with the British in reconvening the conference.

The CHAIRMAN. I realize that.

RECONVENING OF GENEVA CONFERENCE

Let me say, I certainly am sympathetic with your view that Hanoi has been very unresponsive to these offers and it is quite beyond my comprehension as to why. I don't understand their reluctance or their refusal to do it except possibly they may interpret this move to mean the United Nations is going itself to undertake to deal with the substantive question. Now, this may be a point, I am not clear, I don't know, of course, whether or not that is their reason, but if that should be so that they interpreted this as a move on our part to use the U.N. to solve the problem then they, not being a member have some reason for it. Even so, I would not agree with their position at all. I think that it would be perfectly proper if they would agree to come and submit the matter to the United Nations.

But in any case, seeking to find some basis upon which we might get a reconvening of the Geneva conference, it has seemed to me that this point is very important. I confess that if this is the purpose, to reconvene the Geneva conference, I cannot possibly understand the attitude of the French Government or of the Soviet Government in refusing to take the position in the Security Council that this would be a proper mode of procedure because you do not deal with it substantively.

I think some of the statements of the Soviets and of the French that I have seen and some which you cite seem to indicate that they believe, too, that we are attempting to use the Security Council itself to deal with the substantive question; is that correct?

Ambassador GOLDBERG. I shared your apprehensions about this, Mr. Chairman, and in the inscription debate in 1966 after listening to the comments made by the Soviet Union and by France and having read some of these editorials which appeared at the time, I specifically addressed myself to that problem in the same light as you have just done, trying to make clear that while we believe, and had to believe under the charter, that the Security Council had competence, nevertheless, in light of what they are saying about it, it was not our proposal that the U.N. itself settle the matter, but rather, we were trying to get the great influence and prestige of the Security Council behind the reconvening of the Geneva conference, and I think the statement you made today is a helpful statement. I endorse it completely, and I also am puzzled why, in light of their contention on the basis that the Geneva conference is the forum, why they can possibly object to a Security Council resolution which supports the reconvening of the forum which it is asserted by them is the appropriate forum.

The CHAIRMAN. That is right. This really raises a question of their good faith, in my mind. If they really are interested in being of assistance in stopping this serious conflict, I am at a loss to understand why they would refuse to reconvene the conference if the members of the Security Council so recommend. That would particularly apply to France and the Soviet Union who have both on numerous occasions stated publicly that this was the way to proceed.

ATTITUDE OF NONPERMANENT MEMBERS OF COUNCIL

Now, I am not aware of the previous statements of some of the nonpermanent members of the Security Council. You don't have time, of course, to outline them, but in your consultations, I can't understand why they would not, at least nine of them, agree to this. Do you think they understand this point?

Ambassador GOLDBERG. I think they must understand it, Mr. Chairman, and gentlemen. I have before me the statement I made, which is in your record, after the debate that we had in February of 1966, and I said this—I should like to read, if I may, just a paragraph or two.

Now I shall turn to some of the questions raised by members in the course of our discussion. I should like to deal with what was first pointed out by my friend, our former President, the Representative of France, whose wisdom I have learned to appreciate very much and whose friendship I deeply value. The question he raised is an important one and has been raised by others, the representative of Mali, the representative of Uganda, and it has been adverted to by the representative of Bulgaria and I think was mentioned also by our esteemed colleague, Mr. Fedorenko of the Soviet Union. Their point is this: It has been pointed out by them that the Geneva conference at which all parties to the conflict are represented, has been the international body which has in the past dealt with the problems of Vietnam, and it has been claimed that it still remains the appropriate body to do so. The United States has no quarrel with this contention. We have repeatedly stated that we would welcome the reconvening of the Geneva conference for this purpose. It has been correctly pointed out that the purpose of our draft resolution is to assist in what thus far it has not been possible to realize, the reconvening of the Geneva Conference. That has not been possible to realize not because of any opposition on the part of the United States. Quite the contrary. Under these circumstances, therefore, the choice before the members of the Security Council is not whether to deal with this problem in the Council or to deal with it in Geneva, but whether to deal with it at all. The door to Geneva is at least for the time being closed and the question we have to decide is a plain

and simple one: Do we wish also to close the door to the United Nations? What will the people of the world say if we do?

The CHAIRMAN. You have made that very clear this morning, much clearer than it has ever been made before, although I think your speech in August went very far in this direction. I must say I thought it was an excellent speech and I am at a loss to understand why so many members of the Assembly have recently made speeches critical of our country, and of the bombing in view of your speech. I can't believe they understand what we really mean. So I am particularly pleased that you support this resolution of Senator Mansfield. I predict that if this is properly handled, and I have every confidence it will be by you, that this will make a great impression upon a number of those people who have been critical. I don't see how they could object to this procedure.

Senator SPARKMAN?

Senator SPARKMAN. Mr. Chairman, let me say that I certainly endorse everything the Chairman has said. I have been very much impressed with your statement, Ambassador Goldberg. It seems to me that you have gone into the matter most carefully and pointedly, and I don't see much left to question you about.

I am puzzled as is the Chairman, about the attitude of many of these countries, as to why they could not accept what seems to be the clear responsibility of the Security Council under the charter of the United Nations to take some kind of action. It seems to me that you have probed in just about every direction that you can to find some action that they could agree to take.

AGREEMENT ON RECONVENING GENEVA CONFERENCE

Does the Geneva Conference have the power to reconvene itself?

Ambassador GOLDBERG. Under the rules of the conference, the two cochairmen, the Soviet Union and Great Britain, may reconvene the conference.

Senator SPARKMAN. But it cannot be reconvened unless both chairmen agree to it?

Ambassador GOLDBERG. That is correct.

Senator SPARKMAN. And so far the chairmen have not agreed to do so?

Ambassador GOLDBERG. The British have repeatedly indicated their willingness to do so by public statements and by private letters to the other cochairman as recently as in the Assembly of the United Nations last month.

Senator SPARKMAN. Does the Soviet representative give reasons for his unwillingness to reconvene the conference?

Ambassador GOLDBERG. Basically, if I were to interpret his reasons, his reasons are that Hanoi does not want the conference reconvened. He always says that the Soviet Union does not want to, but he always reads the statements made either by Hanoi or the NLF, and my interpretation is that that is the basis for the decision taken by the Soviet Union. That is my interpretation, Mr. Chairman. He also asserts that they are unwilling, but that is my interpretation.

Senator SPARKMAN. How many countries constitute the Geneva Conference?

Ambassador GOLDBERG. The Geneva Conference, there are quite a number.

The CHAIRMAN. Are you talking about the 1954 one or the 1962 one? There are nine in the first; 14 in the second.

Ambassador GOLDBERG. There are a larger number.

Senator SPARKMAN. Fourteen in the one that prevails at the present time. I believe you have put to them that we would be willing to proceed under either the 1954 or the 1962 arrangement; is that right?

Ambassador GOLDBERG. That is correct. Although we do feel that if a conference were to be held it would be highly desirable to deal with both issues because it would be necessary to deal with peace in that part of the world, and would be highly desirable to deal with the problems in Laos, Cambodia, because they are related problems, as well as Vietnam.

Senator SPARKMAN. But the membership is powerless to act in the absence of the agreement of the two chairmen.

Ambassador GOLDBERG. That is correct, Senator Sparkman.

Senator SPARKMAN. Mr. Ambassador, I want to commend you for what I consider the excellent job that you have been doing for us in the United Nations and for your presentation here today.

Ambassador GOLDBERG. Thank you.

Senator SPARKMAN. That is all, Mr. Chairman.

MEMBERSHIP OF GENEVA CONFERENCES

The CHAIRMAN. For the record, Mr. Ambassador, unless it is already in would you insert the membership of both Geneva conferences and also the present membership of the Security Council?

Ambassador GOLDBERG. Yes; I shall be very glad to do so.

(The material referred to follows:)

MEMBERSHIP OF GENEVA CONFERENCES

1954

1962

I. PARTICIPANTS

Cambodia
China (Communist)
France
Laos
United Kingdom
United States
U.S.S.R.
Vietnam, State of (South)
Vietnam, Democratic Republic of
(North) ¹

Burma
Cambodia
Canada
China (Communist)
France
India
Laos ²
Poland
Thailand
United Kingdom
United States
U.S.S.R.
Vietnam, Republic of (South)
Vietnam, Democratic Republic of
(North)

¹ Popularly known as Viet Minh.

² During the conference, there were three Laotian representatives invited to sit at the table with equal status: one representing the neutral faction, one representing the leftist faction, and one representing the rightist faction.

The U.S.S.R. looked upon the neutral faction as representing the Royal Lao Government; the United States looked upon the rightist faction as representing the Royal Lao Government. The conference adjourned for several months to permit the three factions to untangle their conflicting claims. They finally reached an agreement (in June of 1962) to establish a government of national union, and it was this government which accepted the agreements reached at the conference.

II. AGREEMENTS

There were three agreements on cessation of hostilities, dated July 20, 1954, signed as follows:

Vietnam: DRV's Vice Minister of National Defense

Commander in Chief of French Union Forces.

Cambodia: DRV's Vice Minister of National Defense

Commander in Chief of Khmer National Armed Forces.

Laos: DRV's Vice Minister of National Defense

Commander in Chief of Royal Lao Forces.

In addition, there was the final declaration of the Geneva conference, dated July 21, 1954. It was accepted by all countries which participated in the conference, with the exception of the United States and South Vietnam.

There were two agreements: The declaration on the neutrality of Laos, dated July 23, 1962. This agreement was accepted by all participants and it included as an integral part a statement of neutrality made by the Royal Government of Laos on June 22, 1962.

In addition, there was the protocol to the declaration on the neutrality of Laos. The protocol, bearing the same date as the declaration, was also accepted by all of the above participants.

MEMBERSHIP OF UNITED NATIONS SECURITY COUNCIL, 1967

Argentina
Brazil
Bulgaria
Canada
China
Denmark
Ethiopia
France

India
Japan
Mali
Nigeria
U.S.S.R.
United Kingdom
United States

The CHAIRMAN. Senator Aiken?

Senator AIKEN. Mr. Chairman, I will be brief.

ATTITUDE TOWARD U.S. RESPONSIBILITY IN VIETNAM WAR

In the General Assembly of the United Nations, does a large percentage of the membership believe that the United States alone is responsible for the continuation of this war in Southeast Asia?

Ambassador GOLDBERG. Well, it is very hard to make an exact appraisal of this, Senator Aiken. If you judge by the general debate speech which is the only real basis we have of judging, there are expressions of many types. There are expressions of condemnation, there are expressions of support, there are expressions of concern. If I were to summarize the dominant attitude, the dominant one, I think the dominant one would be concern, a great desire that this war be brought to an end by a political solution. That I think is the dominant attitude.

Then you get various gradations of approaches as to how to bring this about, and you really, I think, must look at the general debates

speech to try to determine what those gradations are. I would not say that I could conclude from the last general debates speech that the members expressing themselves have dominantly said we are entirely responsive. I would rather conclude from that concern, great desire to get the war over with, great desire to reestablish a peaceful setup in Southeast Asia.

Senator AIKEN. I am not asking you for any percentage figures but I think it is perfectly obvious that there is a substantial percentage of the United Nations members who think that the United States is to blame, and wholly to blame, for the war going on in Southeast Asia. What I want to ask you next is if we take this matter to the Security Council and indicate beyond a doubt that we want a political settlement of this trouble, would that, in your opinion, change the minds of any of these countries that now think the United States alone is to blame, assuming that our efforts are blocked by other members, particularly Russia or France?

Ambassador GOLDBERG. I think it would be helpful.

Senator AIKEN. That is what I think, too.

THE 1965 BOMBING PAUSE

One other thing: I noticed that the President on June 25, 1965, invited members of the United Nations to use all their influence individually and collectively to bring to the table those who seemed determined to make war. In December of that year there was a bombing pause of 37 days. On February 1 we did submit a statement to the Security Council. I was wondering why all this delay between June 25 and February 1, and why we did not go to the Security Council before we resumed the intensive bombing of North Vietnam? Is there a good reason for that?

Ambassador GOLDBERG. Well, yes, and I think it would be helpful, perhaps, if I also, with your permission, Mr. Chairman, offer for the record and include in the record the letter which I sent during the bombing pause to the members of the Security Council because that letter is quite explicit on the same subject you have asked, Senator Aiken.

(The letter referred to follows:)

LETTER DATED 4 JANUARY 1966 FROM THE PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA ADDRESSED TO THE SECRETARY-GENERAL

My Government has during the past two weeks been taking a number of steps⁸ in pursuit of peace which flow in part from our obligations under the United Nations Charter, of which we are most mindful, and in part from the appeals which His Holiness the Pope and you addressed just before Christmas to us and to others. I believe it would be of interest to you, in addition to what we have already communicated to you privately, and to all States Members of the United Nations to know more precisely what we have done, and what we have in mind.

You will observe that we have already responded in terms which go somewhat beyond the appeals earlier addressed to us. President Johnson dispatched messages, and in several cases personal representatives, to His Holiness the Pope, to the Secretary-General of the United Nations and to a considerable number of Chiefs of State or Heads of Government, reaffirming our desire promptly to achieve a peaceful settlement of the conflict in Viet-Nam and to do all in our power to move that conflict from the battlefield to the conference table. In this connexion, our bombing of North Viet-Nam has not been resumed since the Christmas truce.

Among the points made in our messages conveyed to a number of Governments are the following: that the United States is prepared for discussions or negotiations

without any prior conditions whatsoever or on the basis of the Geneva Accords of 1954 and 1962, that a reciprocal reduction of hostilities could be envisaged and that a cease-fire might be the first order of business in any discussions or negotiations, that the United States remains prepared to withdraw its forces from South Viet-Nam as soon as South Viet-Nam is in a position to determine its own future without external interference, that the United States desires no continuing military presence or bases in Viet-Nam, that the future political structure in South Viet-Nam should be determined by the South Viet-Nameese people themselves through democratic processes, and that the question of the reunification of the two Viet-Nams should be decided by the free decision of their two peoples.

I should appreciate it if this letter could be communicated to all Members of the United Nations as a Security Council document. I should urge them in examining it to recall President Johnson's letter of 28 July 1965 to the Secretary-General in which the President invited all Members of the United Nations, individually and collectively, to use their influence to bring about unconditional discussions, and my letter of 30 July 1965 (document S/6575) to the President of the Security Council in which I said, *inter alia*, that the United States stands ready, as it has in the past, to collaborate unconditionally with members of the Security Council in the search for an acceptable formula to restore peace and security to that area of the world. I should hope that on the present occasion also organs of the United Nations and all States would give even more earnest thought to what they might do to help to achieve these ends.

(Signed) ARTHUR J. GOLDBERG.

Ambassador GOLDBERG. When I returned from my trip to Europe while the bombing pause was in effect, I immediately canvassed the members of the Security Council about bringing it to the Security Council while the bombing pause was in effect, and as my letter, public letter, indicates, the feeling there was that since private diplomatic efforts were underway, including direct approaches between our Government and Hanoi, which are adverted to in the letter without going into details that would be inappropriate, that a public airing of the matter in the Security Council would militate against those diplomatic efforts. Since this was the consensus of the members of the Security Council, we made the decision that we ought not then to go.

REACTION OF U.N. MEMBERS TO INTENSIFICATION OF BOMBING

Senator AIKEN. What is the reaction of the members of the U.N. to the intensification of the bombing of North Vietnam over the last month or so? Have you noticed any change in attitude?

Ambassador GOLDBERG. Yes. Well, I think the debates in the General Assembly indicate concern about the intensification of the war, including concern over what you have mentioned.

Senator AIKEN. Does it create enough apprehension so that the members of the U.N. might take another look and decide that perhaps they ought to take action and stop this war before it expands to include some of them?

Ambassador GOLDBERG. Well, I would hope that the continuance of the war, the things that have happened, would create that feeling that you talk about. But I doubt very much, in all candor, that those who take the line, which is very hard to understand, that there is no competence even to support a Geneva meeting, that they will change their minds. But we have to persevere in the effort.

Senator AIKEN. You know how in a political campaign it is the independent voter whose support we try to get. That ought to be true in the United Nations, too, assuming there are any independent voters. I think there are.

PARTICIPATION IN FORMULATION OF U.S. VIETNAM WAR POLICY

I have another question. You may answer it or not, just as you like. Did you or Mr. Sisco participate in formulating our government's Vietnamese policy in carrying out of the war?

Ambassador GOLDBERG. I would like to say this: I am often talked to about these matters, but I do operate under the restrictions that are imposed by the United Nations Participation Act by Congress, which I think are appropriate restrictions. At the U.N. I state the viewpoint of the U.S. Government as determined by the President, and I have participated in many meetings, however, on the subject of Vietnam.

Senator AIKEN. I notice in the last paragraph of your statement you say that you promise to persevere with all the resources at your command to the end that the the Security Council may carry out its clear responsibilities under the charter with respect to Vietnam.

Now, the resources at your command would be whatever the President decides you should have?

Ambassador GOLDBERG. That is correct, and I am confident that those resources will be available if the Senate sees fit to pass this resolution.

Senator AIKEN. Of course, I will say this. It is entirely possible that the President and the Secretary of State might not see eye to eye on the degree of resources which you should have.

Ambassador GOLDBERG. Well, I know only one way to use my resources and that is to use them fully. I don't know any other way to use them.

Senator AIKEN. Yes, I am saying that. That is all, Mr. Chairman. The CHAIRMAN. Senator Mansfield?

LIMITATIONS APPLICABLE TO THE UNITED NATIONS

Senator MANSFIELD. Mr. Ambassador, I want to congratulate you on an excellent statement. I think you have put the question in proper perspective before this committee. I very much appreciate the colloquy between you and the Chairman of this committee relative to the limitations which apply to the U.N., and a recognition of the fact that it is not the U.N. which will make the final decision but, let us hope, something like a reconvened Geneva conference.

This resolution does not hand you any blank check, and I think that ought to be kept in mind. Nor does it allow, if it is passed, any authority to the U.N. to dictate a peace in Southeast Asia.

MANSFIELD RESOLUTION IS ADVISORY

The pending resolution is entirely advisory, at least the resolution cosponsored by 58 Senators. It places the President in no straitjacket. It leaves the conduct of foreign policy on Vietnam where, in the end, only it can be, in the hands of the President.

In my view the adoption of this resolution would say to the President most respectfully, that the Senate hopes that he would see the desirability of trying again to open the question of Vietnam to formal consideration by the U.N. Security Council. Furthermore, we would say to him that we think it is desirable to take timely note of the deep concern over Vietnam which has been expressed by more than

100 nations during the current session of the General Assembly and try to convert these words of concern into a U.N. action for peace.

We would say further by the passage of this resolution, in effect, that if a U.N. contribution to peace is not forthcoming it ought not to be because this Nation has been unwilling to act positively under the charter.

On the contrary, we would ask the President to consider making clear to the world that this Nation will submit the issues of Vietnam to the formal procedures of the Security Council in an effort to move the search for solutions from the battlefield to the negotiating table.

In sum, the Senate resolution would suggest to the President that he consider acting on the premise that the U.N. could be a point of entry to the road to peace even if it is not the place where peace is negotiated in the end.

The U.N. may not prove useful in this connection, but no one can blame the President or this Nation of not acting in good faith to try to find out by an initiative involving votes who is willing to try for a just peace by this route and who is not willing.

In my judgment, win, lose, or draw, this Nation has everything to gain and nothing to lose by taking that initiative.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator MORSE.

COOPERATION IN SETTLEMENT OF VIETNAM ISSUE

Senator MORSE. Mr. Ambassador, I think you have made a powerful statement this morning. My prediction is, in light of future developments in Asia, it is going to be a historic one. I have in mind your views in regard to United Nations participation and settlement of this war from the very beginning. I think I violate no confidence by saying, at your invitation, I went to your Supreme Court office three days after your nomination and prior to your confirmation and we talked about my views in regard to United Nations responsibilities. You will recall at the time of the steel case we were down at the White House together and the President asked us to talk about it further.

I mention that only because I think many people do not know what the President's position was from the very beginning. There is no doubt that he has always welcomed appropriate United Nations participation and intervention in trying to seek a peace in Southeast Asia. And, as you point out this morning, as his Ambassador you have sought to serve that purpose on the part of the President.

It is true, as you point out in your statement, that I quickly endorsed the Mansfield resolution. In that record which you accurately quoted from, I pointed out I thought it was important that we build a bridge between the Congress and this Administration in trying to resolve some of these foreign policy differences. I think it is a great mistake when people don't want to cross those bridges. You have crossed one this morning by appearing before this committee in a public hearing, as I think you should have done, as you were always willing to do, and which I think is in keeping with our whole system of representative government.

SENSE OF MANSFIELD RESOLUTION

Of course, I think what we are saying in the Mansfield resolution, as the Senator himself points out, is that it is up to the President to submit such proposal as he may decide to once he gets this sense of the Senate resolution. There is not anything that stops him from presenting any kind of a resolution before the U.N. he wants to, including some of the aspects of mine if he should decide that that would be appropriate.

This does not foreclose future action on the part of the Congress if in its wisdom it decides to take some of the proposals of my resolution. There is a great difference, of course, between my resolution and the Mansfield resolution in that I would have my country—but the President can do that if he deems it wise—make perfectly clear to some of our opponents in the United Nations, that we will accept its jurisdiction if it will carry out its corollary responsibilities of taking the steps to enforce the peace. That is what the charter calls for, to bring an end to a threat to the peace. I think you brought that out very clearly in your statement this morning. My resolution would have us make that commitment. It hasn't anything to do with transgression upon our sovereignty. If the Security Council or any other world force sought to transgress our sovereignty we would immediately withdraw from any such arrangement. I don't think there is any danger of it, but if there were, we would have sovereign rights.

CALLING ON ACTION BY THE GENERAL ASSEMBLY

But my resolution, however, provides for an alternative course, which you do not mention specifically in your statement. In section 2 of my resolution, "If the Security Council is unable to act, the United States should take all steps necessary to assure action on the issue by the General Assembly."

Now, I think it is probably very wise not to include that in the Mansfield resolution because it can be made known to our associates both in the Security Council and in the General Assembly if the Security Council does not take this great historic responsibility which is clearly vested in it, that in keeping with our determination to substitute the rule of law for military action we, of course, have the reserve right to go to the General Assembly. But I would like to have you make some statement this morning dealing with my hypothetical problem—God forbid it should become a reality. Let's assume no matter what the President seeks to get the Security Council to do, the Security Council just doesn't assume its clear responsibility under this charter to take action. What would be your position then in regard to the second part of my resolution, calling upon the General Assembly to do what it can to try to bring this war to an end?

Ambassador GOLDBERG. Senator, as a man with much longer and broader experience in labor negotiations than I have had, and I have had a bit of experience—

Senator MORSE. Much more than mine.

Ambassador GOLDBERG (continuing). I think you and I would agree upon one fundamental thing, that if we are going to make an effort in

the Security Council that perhaps it is better for me not to deal with the second aspect of that at this time because it assumes failure. I am not ready to assume failure.

Now, your resolution is not cast in those terms. It is cast appropriately and that is why I used the words "without prejudice" when I quoted you because I couldn't quote all that you had said, but for the purpose of making another effort, for the purpose of making another effort and using the great influence of a Senate resolution expressing the view of the Senate, I would hope at this time I do not have to cross that particular bridge. I have crossed one. I do not believe that in negotiating, and that is what we will be engaged in doing, that I ought to deviate from the concept with which you have agreed in your statement that the Security Council is the primary organ to keep peace and security recognizing, as we always have, we have been the major proponents of the view that the General Assembly does have a role, an important role, in this matter.

Senator MORSE. I am perfectly willing to accept your judgment as to the degree to which you ought to testify this morning. But let the record show I think some of us in the Congress, however, have the duty of carrying out our trust to make clear to the members of the General Assembly that we think they, as members of the General Assembly, have a responsibility to do what they can to bring to bear upon the Security Council a much greater interest than some of the members have shown in Security Council action.

Ambassador GOLDBERG. May I say, Senator, in this connection, that I deem, the mere fact that you tabled the resolution would be helpful to me in connection with my negotiation.

RECONVENING OF GENEVA CONFERENCE PROPOSED EARLIER

Senator MORSE. You spoke about reconvening of the Geneva conference. I proposed that some three and a half years ago, you may recall. I was castigated and attacked across this country and, I am sorry to say, by certain spokesmen for the Administration who were in opposition to the proposal that Senator Gruening and I made for a reconvening of the Geneva conference. They charged that Senators Gruening and Morse proposed negotiation with the Communists. What an awful thought the idea was. My reply was at long last I was accurately quoted and that is exactly what I proposed. Needless to say some many months later I was delighted to find the Administration taking exactly the same position Senator Gruening and I had taken when we first proposed a reconvening of the Geneva conference. Needless to say I am delighted that this remains your position, and, through you I am satisfied, is the position of the President, too.

EXPANDING MEMBERSHIP OF RECONVENED CONFERENCE

I have two questions on a reconvening of the Geneva conference. The reconvening of the Geneva conference could be at the recommendation of the Security Council. There is nothing in the charter that prevents the Security Council from, in effect, proposing to transfer this problem from the Security Council to the Geneva conference; is that true?

Ambassador GOLDBERG. That is correct and there are many precedents for that.

Senator MORSE. And there isn't anything that prevents expanding the membership of the reconvened Geneva conference by bringing in some nonmembers that have a vital stake, an immediate vital stake, in the war in Vietnam. That could be done, also, could it not, by agreement?

Ambassador GOLDBERG. By decision of the conference; that is correct.

Senator MORSE. Yes.

We may find ourselves in a position where that would be a most helpful suggestion to ultimately make, because you do have the argument as heard in some of these speeches in the General Assembly this fall about nonmember countries that have a vital interest, that they would not be on an even bargaining basis with others if they were called in just as consultants or called in as special invitees, but that they ought to sit, if you are going to have a reconvened Geneva conference, as voting members of that conference. I wanted to make that point for the record today. I have made it many times before.

EFFECT ON WORLD OPINION OF NEW U.N. RESOLUTION

I happen to think that it would be a very salutary thing on all world opinion if this Congress and this President and you as our Ambassador, could get together on a broad-based resolution in which we say to the world "we are ready and willing to submit this to an international law tribunal," in effect, using law in its broad sense, which either the Security Council or the General Assembly or a reconvened Geneva conference happens to be. For that shows that we continue to stand willing to submit this whole matter to the determination by way of legal procedures.

I hope that the press will take note of the commitments that you, in behalf of our Government and the President, made when you made your proposal for a reconvening of the Geneva conference. You went every step of the way, in my opinion, and that is what we ought to be talking about. It is true, as the Chairman and Senator Aiken have pointed out, we are getting a lot of criticism about our bombing in some of the General Assembly speeches. But if we substituted this resolution, made perfectly clear we are ready to implement it, that could end the bombing if they were willing to take jurisdiction.

I want to put them on the spot and take my Government off the spot, and I think the submission of this resolution will do exactly that, and it will test who really is acting in good faith.

I want to thank you very much.

Ambassador GOLDBERG. Thank you, Senator.

The CHAIRMAN. Senator Gore?

U.S. ATTITUDE TOWARD INVITING CHINA, NLF AND VIETCONG

Senator GORE. Mr. Ambassador, your testimony is welcome.

In the event that it is necessary to obtain nine votes for inscription of the subject and an invitation to mainland China and to the Vietcong to participate in the discussion is necessary, what would be the position of the U.S. Government?

Ambassador GOLDBERG. I made it clear in my statement, Senator Gore, that as far as governments are concerned the rules provide for it, we would not object, and that includes North Vietnam, South Vietnam, and Peking.

The charter provides, by the way, that governments may be invited.

With respect to groups such as the NLF, rule 39 of the Security Council is the applicable rule, and the United States would not stand in the way of groups, including the NLF being invited under that rule.

Senator GORE. You answer that in one respect the United States would "not stand in the way"; in another, the United States would "not object." The procedure with respect to inscription is such that if the United States withheld the ninth affirmative vote, would it not, in fact, be standing in the way?

Ambassador GOLDBERG. We would not prevent it from happening.

Senator GORE. I take it from that, you mean the vote of the United States, if it were necessary, would be forthcoming.

Ambassador GOLDBERG. I said we would not prevent it from happening. That is a natural inference from what I said.

Senator GORE. It is an answer which I interpreted as an affirmative answer. I don't know why you must speak in a roundabout way.

Ambassador GOLDBERG. I didn't intend it to be in a roundabout way. I thought, Senator Gore, I was being pretty explicit on the subject. There is this distinction. Even in the Geneva conference, as Senator Morse has pointed out, the conference has always been a conference of governments. The NLF is not a government, it has not been recognized by any country in the world as a government, including the Communist world. So that you have to treat this in two parts, that is why I put it the way I did. It was not intended to be evasive. Under rule 39 if the NLF or any other group—this is traditional in U.N. practice, even individuals are permitted to come to the Security Council under rule 39—we think that, if they desire to come—I put it that way because there is no indication of a desire to come—any group including the NLF as far as we are concerned can come and if they ask to come, we won't prevent it which means that our vote would be available if necessary to have them.

WOULD U.S. PROVIDE NECESSARY ONE VOTE?

Senator GORE. My question was, that if an invitation for their participation were a necessary part of the procedure, would the United States provide the necessary one vote in case there were eight others?

Ambassador GOLDBERG. Well, in light of the statements I have filed with you, Senator, the United States would not initiate an invitation. But if the Security Council—there was a feeling in the Security Council that they ought to be invited—we would join in that invitation.

Senator GORE. Good. I think that is a step forward.

Ambassador GOLDBERG. Along with other groups or any other group that might want to come.

Senator GORE. I understand.

CONTRADICTION BETWEEN STATEMENTS ON TWO VIETNAMS AND
ONE VIETNAM

Now, I would like to ask you a question or two in the hope of clarifying what appears to be a contradiction in your statement with respect to the President's statement and the Geneva accords. You may be able to clarify it.

In the resolution you provide for a "convening of an international conference for the purpose of establishing a permanent peace in South-east Asia based upon the principles of the Geneva Agreements."

Now, in section (b) on the same page you say: "That there should be no military forces or bases maintained or supported in North and South Vietnam other than those under the control of the respective governments." Then in section (d), you say "that the question of reunification of Vietnam should be settled peacefully by the Vietnamese people in both North and South Vietnam, without any foreign interference."

I refer now to a speech which President Johnson made before a joint session of the Tennessee State Legislature in March of this year, and I quote:

We believe that the Geneva Accords of 1954 and 1962 could serve as the central element of a peaceful settlement. These accords provide, in essence, that both South and North Vietnam should be free from external interference, while at the same time they would be free independently to determine their positions on the question of reunification.

Now, that seems to be the position which you, the President and the State Department have consistently taken. Yet I do not find it, as the President has said, in accord with the Geneva Agreements. Let me read you this. This is the final declaration of the Geneva Conference, July 21, 1954.

The Conference recognizes that the essential purpose of the agreement relating to Vietnam is to settle military questions with a view to ending hostilities and that the military demarcation line is provisional and should not in any way be interpreted as constituting a political or territorial boundary.

There are other references, but in order not to prolong my question, let me summarize by saying in no place in the Geneva accords is there a reference to North Vietnam or South Vietnam. It is Vietnam, one nation. Yet you and President Johnson refer to the two political entities acting independently. This appears to me to be a contradiction, and I want to afford you an opportunity to reply.

Ambassador GOLDBERG. I don't think there is any contradiction between any of us on this subject.

In 1954, when the Geneva accord was made, that Geneva accord, and indeed in 1962, the invitees were the Government of North Vietnam and the Government of South Vietnam. They appeared at that conference. Now, the question of reunification of the two parts of the country which were referred to then as zones, the question of reunification was to be left to a decision by election of the people in the south and the people in the north.

Senator GORE. Not acting independently. That is not provided anywhere.

Ambassador GOLDBERG. I don't understand now, Senator. Maybe I am obtuse, but I don't understand what the point of difference is.

NO REFERENCE IN ACCORDS TO INDEPENDENT ACTION BY TWO
POLITICAL ENTITIES

Senator GORE. Let me state it again. In no place in the Geneva accords is there a reference to independent action by two political entities.

Indeed it says that the demarcation line is provisional and should not in any way be interpreted as constituting a political or territorial boundary.

Yet, in President Johnson's speech he says that this accord provides in essence—I don't know where the essence is—

That both North and South Vietnam should be free from external interference, while at the same time they would be free independently to determine their positions on the question of reunification.

U.S. ATTITUDE TOWARD A REUNITED OR NEUTRALIZED VIETNAM

Do we favor or do we not favor a reunified Vietnam and would we accept as a basis of peace a neutralized Vietnam?

Ambassador GOLDBERG. That is for the people of South and North Vietnam to determine, not for the United States. The position that we favor is that by democratic means in a proper election which we conceive to be the essence of the Geneva accord, the people there, not the United States, decide whether they want a reunified Vietnam and we are prepared to accept the results of that free decision.

Senator GORE. Free decision taken by one country or two countries.

Ambassador GOLDBERG. Well, the two; whether you call them two zones, two countries, the people of the South and the people of the North each would have to vote under the essence of the Geneva accords to decide whether they wanted to be reunified.

Senator GORE. Are you saying you will accept a majority of the vote of all the people of Vietnam, all zones, all political opinions, pro-West, pro-East? Are you saying that?

Ambassador GOLDBERG. What I am saying is that under the Geneva accords as we understand them, and we have not heard Hanoi dispute this, there would be an election in the South as to whether they want to be reunified. In order to be a free election, it would be our position that there would be an election in the North as to whether they wanted to be unified. That would be a free election. If the two peoples North and South decide they want to be reunified we would not interpose any barriers.

Now I want to make another point if I may, Senator—

DEMARCATON LINE PROVISION IN GENEVA ACCORDS

Senator GORE. Before you leave that, may I just point out that this indeed does appear upon your explanation to be a contradiction.

Ambassador GOLDBERG. I don't think so. I am sorry to say that. I think it is perfectly consistent.

Senator GORE. But you have just referred to a decision by two political divisions.

Ambassador GOLDBERG. There are two political entities, Senator, in existence.

Senator GORE. But the Geneva accord provides, let me read again, "that the military demarcation line is provisional and should not in

any way be interpreted as constituting a political or territorial boundary."

Ambassador GOLDBERG. That is correct. We do not say that an election was not contemplated. In fact we reaffirm our support for that. I don't find anything inconsistent with that. On the contrary, I find it perfectly consistent. What is said there is that the people in the two zones—at that time they called them the two zones—should have a right to decide. Now there were many other provisions which indicated this character of the accords. There was a transfer of populations from one zone to the other, so that people could freely decide where they wanted to live. There were governments involved which have been recognized. For example, the Government of South Vietnam has been recognized by 60 countries. All this is to say is that the demarcation line is not the final line, but that by a plebiscite the people in the south could make their determination as to whether they want reunification, and the people in the north can make their decision by a free election.

Now, I want to point out something—

EFFECT OF A NEUTRAL AND INDEPENDENT VIETNAM

Senator GORE. It never was contemplated that there would be two elections, Mr. Ambassador. This is where the contradiction arises. It seems to me that where the U.S. Government seriously erred was in not seeking to create out of Indochina a peninsula area of independence, with true self-determination, but rather seeking to carve in South Vietnam something somewhat in its own image.

If this country had been willing to accept neutrality for all of Vietnam, we may indeed have had a friend, one that was truly independent of Red China. As it is, it seems to me we are inviting her to go into Red China's arms.

Ambassador GOLDBERG. Well, may I just make this comment, because I wanted to make something clear, regarding some reference to, I think, what the Chairman said and what is implicit in your statement. Our interpretation of the Geneva accord on the point of the elections has not been challenged, as far as I am aware, by anybody. In fact, in my general debate speech this year I put the interpretation, and I asked—this is a legitimate subject for discussion—whether the interpretation on this point is disagreed to by Hanoi. We have had no answer that it is in fact disagreed to. But, Mr. Chairman, you made a comment in reference to another part of the Geneva accord. We phrased it more generally by saying the question of reunification should be settled by the people of North and South Vietnam without foreign interference. Why did we do that instead of just reaffirming our traditional statement that it ought to be settled by an election? It is to prevent an additional obstacle being placed in the way of a settlement. There have been some indications from the NLF and Hanoi that the question of a reunification election is something that they would like to think about, and that the better way to determine whether there ought to be reunification would be negotiation between the North and the South. This doesn't come from us. This comes from these sources. So our formulation was designed to leave that open and not create an obstacle to negotiations. But we readily reaffirm the principle of the Geneva accords. We have inter-

preted them, we think, correctly. We have not had a disagreement about their interpretation, and we have enlarged it to include recent suggestions emanating from the NLF and to a certain extent from Hanoi that perhaps the better way to go about it would be for the two, North Vietnam and South Vietnam, to negotiate.

Therefore, in our present formulation, the one I used in the General Assembly "peaceful settlement by the people in both North and South Vietnam of the question of reunification without foreign interference." We regard that to be the key. The people there ought to decide their course.

ADMINISTRATION ATTITUDE TOWARD NEUTRALIZATION OF SOUTH VIETNAM

Now, as far as neutralization, we have said that we do not as a matter of principle, and I repeat here, do not, in any way oppose neutralization of South Vietnam if South Vietnam wants to be neutral. Why do I not extend it to North Vietnam? We would welcome the neutralization of North Vietnam, but I am being realistic. North Vietnam is a Communist regime, professedly so, and I don't want to put a barrier in the way of settlement by adding a new term since my idea is to have a settlement. If we, the United States, were to put forward a position today that the price of a settlement in Vietnam is "a neutralization of North Vietnam" we would be putting a barrier in the way of a settlement in light of the nature of their regime. So we have gone as far as we can reasonably go in saying that so far as U.S. policy is concerned, if the people of South Vietnam want to be neutral, nonaligned that is their decision, that is acceptable to the United States.

The CHAIRMAN. I think Senator Gore has raised a very valid point that has bothered me, but it seems to me this is the kind of question that the conference at Geneva should decide. We don't have to decide that in advance. It is a problem that has always bothered me.

Ambassador GOLDBERG. Yes, I would agree that is a proper subject within the competence of the conference. I gave an interpretation.

Senator GORE. Mr. Chairman, the contradiction has not been resolved at all. The resolution provides that the Geneva accord would be adequate basis for peaceful settlement. The Geneva accord does not make reference to two separate political entities; in fact, it definitely rules them out.

The CHAIRMAN. The Senator is correct, but there is a proposal for discussion before the Security Council to seek a reference. They don't have to accept this interpretation.

U.S. POSITION TOWARD NEUTRALITY AS BASIS FOR PEACE

Senator GORE. I know, but what is the position of the U.S. Government? This is the point at which I am aiming.

Ambassador GOLDBERG. May I answer it.

Senator GORE. Will we accept the neutrality of Indochina as a basis of peace? Will we, in fact, accept reunification, self-determination of one country? Will we, in fact, be satisfied with the Geneva accord as a basis for peace? It appears now that we will not.

The CHAIRMAN. I am not sure about that.

Ambassador GOLDBERG. I want to make it explicitly clear and it does not appear to be now. With due respect, I want to make it explicitly clear we accept the Geneva accord as a basis for peace. I also want to make it explicitly clear when we offer a resolution that is the offer. We are ready to hear other views, including the views of this committee. When I put a piece of paper for informal discussion, it is quite agreeable to me to put a piece of paper before the Security Council without going into controversial detail, saying we accept the Geneva accord as a basis for peace. We ask for the reconvening of the conference and we recognize the competence of the conference to settle, adjudicate it or related problems. I am perfectly willing to put that in the resolution and I think that meets your point of view, Senator.

The CHAIRMAN. The Senator from Ohio.

PRAISE FOR DOCUMENTATION OF U.S. EFFORTS IN U.N.

Senator LAUSCHE. Ambassador Goldberg, I am grateful to you for your very lucid presentation and documentation of the efforts of the United States to have the United Nations take jurisdiction of the Vietnam dispute.

Unfortunately through the propaganda of the Communists and in many instances through statements of uninformed individuals within our own country, the impression has been gained that we sought to escape the rights and the powers of the United Nations to intervene for the establishment of peace in areas of the world where violence existed.

Your presentation regrettably will not be heard fully by the people of the Nation. But the documentation which you have given refutes completely every argument that has been made that our Government has not extended its efforts to have the United Nations take jurisdiction.

I want to chronologically follow your presentation of what has been done. You cite the efforts of the Cambodian Government to have the United Nations check to ascertain whether or not there were unlawful transgressions on their border by the Communists. And the United Nations did take jurisdiction, but Cambodia finally dropped its petition. Is that correct?

Ambassador GOLDBERG. That is correct, Senator.

TONKIN GULF INCIDENT

Senator LAUSCHE. Now, we come to the Tonkin Gulf incident. We alleged that the Communists shot at our ships in the Tonkin Bay on August 2 and then again on August 4, 1964. When we called upon the United Nations to intervene would it have had the power to determine whether or not the claims we made were true?

Ambassador GOLDBERG. Yes, Senator, it would have had.

Senator LAUSCHE. We, therefore, said to the Communists, "You claim that you did not fire upon our ships? We are asking the neutral United Nations organization to take jurisdiction and make a finding." And we asked further that the United Nations use its offices to bring the dispute to the negotiating table and if possible to a peaceful end.

Ambassador GOLDBERG. That is correct, sir.

Senator LAUSCHE. Hanoi rejected that proposal; is that correct?

Ambassador GOLDBERG. That is correct.

Senator LAUSCHE. And Hanoi made this statement:

The consideration of the problem of the acts of war by the United States Government against the Democratic Republic of Vietnam and of the problem of the United States war of aggression in South Vietnam lies within the competence of the 1954 Geneva Conference on Indo-China and not in the Security Council.

In this statement Hanoi said that we were the aggressors in the Tonkin Bay and that we were the aggressors in South Vietnam. Is it a fact that under the resolution which you submitted you called upon the United Nations to decide that controversial point?

Ambassador GOLDBERG. I was not there at the time. Governor Stevenson was there, but that is essentially correct.

Senator LAUSCHE. That effort of the United Nations failed because of the opposition of Moscow and Hanoi. Is that correct?

Ambassador GOLDBERG. That is correct.

Senator LAUSCHE. Have Hanoi, Moscow, or Peking or the National Liberation Front at any time suggested that the United Nations take jurisdiction?

Ambassador GOLDBERG. They have never suggested that.

Senator LAUSCHE. Have they at any time given any indication that they would give approval to our efforts for the United Nations to take jurisdiction?

Ambassador GOLDBERG. They disapproved these efforts.

Senator LAUSCHE. We were not able to get the United Nations to take jurisdiction of the resolution which we offered in connection with the Tonkin Bay episode; is that correct?

Ambassador GOLDBERG. That is correct.

U.N. MEMBERS INVITED TO USE INFLUENCE TOWARD SETTLEMENT

Senator LAUSCHE. You say in your paper—

On June 25, 1965, President Johnson invited members of the United Nations "to use all their influence individually and collectively to bring to the table those who seem determined to make war."

That was about the time you were appointed Ambassador.

Ambassador GOLDBERG. That is correct. I was appointed a little later than that, but it was approximately the time.

Senator LAUSCHE. Did you proceed to make contact immediately with the different nations to get the United Nations to take jurisdiction?

Ambassador GOLDBERG. I did, Senator, and Senator Morse has correctly described the conversation we had in my chambers in the Supreme Court even before I was confirmed.

Senator LAUSCHE. It was evident that there was opposition from the Communists and that the efforts to get the United Nations to take jurisdiction could not materialize; is that correct?

Ambassador GOLDBERG. That is correct, Senator.

ATTITUDE OF HANOI DURING 1965 BOMBING PAUSE

Senator LAUSCHE. I come to the religious season of 1965. We stopped the bombing at that time. Was there any statement made as to how long the bombing would be discontinued before we began the pause?

Ambassador GOLDBERG. No, there was not.

Senator LAUSCHE. How long did we allow it to continue?

Ambassador GOLDBERG. The pause?

Senator LAUSCHE. Yes.

Ambassador GOLDBERG. Thirty-seven days.

Senator LAUSCHE. And during that pause of 37 days were or were not troops and implements of war being obtained from the north for South Vietnam, supplementing the supplies of the Communists in South Vietnam, and being used against our men?

Ambassador GOLDBERG. That is the information that our military authorities reported to the President.

Senator LAUSCHE. We waited for 37 days. Was there any gesture or word coming from North Vietnam that they would collaborate with us in getting the shooting stopped?

Ambassador GOLDBERG. There were, Senator Lausche, as I have reported, during that period both direct and indirect contacts with Hanoi, and there was no indication at that point of a willingness to come to a peaceful settlement.

Senator LAUSCHE. We then, after the expiration of the 37 days, resumed the bombing.

COMMUNIST ATTITUDE TOWARD SETTLEMENT UNDER THE GENEVA ACCORDS

Is it a fact that the Soviet Union, North Vietnam, and their allies repeatedly stated that the United Nations did not have the right to enter in but that this matter had to be settled under the Geneva accords of 1954?

Ambassador GOLDBERG. That is correct.

Senator LAUSCHE. Did you, after that statement was repeatedly made, begin to draw your proposal so as to give jurisdiction to the machinery in the Geneva accords to bring about a settlement?

Ambassador GOLDBERG. Yes, Senator.

Senator LAUSCHE. Is it a fact that the proposal which you offered did contain language allowing the United Nations, if it so determined, to turn this over to the machinery of the Geneva accords?

Ambassador GOLDBERG. Yes, Senator.

Senator LAUSCHE. After you made the proposal that the dispute be settled under the Geneva accords, and after the Communists said that it would have to be settled in conformity with the Geneva accords, has there been a compliance with these statements?

Ambassador GOLDBERG. They have not at any point, as I point out in my statement, been willing up until now to join in a reconvening of the Geneva Conference.

Senator LAUSCHE. In other words, their first excuse was that the United Nations did not have jurisdiction but that it had to be settled in accordance with the Geneva accords. You then drew up your documents to bring the dispute within the Geneva accords, but they have abandoned their initial statements.

Ambassador GOLDBERG. They have not been willing to join in a reconvening of the Geneva Conference which they assert is the appropriate forum.

Senator LAUSCHE. Have you been, ever since you became Ambassador, prosecuting the purpose of the President and the purpose of

the people of the United States, to try to get either the machinery of the Geneva accords or the United Nations to take jurisdiction?

Ambassador GOLDBERG. I have tried to do my best in this connection.

Senator LAUSCHE. I know you have, and I think you have done a remarkable job.

That is all, Mr. Chairman.

The CHAIRMAN. Senator Symington?

Senator SYMINGTON. Mr. Ambassador, I join my colleagues in commending you for the superb job you are doing in your present work. The American people owe you a great deal for your work as a patriot, in many fields.

DUALITY OF UNILATERAL ASPECT OF VIETNAM

May I first ask that you review the questions presented by Senator Gore incident to the duality of the unilateral aspect of Vietnam. Perhaps you would add something further for the record in your answer.

I was very interested in the dialog.

Ambassador GOLDBERG. Well, I thought we had come to a general consensus, if I may use that word. I think the Chairman supplied the necessary elements. We are for, as I have plainly stated—

Senator SYMINGTON. I would rather not give up my time now. If you have anything more you would like to supply for the record—

Ambassador GOLDBERG. Yes.

Senator SYMINGTON. Because I have three questions.

Ambassador GOLDBERG. May I just finish my little summary that we are for the convening of the Geneva conference. We believe it ought to be the 1954 and 1962 because there are problems in Laos and Cambodia as well as in Vietnam. There are related problems, involving Thailand. We would recognize the competence of the conference to decide the invitees, the scope, and to enter into resolution of any disputed question of interpretations. I thought on that basis I certainly accepted that statement.

EFFECT OF U.S. BOMBING PAUSES

Senator SYMINGTON. As you know, there has been a great deal of suggestion about stopping the bombing. It has never been understood by some of us why stopping that part of the war we were doing best at, and keeping the other going, was particularly advantageous.

Based on four extended trips into that theater in the last 18 months, I am convinced all six times we stopped, helped the enemy and increased our losses.

Therefore, I have suggested that we announce, as of a certain date, the United States would have a complete cease-fire; and also announce its willingness to approve the South Vietnamese Government starting negotiations with the Vietcong and/or the National Liberation Front. With those thoughts in mind, I am interested in the draft resolution under (b) where you talk about bases—

That there should be no military forces or bases other than those under the control of the respective governments, and all other troops and armed personnel should be withdrawn or demobilized, and all other military bases abolished as quickly as possible . . .

Are there two types of bases that you have in mind in that paragraph?

Ambassador GOLDBERG. No, there are not. I meant the same thing. Senator SYMINGTON. Thank you.

MORAL AND VERBAL SUPPORT SOUGHT

In February 1966, as I understand it, 12 of those who voted on your original suggestion are countries we have supported heavily with economic aid, or military aid, or both. I would ask, when you discuss the question with them as to whether they will help us get to a substantive position in the Security Council, do you suggest that if it is right for us to be there on any basis we are defending them as well as ourselves; and inasmuch as they have given us no physical or economic support in this defense of freedom the least they could do would be to give us some moral, verbal support to get to that international conference table in which you are interested.

Ambassador GOLDBERG. I think knowing me for a long time, you would realize that I use any relevant argument in support of our position.

Senator SYMINGTON. Well, I have known you for a long time, and am very proud to have you as a friend, and can say I never knew a more able negotiator.

With that premise, I would ask my third question.

EFFECT OF GETTING DISPUTE IN THE GENERAL ASSEMBLY

Regardless of whether or not there is still an international Communist conspiracy along the lines we once believed, which I don't believe is now true, it is fair to say the Soviets have made major advances in the Middle East, not only in the Eastern Mediterranean, but also in the Western Mediterranean. They also know that some of our allies, former close allies, are now openly hostile to us. They know that other allies are in very deep financial trouble, which would be exacerbated if they lost their oil holdings in the Middle East. They see us spending figures ranging from \$2 to \$3 billion a month in Vietnam. As an able negotiator in all your past work, why should they trade on any basis of moral law to get us to let them withdraw their veto on a substantive matter in the Security Council when they realize the degree that we are expending our treasure and lives in this Vietnam operation. Why would they be interested? I ask this with great respect because the next question would be, isn't there some way we could get it into the General Assembly, where, as I see it, your leverage would be so much greater?

Ambassador GOLDBERG. Yes.

Well, I have answered in response to a very precise question of that by Senator Morse.

Senator SYMINGTON. That was on the basis of the law aspect. I don't think you will ever get the Soviets, the way things are going in the Far East, to be interested in giving up their veto in the Security Council, regardless of any expertise about law, or the persuasiveness of our people.

On the other hand, if we could get it to the General Assembly, I think you might well have a chance for some form of practical success.

Ambassador GOLDBERG. Well, I have felt that we ought not to cross that bridge until we come to it. And I have also felt an expression of opinion on my part would not be helpful in the further discussions we have to undergo.

It might be misinterpreted. It might be interpreted to mean we are swinging another club, and I have never felt that is helpful in negotiations so I have confined myself to the Security Council aspect.

Now, I happen to believe, the Soviets haven't agreed, that their self-interest which dominates their policy, as indeed our self-interest dominate ours—the self-interest of nations is a very large element in every country's policy—that their self-interest like our self-interest is served by a stabilized situation, a peaceful situation in Southeast Asia, as I believe it is also in the Middle East.

I also believe that the one word that can never be used is "never," and we just have to try again, to try to bring this home.

I said I am keenly disappointed, I have not been successful, and in that I don't mind saying that I regard my mission at the U.N. to be a significant failure in that respect.

But I shall try again.

SOVIET ATTITUDE TOWARD U.S. INVOLVEMENT IN VIETNAM

Senator SYMINGTON. You stimulate me to ask one more question, and it is entirely up to you as to whether or not you would like to answer.

If the premise is that the Soviets would like to have warm water, which the czars wanted for so many years, and which has much increased in value because of oil discoveries, and if there is any concept of imperialism in the diplomatic developments of the Soviet nation, do you think it is against their interest to see us spending this type and character of heavy money in the Far East while other political pots are simmering all over the world? Or do you think they would feel it to be in their interest to have all this go on in a stalemate?

Ambassador GOLDBERG. That is a long subject, Senator.

Senator SYMINGTON. It is a pertinent one. We have been hearing a great deal about it.

Ambassador GOLDBERG. It is a serious one. I don't think I would like to address myself to that in this posture.

Senator SYMINGTON. Thank you, Mr. Ambassador. You are a great public servant.

The CHAIRMAN. Senator Pell?

Senator PELL. Thank you, Mr. Chairman.

Ambassador Goldberg, my admiration for your willingness to take on tremendous tasks is always very high indeed, and I agree with you; you have to keep a certain spirit of optimism or the world becomes a pretty dreary place. Also, I share some of Senator Symington's views here because I realize that the Soviets are spending a twentieth of what we are in money and the Chinese a sixtieth and not losing a man in Vietnam, so I do not see any great percentage for them to help us attenuate this conflict.

SOVIET ATTITUDE TOWARD ATTENUATION OF VIETNAM CONFLICT

In this context, I would like to ask a specific question and it is a subjective one: Is it your view from your conversations with your

Soviet opposite number in New York, Ambassador Fedorenko, that he would like to see personally the conflict attenuated or not?

Ambassador GOLDBERG. Ambassador Fedorenko perhaps even more than myself always to the last dot reflects the views of his government. Senator PELL. Thank you, Mr. Goldberg.

IS CESSATION OF BOMBING PREREQUISITE TO SETTLEMENT?

I have been struck by the unanimous recommendation of all the witnesses who have come up on the Mansfield and Morse resolutions heretofore to the effect that we didn't have a chance of securing action in the Security Council unless there was a cessation of the bombing first. Each witness stated this in the record.

I was wondering what your own views were with regard to this point.

Ambassador GOLDBERG. Well, my own view about that is that at the moment that is probably not the determining factor. It may affect, as I said, other countries, but the determining factor from the standpoint of countries that could obstruct Security Council action has been this concept of no competence, because Hanoi says no competence. But, as I have said, I don't think it serves their interest to pursue that, and I am going to make another effort.

Senator PELL. But would it not be correct, to put it in a more affirmative way, that the chances of success of some positive action involving either resolution would be better if there were a cessation of the bombing?

Ambassador GOLDBERG. I don't, frankly, know the answer to that question because of the experience that we had during the bombing pause.

Senator PELL. Excuse me for interrupting, I do not mean a bombing pause. I am among those who are rather concerned at the idea of a pause because I can see the thing blowing up further at the end of it. I mean cessation.

Ambassador GOLDBERG. Even with respect to that. You will remember I said that at that time when we were engaged in an indefinite pause, I consulted. Now, the viewpoint then on the part of many countries was that if this was the situation we ought to develop private diplomacy. If we brought it to the Security Council, there would be a public exposition, people would have to take a position, and it would be far better, therefore, to explore by private diplomacy the prospect of another forum, the Geneva conference, and so on.

So I really cannot honestly say.

I will say in candor, in answer to your remark, that I have no doubt that that would affect the judgment of some. But with respect to those countries that can obstruct the action, those with the veto power, at the moment I don't think it would affect their judgment.

Senator PELL. Right. I appreciate your position, and your official position, too. But I think the record should very clearly show that every witness who has come here on this resolution has specifically stated that the resolution did not have a chance unless there was a cessation of the bombing.

Ambassador GOLDBERG. Senator, I might say this is a subject I am quite prepared to talk about; we talk about everything in negotiating a resolution, but I am quite clear in my own mind that on the basis of every talk I have had this is not the determining factor

for the Soviet Union and perhaps France, but that does not mean that we ought not to try.

Senator PELL. Thank you.

VIETCONG MILITARY BASES AND FORCES

Finally, I have one specific question on your testimony in connection with the draft resolution, section (b), the same one that Senator Symington drew our attention to. It says—

That there should be no military forces or bases maintained or supported in North or South Vietnam other than those under the control of the respective governments, and all other troops and armed personnel should be withdrawn or demobilized * * *.

Does this apply to the Vietcong?

Ambassador GOLDBERG. Yes.

By the way, this is not intended to be a formulation of ours. This is intended to be our interpretation of what the Geneva accords would require, and again this was put, and specifically put by me in the form of a question to the other side, is there disagreement that this is what the Geneva accords require?

Senator PELL. But would this not, in fact, be almost a preventive factor in anything coming out? In other words, would it be conceivable, in your view, that that portion of South Vietnam which is under Communist discipline or Vietcong discipline would willingly drop its weapons and demobilize while those portions which are under the Ky government's regime maintained their weapons?

Ambassador GOLDBERG. Again, I would answer in terms that the Chairman put it. This is what the Geneva accords, in our view, provide; and there is a matter which ought to be discussed in the Geneva conference as it was discussed in 1954 and in 1962. There were decisions made in both 1954 and 1962 about the disarming of irregular forces, and this obviously would be a subject appropriate for discussion in the Geneva conferences. This is not put forward to be any barrier.

Senator PELL. I understand.

Ambassador GOLDBERG. As I said, the language of the resolution is subject to discussion. This is intended to be a statement in response to the statement very often made that we don't state what we think about the Geneva accords. This is what we think. We are ready to talk about what other people think about the Geneva accords.

Senator PELL. Right. I think we have made a great step forward here today in the assertion of our willingness, if necessary, to negotiate with the representatives of the NLF because that has been an inhibiting factor.

Ambassador GOLDBERG. Well, I think the President has frequently said that is not an insurmountable problem, and I was repeating it in that context.

Senator PELL. I understand and I thank you very much and I think we are very lucky indeed to have you as our Ambassador to the United Nations, and I wish you the best in your efforts along this line.

Ambassador GOLDBERG. Thank you.

The CHAIRMAN, Senator McCarthy?

U.S. WITHDRAWAL OF TROOPS FROM VIETNAM

Senator McCARTHY. Mr. Ambassador, I have a few questions, one which moves on from the reference Senator Pell has made to your discussion of the Geneva accords. Do I understand that this is the Administration's position in the United Nations, should these other conditions prevail: that you would withdraw troops?

Ambassador GOLDBERG. This is what the Geneva accords provide and we said we would be willing to use them as a basis for settlement.

Senator McCARTHY. Is this limited to what happens in Vietnam?

Ambassador GOLDBERG. I am sorry I am not following you.

Senator McCARTHY. The consideration of whether you would withdraw is limited to what might happen in Vietnam. Does this have reference to other parts of Southeast Asia or not?

Ambassador GOLDBERG. We are also very interested in observance of the 1962 accords in Laos, very much so. We would like the Laos accord to be complied with.

Senator McCARTHY. Where would this leave us in the light of what the Secretary of State said in his rather well publicized press conference of October 12 when he talked about the threat of a billion Chinese with nuclear weapons to all Southeast Asia and beyond that to the United States itself?

Are we going to leave this critical area open to a billion Chinese if the question of South Vietnam should be settled within the limits you have defined or not?

Ambassador GOLDBERG. I think that question ought to be addressed to the Secretary of State.

Senator McCARTHY. All right, I will ask the Secretary.

Senator PELL. When?

Senator MORSE. Where? [Laughter.]

IS PROCEEDING THROUGH THE U.N. AN EXERCISE OF FUTILITY?

Senator McCARTHY. One other question relating to that press conference. You seem to think that proceeding this way through the United Nations is worthwhile, at least the efforts you are talking about, even though it may not come to very much.

Now, the Secretary, when he held a press conference, said about what you have said in terms of process but then said, "On the other hand, there are some problems about going through an exercise of futility, if this is what it appears to be, to satisfy some critics among our own people."

This is not particular to the process he was thinking about. But, on the record, you don't think this is necessarily an exercise of futility?

Ambassador GOLDBERG. If I thought it was an exercise of futility, I would not engage in it.

Senator McCARTHY. Very good. Thank you very much.

IDEOLOGICAL CONCEPT BEHIND FIGHT IN VIETNAM

The CHAIRMAN. Senator Symington raised a question that prompts another question about a rather broad aspect of this problem. It reminds me of a statement made by the Secretary General of the United Nations, Mr. U Thant, in a speech on July 30 of this year. He not only implied, but he stated, that the war in Vietnam was being fought

against an ideological concept, and that the motivating force was really nationalism and not communism.

That bears particularly on what the Senator from Missouri thinks and I think it is a very important question.

In that speech, U Thant said as follows:

I have repeatedly stated how wrong it is to regard the war in Vietnam as a kind of holy war against a particular ideology. I have expressed the view that the motivating force on the part of those who are being charged with this ideology is really a strong sense of nationalism, a desire to win their national independence and establish their national identity. It is nationalism, and not communism, that animates the resistance movement in Vietnam against all foreigners, and now particularly against Americans. Those Vietnamese who have fought and still fight against foreigners do so to win their national independence. I am convinced that the war cannot be brought to an end until the United States and her allies recognize that it is being fought by the Vietnamese, not as a war of communist aggression, but as a war of national independence.

Would you care to comment on that? I think it is significant.

Ambassador GOLDBERG. I can give a personal assessment of it, which is what it would be.

I rather think it is a combination of both, and I stated my views with respect to the other aspect of that in my general debate speech in 1966, in which I said "We are not engaged in a holy war against communism. We seek no permanent military bases, no permanent establishment of troops, no permanent alliances, and no permanent American presence of any kind in South Vietnam. We do not seek to impose a policy of alinement on South Vietnam. We do not seek to overthrow the Government of North Vietnam." That expresses my philosophy.

Senator GORE. Mr. Chairman, would you yield just on that point?

The CHAIRMAN. Yes, I yield.

COMMUNIST REGIME IN NORTH VIETNAM

Senator GORE. Yet in this exact connection in colloquy with me earlier about the question of reunification and self-determination on the basis of the entire country, the Ambassador said, "The North Vietnamese regime is a Communist regime."

Now, that is a fact which I do not dispute. But what does it prove? So do the Soviets have a Communist regime, so does Yugoslavia, to whom we have been giving aid for many years. So is the Government of Poland with whom we are now prosecuting trade relations and seeking exchange of cultural relations. So is Cuba a Communist regime. It seems we feel burdened that we must rid Vietnam of communism. This is different from the policy which is involved with respect to Communist regimes in other countries. We have gone to great extents to improve relations with the Soviet Union. We approved a consular treaty. We entered into an agreement regarding nuclear weapons and outer space. Yet it is a Communist regime.

This is why I wanted to put this question in connection with what you have raised.

QUESTION OF OUR PRINCIPAL PURPOSE IN VIETNAM

The CHAIRMAN. As I said before, I think the Senator raised a very pertinent question about our principal purpose. I don't wish to misstate it but at least my impression from the report as it was carried

in the newspaper was that our new justification for this was to resist what the Secretary maintains is Asian communism, going beyond even Vietnam communism or any specific communism. He expresses it in purely ideological terms, and it confuses me, at least, as to just what is our attitude toward the nature of the conflict. It may have a very significant bearing upon whether or not a solution can be found. If it is an ideological conflict, then these other considerations of national interest may have different bearing upon our proper policy.

RHETORIC OF THE ADMINISTRATION

And the rhetoric of the Administration, it seems to me, often includes this language of the Communists. When we refer to the people we kill, we don't say we killed Vietnamese or we killed human beings, it is we killed Communists as if they were a kind of species quite different from other human beings. I don't think it helps clarify the problem.

I am not sure it is your responsibility to clarify this, but it was brought up and I wondered if you could help us a bit.

Ambassador GOLDBERG. Mr. Chairman, and Senator Gore, I don't think it is appropriate for me nor do I think the Secretary of State needs an explanation or defense on his part. He is the Secretary of State and I am the American representative at the United Nations. He can speak for himself.

The remark I made about the Hanoi regime was in the discussion about neutrality and I was trying to answer to that and I said—you undoubtedly agreed with what I said—that the Hanoi regime is a Communist regime. They don't deny that and I didn't say it in any other context. I quoted the speech I made which was made with the authority of the American Government.

I cannot make any speeches other than with the full authority of our Government as an expression of our policy when I made it, and as something I agree with. And beyond that, I do not think it is appropriate for me to go.

DEFINITION OF A COMMUNIST COUNTRY

The CHAIRMAN. Yugoslavia, I might note, calls itself a nonaligned country. I am not quite sure what the distinction is between that and a neutral country. I am not fully aware of her treaties of defense with other Communist countries. She, in recent years, led a move of some 17 nonaligned countries, seeking a solution of the Vietnamese war, didn't she?

Ambassador GOLDBERG. Yes, and we responded to that favorably.

The CHAIRMAN. Yes. So it doesn't necessarily follow that a Communist country cannot be either neutral or nonaligned, does it?

Senator McCARTHY. I just want to say that I don't think we ought to press the Ambassador.

The CHAIRMAN. I don't want to press him. I raise it because Senator Symington raised it as a question for consideration.

Senator McCARTHY. We do have problems of definition here. When we get the Secretary of State sometime we will try to get an initial

interpretation of meaning so we can understand better ourselves. We don't understand it is necessary for the Ambassador, as properly as you have conducted yourself, as you always do as Ambassador, to answer.

The CHAIRMAN. I don't wish to press the Ambassador. It is a question, however, that arises in connection with what we should do.

Senator McCARTHY. I would like to ask him another question about a word, but I won't. I see that the Secretary stated in his press conference on the 12th, he talked about the Chinese as pursuing what he called ideological adventure.

I know that is different from the adventures that the Vice President talked about the other day.

It is an unusual coincidence.

PRESSING FOR A VOTE IS URGED

The CHAIRMAN. I want to strongly urge that you press for a vote. I understand that is your position. In other words do not let the fact that you fear you may not get nine votes deter you from asking for a vote.

If you don't get but one vote I would prefer that to no vote. I again say I think that, under present conditions, this is the best possible approach I can think of that you are proposing to follow.

SUBMISSION OF PROBLEM TO U.N. UNDER SEATO TREATY

Lastly, I wish to submit questions regarding another matter which relates to taking this matter to the U.N. I would respectfully ask that you comment upon them at your leisure afterward. I don't want to take the time this morning. It has to do with why our Government, not you, did not submit this matter immediately under the SEATO Treaty, article 1, to the United Nations Security Council. I don't want to take your time now so the questions will be given to you. In the meantime, I will submit for the record an exchange of letters with the Department of State bearing on this question. It is of interest to the committee.

(The letters referred to follow:)

MAY 9, 1967.

HON. DEAN RUSK,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: In view of the Administration's position that our involvement in Vietnam is pursuant to a commitment under the Southeast Asia Treaty, questions have arisen concerning the reports to the Security Council required under paragraph 1, Article 4, of action taken under that provision. It would be helpful to the Committee in evaluating the applicability of the treaty if you could provide us with answers to the following questions:

1. Has SEATO as an organization submitted a report to the Security Council of measures taken under paragraph 1?

2. The United States has taken the position that it is committed to act individually in the event of armed attack. Does the Department consider that we are also committed to report such action to the Security Council in the absence of a formal report by SEATO as an organization?

3. Has the United States submitted reports to the Security Council specifically referring to fulfillment of the reporting requirement? If so, when?

4. Have Australia, New Zealand, the Philippines or Thailand submitted reports to the Security Council pursuant to the treaty provision?

Sincerely yours,

J. W. FULBRIGHT, *Chairman.*

DEPARTMENT OF STATE,
Washington, May 18, 1967.

Hon. J. W. FULBRIGHT,
*Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of May 9, concerning reports to the UN Security Council under paragraph 1, Article 4, of the Southeast Asia Collective Defense Treaty. The United States, in keeping with Article 51 of the UN Charter and Article 4, paragraph 1 of the SEATO Treaty, has periodically informed the UN Security Council about the actions we have taken in Viet-Nam. In addition, the United States, as you know, has twice requested the UN Security Council formally to consider the Viet-Nam situation.

The following comments are in response to your specific questions:

1. Has SEATO as an organization submitted a report to the Security Council of measures taken under paragraph 1?

Response: Under Article 4, paragraph 1, each Party to the Treaty assumes certain obligations in accordance with its constitutional procedures. The Article provides that: "Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations." The sentence does not specify by whom the reporting is to be done. SEATO, as an organization, has not acted under Article 4, paragraph 1, and there has been no occasion for the organization to make reports to the Security Council.

2. The United States has taken the position that it is committed to act individually in the event of an armed attack. Does the Department consider that we are also committed to report such action to the Security Council in the absence of a formal report by SEATO as an organization?

Response: The United States has taken the position that its obligation under the SEATO Treaty to act in accordance with its constitutional processes to meet the common danger of Communist armed attack is individual as well as collective. The Department of State considers that the United States has an obligation both under the SEATO Pact and the UN Charter to ensure that measures taken by it under Article 4, paragraph 1 of the SEATO Treaty are reported to the UN Security Council and we believe that our reports have met these obligations.

3. Has the United States submitted reports to the Security Council specifically referring to fulfillment of the reporting requirement? If so, when?

Response: The communications from the United States Government to the United Nations regarding US actions and policies in Viet-Nam have not specifically cited either Article 51 of the United Nations Charter or Article 4, paragraph 1 of the SEATO Treaty, but they have been submitted in fulfillment of these obligations. Neither provision would appear to require that specific citations be made in a report.

I am enclosing a paper which summarizes various reports and approaches to the United Nations on Viet-Nam. The measures which the United States has taken to inform and involve the Security Council in particular appear at items 5, 7, 8, 10, 11 and 12. In addition, the United States Government has attempted to keep both the General Assembly and the Secretary General fully informed on Viet-Nam, as reflected by items 10, and 13 through 16.

4. Have Australia, New Zealand, the Philippines or Thailand submitted reports to the Security Council pursuant to the Treaty provision?

Response: Insofar as we are aware, Australia, New Zealand, the Philippines and Thailand have not submitted separate reports to the UN Security Council concerning their action in meeting the common danger in Viet-Nam. The policies of these governments in the Viet-Nam situation have been made clear to members of the United Nations, particularly in their addresses during the debates of the General Assembly.

If I can be of further assistance at any time, please do not hesitate to let me know.

Sincerely yours,

WILLIAM B. MACOMBER, JR.,
Assistant Secretary for Congressional Relations.

[Enclosure]

UN INVOLVEMENT IN VIET-NAM

1. *Thai Complaint Against Viet-Minh Activities*

On May 29, 1954, Thailand brought the situation in Indo-China to the attention of the Security Council, stating that Viet Minh forces remained in Laos and Cambodia with the intention of overthrowing the legal governments of these states. A Thai draft resolution requesting the aid of the Peace Observation Commission was vetoed by the Soviet Union.

2. *Question of Laos*

On September 4, 1959, the Foreign Minister of Laos asked for the assistance of the United Nations to halt aggression along the northeast frontier of Laos by elements from North Viet-Nam. The next day the Security Council met and adopted a procedural resolution asking that a sub-committee composed of Argentina, Italy, Japan, and Tunisia visit Laos and report to the Council on the situation there. The sub-committee visited Laos between September 15 and October 13, 1959. Its report stated that the military actions in Laos were of a "guerrilla nature" but that it appeared that certain of the hostile operations "must have a centralized coordination." The UN Secretary-General also visited Laos in November 1959 in order to inform himself fully on this problem. The SC took no further action.

3. *Question of Human Rights in South Viet-Nam*

On September 4, 1963, fourteen United Nations Members requested the inclusion in the agenda of the 18th General Assembly of an item entitled the "Violation of Human Rights in South Viet-Nam." After inscription of the item, the Government of the Republic of Viet-Nam extended through the President of the General Assembly and the UN Secretary-General an invitation to the representatives of several Member states to visit Viet-Nam to determine the real situation regarding the relationships between the Government and the Buddhist community of Viet-Nam. In response, the President of the Assembly on August 11, 1963, announced the appointment of a Mission composed of Afghanistan, Brazil, Ceylon, Costa Rica, Dahomey, Morocco, and Nepal. The Commission visited South Viet-Nam from October 24 to November 3, 1963, and conducted numerous hearings on this question. Before the Mission completed its work, the Government of the Republic of Viet-Nam was overthrown. The Mission submitted a lengthy report to the General Assembly dated December 7, 1963. The report did not, however, set forth any general conclusions regarding the charges against the Vietnamese Government. The Assembly took no further action.

4. *Cambodia-Viet-Nam Border*

In May 1964, Cambodia complained to the UN Security Council of South Vietnamese military incursions into Cambodian territory. At that time the United States and the Republic of Viet-Nam suggested that some form of UN presence might be established on the border. The Security Council sent a mission of three of its members (Brazil, Ivory Coast, Morocco) to examine the border situation and make recommendations as to how such incidents could be avoided. These recommendations included a UN observer group to be stationed on the Cambodian side of the frontier. The Cambodia Government announced it could not accept the Mission's report or its recommendations to the Council.

5. *Tonkin Gulf*

In August 1964, the United States requested a meeting of the Security Council to consider the serious situation created by North Vietnamese torpedo boat attacks on United States destroyers in international waters. In addition to hearing the U.S. complaint, the Council invited both North and South Vietnam to provide such information relating to the issue as they desired to make available, either by taking part in the Council's discussion or in whatever way they preferred. South Viet-Nam offered the Council its full cooperation. The Hanoi regime responded that the Security Council "has no right to examine the problem" and that any Security

Council decision would be considered "null and void" by North Vietnamese authorities. The Council adjourned without taking further action on this matter.

6. *Cambodian Charges of US/GVN Use of Poisonous Chemicals*

The Cambodian Government charged in a letter to the UN Security Council dated July 28, 1965, that South Vietnamese aircraft had dumped "toxic powder" on Cambodian territory, resulting in loss of life and damage to crops. The letter linked this operation to the "chemical warfare" conducted by U.S. and South Vietnamese forces in Viet-Nam. On August 3, the United States replied that no U.S. or South Vietnamese aircraft had conducted chemical operations of any character whatsoever at the places and times indicated in the Cambodian allegation. After the Cambodian Government renewed its charge, the United States requested in a letter to the Council dated August 14 that the Cambodian Government permit an impartial inquiry into the matter by a "qualified international body." The U.S. also suggested that the World Health Organization or the International Committee for the Red Cross would be well-qualified to carry out such an investigation and report the facts to the Security Council. The Cambodian Government rejected this proposal.

7. *U.S. Letter to UN Security Council, February 7, 1965*

On February 7, 1965, Ambassador Adlai Stevenson informed the Security Council by letter of further Viet Cong attacks against U.S. and South Vietnamese installations in South Viet-Nam and the prompt defensive action both Governments had agreed was necessary against certain military facilities in the southern portion of North Viet-Nam.

The U.S. letter recalled that the Republic of Viet-Nam and at its request the United States and other governments were committed to resist the systematic aggression carried on by North Viet-Nam for more than six years across a frontier set by international agreement. The letter continued: "since reinforcement of the Viet Cong by infiltrators from North Viet-Nam is essential to this continuing aggression, counter-measures to arrest such reinforcement from the outside are a justified measure of self-defense." The United States, Ambassador Stevenson stated, deeply regretted that the Hanoi regime explicitly denied the right of the Security Council to examine the Vietnamese problem. The U.S. letter concluded that "our mission in Southeast Asia is peace and our purpose is to ensure respect for the peace settlement to which all concerned are committed. We therefore reserve the right to bring this matter to the Security Council if the situation warrants it."

8. *U.S. Letter to UN Security Council, February 27, 1965*

Ambassador Stevenson on February 27, 1965, transmitted to the Security Council the U.S. special report entitled "Aggression from the North, the Record of North Viet-Nam's Campaign to Conquer South Viet-Nam." After summarizing the nature of the aggressive war of conquest being waged by North Viet-Nam, the U.S. letter noted that peace could be restored quickly to Viet-Nam by a prompt and assured cessation of aggression by Hanoi against the Republic of Viet-Nam. "In that event," stated Ambassador Stevenson, "my Government . . . would be happy to withdraw its military forces from the Republic of Viet-Nam and turn promptly to an international effort to assist the economic and social development of Southeast Asia."

9. *President Johnson's Call for Increased Developmental Effort*

On April 7, 1965, President Johnson at Johns Hopkins University called for "unconditional discussions" to settle the Vietnamese conflict. At the same time, the President proposed a massive effort to improve economic conditions in conflict-torn Southeast Asia. As a first step, he suggested that the countries of Southeast Asia associate themselves in a greatly expanded cooperative effort for development and expressed the hope that "North Viet-Nam would take its place in the common effort just as soon as peaceful cooperation is possible." The President continued: "The United Nations is already actively engaged in development in this area . . . and I would hope tonight that the Secretary-General of the United Nations could use the prestige of his great office and his deep knowledge of Asia to initiate, as soon as possible, with the countries of that area, a plan for cooperation in increased development."

A major step forward in this connection took place in Manila on December 4, 1965, when 27 countries, under the auspices of the UN Economic Commission for Asia and the Far East, agreed to establish an Asian Development Bank.

Efforts are being made to accelerate the activities of the Mekong Coordinating Committee. Under the aegis of the UN's Economic Commission for Asia and the

Far East, this Committee since 1957 has conducted surveys of the Mekong River basin's resources in the fields of irrigation, flood control, electric power, and navigation. The Committee is composed of representatives of the four riparian states of Laos, Cambodia, Thailand, and South Viet-Nam and functions under an Executive Director and staff furnished by the UN Secretariat. Funds for projects initiated by the Committee come from the four riparian governments; 21 other governments outside the area, 12 UN agencies, and diverse private sources.

10. Additional U.S. Efforts in the United Nations

On June 25, 1965, President Johnson, speaking in San Francisco on the occasion of the 20th anniversary of the signing of the UN Charter, invited members of the United Nations to "use all their influence, individually and collectively, to bring to the table those who seem determined to make war."

During his July 28 press conference, the President renewed this appeal to the members of the United Nations, noting that "if the United Nations and its officials, or any one of its 114 members can by deed or word, private initiative or public action, bring us nearer an honorable peace, then they will have the support and gratitude of the United States of America."

The same day, President Johnson requested Ambassador Goldberg to deliver a personal letter to the UN Secretary-General and expressed the hope that "all the resources and the energy and the immense prestige of the United Nations be employed to find ways to halt aggression and to bring peace in Viet-Nam." U Thant replied on July 29 that the President could be assured that the Secretary-General looked forward to continuous mutual consultation on the Viet-Nam issue.

On July 30, in a letter to the President of the UN Security Council, Ambassador Goldberg emphasized that the United States stands ready, as in the past, "to collaborate unconditionally with members of the Security Council in the search for an acceptable formula to restore peace and security" in Southeast Asia. The United States, he said, "hopes the members of the Council will somehow find the means to respond effectively to the challenge raised by the state of affairs" in that area.

Early in August, a Hanoi broadcast quoted the DRV Deputy Foreign Minister as stating that North Viet-Nam was prepared for a long war and that it rejected any UN intervention in the Vietnamese war.

On January 4, 1966, Ambassador Goldberg wrote the UN Secretary-General informing him of recent steps taken by the United States in the pursuit of peace, including the pause in US/GVN airstrikes against North Viet-Nam. The letter outlined the U.S. position regarding possible discussions or negotiations, a reciprocal reduction of hostilities, and a future South Viet-Nam free of external interference. Recalling previous U.S. messages in July (see above) concerning U.S. willingness to search for ways to restore peace and security in Southeast Asia, Ambassador Goldberg reiterated the hope that "organs of the UN and all States would give even more earnest thought to what they might do to help to achieve these ends."

11. US Request for Security Council Consideration of the Viet-Nam Question

On January 31, 1966, Ambassador Goldberg requested an urgent meeting of the Security Council to consider the question of Viet-Nam. In a letter of that date to the President of the Council, Goldberg reviewed the many efforts undertaken by the United States to move the conflict from the battlefield to the conference table. Ambassador Goldberg reported that these efforts, to which so many Governments had lent their sympathy and assistance, had brought forth no affirmative response whatsoever from Hanoi. He noted that Ho Chi Minh's letter broadcast by Hanoi radio on January 28 maintained the North Vietnamese position that the United States must accept Hanoi's solution before negotiations had even begun.

The letter concluded:

"We are firmly convinced * * * that in light of its obligations under the Charter to maintain international peace and security and the failure so far of all efforts outside the United Nations to restore peace, the Council should address itself urgently and positively to this situation and exert its most vigorous endeavours and its immense prestige to finding a prompt solution to it."

The United States draft resolution, published in conjunction with Ambassador Goldberg's January 31 letter, would ask the Council to call for "immediate discussions without preconditions at _____ on _____ date, among the appropriate interested governments to arrange a conference looking towards the

application of the Geneva Accords of 1954 and 1962 and the establishment of a durable peace in Southeast Asia." The draft U.S. resolution also requested the Council to recommend that the first order of business at such a conference be to arrange "for a cessation of hostilities under effective supervision." The draft also requested the Council to offer "to assist in achieving the purposes of this resolution by all appropriate means, including the provision of arbitrators or mediators," to call on "all concerned to cooperate fully in the implementation of this resolution," and to request "the Secretary-General to assist as appropriate in the implementation of this resolution."

On February 2, the Security Council voted to place the Viet-Nam question on its agenda and then decided to adjourn for private and informal consultations. On February 26, the Security Council President for February, Ambassador Matsui of Japan, addressed a letter to the Secretary-General and to all members of the Council, which summarized the results of these consultations. Noting that there exists among Council members divergent views on the precise course of action the Council might take in the Viet-Nam situation, there was, said Ambassador Matsui, a common feeling of "grave concern" and "a strong desire for the early cessation of hostilities and a peaceful solution of the Vietnamese problem." He added: "There appears to be a feeling that the termination of the conflict in Viet-Nam should be sought through negotiations in an appropriate forum in order to work out the implementation of the Geneva Accords."

In noting the circulation of this letter, Ambassador Goldberg stated that the United States Government has consistently pursued the ends mentioned by the Council President and continues to do so. "The United States will never rest and will leave no path unexplored until it has succeeded in its endeavor to move the conflict from the battlefield to the conference table."

12. U.S. Letter to the Security Council, June 30, 1966

Ambassador Goldberg explained that a substantial increase in the level of infiltration from North Viet-Nam had obliged the United States to attack petroleum facilities near Hanoi and Haiphong. His letter noted that the United States continued to see limited objectives in the Viet-Nam conflict and that in conducting these airstrikes every effort had been made to prevent harm to civilians. The United States he said would continue its search for a peaceful solution and suggested that this could be accomplished through reconvenering the Geneva Conference to reaffirm and revitalize the Geneva Agreements of 1954 and 1962, or in some other forum.

13. U.S. Address to UN General Assembly, September 22, 1966

Ambassador Goldberg told the UN General Assembly that the United States: (1) was prepared to stop bombing North Viet-Nam "the moment we are assured privately or otherwise, that this step will be answered promptly by a corresponding and appropriate de-escalation on the other side"; (2) stood ready "to withdraw its forces as others withdraw theirs" and favored "international machinery * * * to ensure effective supervision of the withdrawal"; and (3) as President Johnson has said, did not consider the question of the place of the Viet Cong in negotiations "an insurmountable problem." Ambassador Goldberg added that no differences can be resolved without contact, discussion, or negotiations and said the United States welcomed discussion of Viet-Nam in either the Security Council or the General Assembly. He solicited the "further initiative of any organ, including the Secretary-General or any member of the United Nations whose influence can help" in the attainment of peace in Viet-Nam.

14. U.S. Letter to the Secretary-General, December 19, 1966

Acknowledging the appeals of Pope Paul and the UN Secretary-General for all concerned to transform the temporary Christmas truce into a complete cessation of hostilities, Ambassador Goldberg reaffirmed the strong United States desire for a peaceful settlement in Viet-Nam and the United States commitment to the proposal that a "cessation of hostilities could be the first order of business at a conference or could be the subject of preliminary discussions." He requested the Secretary-General to "take whatever steps you consider necessary to bring about the necessary discussions which could lead to such a cease-fire" and pledged the full cooperation of the United States Government.

15. U Thant Letter of December 30, 1966 and US Reply

In his reply to Ambassador Goldberg's letter of December 19, the Secretary-General reiterated his "three points": (1) the cessation of the bombing of North Viet-Nam; (2) the scaling down of all military activities by all sides in South

Viet-Nam; (3) and the willingness to enter into discussions with those who are actually fighting. Thant declared that this three point program, "of which the cessation of the bombing * * * is the first and essential part, is necessary to create the possibility of fruitful discussions leading to a just and honorable settlement * * * on the basis of the Geneva Agreements of 1954." If the bombing were stopped and if the New Year's cease-fire could be extended by all parties, he was hopeful that "thereafter some favorable developments may follow." He concluded that he would continue his efforts to explore every avenue which might lead to a just, honorable, and peaceful solution in Viet-Nam.

On December 31, Ambassador Goldberg again assured the Secretary-General of the United States Government's desire to bring all hostilities in Viet-Nam to a prompt and honorable end consistent with the United Nations Charter." He cautioned however that attainment of this goal cannot be obtained "by either appeals for or the exercise of restraint by only one side in the Viet-Nam conflict." Ambassador Goldberg welcomed the Secretary-General's idea for an extended cease-fire and agreed that the ultimate basis for a peaceful settlement could be the Geneva Accords. The United States, he said, is "ready to order a prior end to all bombing of North Viet-Nam the moment there is an assurance, private or otherwise, that there would be a reciprocal response toward peace from North Viet-Nam". Ambassador Goldberg reiterated his hope that the Secretary-General would use every means at his disposal to determine "what tangible response there would be from North Viet-Nam in the wake of such a prior step toward peace on our part." The United States, he concluded, was heartened by the Secretary-General's assurance that he would continue to explore every avenue toward a peaceful settlement in Viet-Nam.

16. UN Secretary-General's Efforts

Throughout the past several years, the Secretary-General has continued his efforts through quiet diplomacy to bring about discussions which might lead to a peaceful solution, or otherwise to seek a mutually acceptable basis for a peaceful settlement in Viet-Nam. The United States Government has on numerous occasions made clear in private conversations its desire to cooperate with these efforts.

MAY 25, 1967.

HON. WILLIAM B. MACOMBER, Jr.,
Assistant Secretary for Congressional Relations,
Department of State, Washington, D.C.

DEAR MR. SECRETARY: I have your letter of May 18, in reply to mine of May 9 concerning reports to the Security Council under paragraph 1, Article 4, of the Southeast Asia Collective Defense Treaty.

Your letter does not make it clear when the Department of State considered that an "armed attack" took place against South Vietnam in order to activate the obligation under paragraph 1 of Article 4. Testimony before the Committee by Secretary Rusk on January 28, 1966, implied that an "armed attack" for purposes of this paragraph began in November 1964 when "they moved the 325th Division of the North Vietnamese Army down to South Vietnam." I note that the paper enclosed with your letter indicates that the first communication to the Security Council after that time was on February 7, 1965, which could hardly be considered as an immediate report, as required under the treaty language. I would appreciate any further information you could provide me on this point.

Sincerely yours,

J. W. FULBRIGHT, *Chairman.*

JUNE 9, 1967.

HON. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: I have your letter of May 25 with further reference to reports to the Security Council under the Southeast Asia Collective Defense Treaty. You ask when this Department considers "that 'an armed attack' took place against South Viet-Nam in order to activate the obligation under paragraph 1 of Article IV" of the Treaty. You suggest that our communication to the Security Council on February 7, 1965 might have been tardy in view of the move-

ment of the 325th Division of the North Vietnamese regular army into South Viet Nam which began in the fall of 1964 and continued into January 1965.

In situations of armed aggression by stealth where men and supplies are infiltrated in increasing numbers over a period of several years, it is difficult to set a precise date when the aggression reaches the dimensions of an "armed attack". We do not believe it feasible to seek to establish when prior to February 1965 the aggression in Viet Nam reached a level at which it could have been considered an "armed attack". What is clear, however, is that when U.S. combat forces were first engaged against military targets in North Viet-Nam as reported on February 7, 1965, an armed attack had already occurred against South Viet Nam.

In this connection, I should like to emphasize that the reporting requirement imposed by Article 51 of the United Nations Charter and paragraph 1 of Article IV of the SEATO Treaty is an obligation to report not armed attacks but measures taken in response to armed attacks and in exercise of the right of individual or collective self-defense. Aside from the Tonkin Gulf incident for which we promptly convened the Security Council, we did not take such action in Viet-Nam until February of 1965.

Please continue to call on me whenever you think the Department can be of assistance.

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary for Congressional Relations.

(The following letter pertaining to questions previously referred to was subsequently submitted:)

DEPARTMENT OF STATE,
Washington, November 10, 1967.

HON. J. W. FULBRIGHT,
*Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: I am pleased to answer three questions posed by the Committee's staff concerning the Viet-Nam conflict and our obligations under the SEATO Treaty and the United Nations Charter.

1. Question. Why was the conflict not placed formally before the Security Council when we began bombing North Viet-Nam?

The first U.S. air attacks against military installations in North Viet-Nam were undertaken in early August, 1964, following attacks by North Vietnamese patrol boats on U.S. naval vessels in the Gulf of Tonkin. At that time, the United States requested a meeting of the Security Council and reported its actions in full. North Viet-Nam was invited to participate in the discussion, but refused to attend and rejected the competence of the United Nations to deal with the problem.

When the United States was obliged to initiate further air attacks on military targets in North Viet-Nam to counter the growing aggression from the North, these defensive measures were formally reported to the Security Council by letter dated February 7, 1965. In view of the then-recent experience in the Security Council, including North Viet-Nam's rejection of any UN role, the United States did not call for a meeting of the Security Council. Our February 7 letter reserved the right to bring the matter before the Security Council.

2. Question. Why was a report not sent to the Security Council as soon as the United States deemed that the "armed attack" paragraph [Article IV, paragraph 1 of the SEATO Treaty] had been activated? Exactly when was that?

As I mentioned in my letter of June 9, 1967, the reporting requirement imposed by Article IV, paragraph 1 of the SEATO Treaty, like that of Article 51 of the United Nations Charter, is an obligation to report not armed attacks, but measures taken in exercise of the right of individual or collective self-defense. Moreover, in this situation where men and supplies were infiltrated in increasing numbers over a period of several years, we do not believe it is feasible to establish precisely when, prior to February 1965, the aggression in Viet-Nam reached a level at which it could have been considered an "armed attack". It is clear, however, that by February 7, 1965, an armed attack had already occurred against South Viet-Nam.

In any case, the Security Council was fully informed, well before February 1965, of the situation in Southeast Asia and of U.S. military and political measures in that area. In this connection, the Committee will recall the extensive debates in the Council in May and June 1964 on the Cambodia-Viet-Nam border

problem and in August 1964 at the time of the Tonkin Gulf. The Council since that time has been kept fully informed of measures taken by the United States in Viet-Nam and of American policy with respect to Viet-Nam, as I pointed out in paragraph 3 of my letter dated May 18, 1967.

3. Question. Have Australia, New Zealand, the Philippines, and Thailand reported to the Security Council as required by the SEATO Treaty? Why not?

Since our letter of June 9, 1967, it has come to our attention that the Government of Australia informed the Security Council and the Secretary-General, respectively, on May 4 and June 1, 1965, of the measures being taken by that Government in Viet-Nam. New Zealand submitted a letter to the Security Council regarding its participation in Viet-Nam on June 16, 1965. On November 16, 1966, the UN Representatives or Observers of nations contributing military contingents in Viet-Nam (Republic of Viet-Nam, United States, Australia, New Zealand, Republic of Korea, Thailand; and the Philippines) transmitted to the Secretary-General copies of the documents issued at the conclusion of the Manila Conference. The Manila Conference documents clearly outline the goals of these Governments in Viet-Nam and the measures being taken to achieve these goals.

In recent years, the UN Representatives of all four countries have clearly placed the views of their Governments regarding Viet-Nam before the United Nations, most recently during the general debate at the 22nd session of the General Assembly. The overall effect of these actions has been fully to inform the UN Security Council and other members of the United Nations of the measures taken by the individual members of SEATO to assist in the defense of the Republic of Viet-Nam.

I hope the foregoing information will be of assistance to you and that you will call on us whenever you believe the Department can be of assistance.

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary for Congressional Relations.

UNITED STATES WAR ACTIVITY DURING BOMBING LULLS

Senator MORSE. Mr. Chairman, I have only two items I want to raise very quickly. I am very much interested in the line of questioning of the Senator from Ohio in which he points out that during the 37-day bombing cessation, and other cessations, that Hanoi continued with her activities. We are prone in the United States to forget about the great chasm of difference that exists between us and Hanoi in regard to evaluation of each other's conduct.

We intend to overlook the fact that they consider us from the very beginning aggressors and violators of the Geneva accords, violators of other international understandings, and it is very difficult for us to understand that point of view, but it is basic and that is why it is so important that we get this back on the Geneva conference. A reconvened Geneva conference undoubtedly is going to result in a new agreement. That is why I have said so many times it was a great historic tragedy that Dulles ever left the conference in the first place. Had he stayed there we might very well have been on a five-man international control commission or a seven-country international control commission and what a difference in history it would have been.

With that as a background to my question, what happened during the 37-day bombing lull and the other bombing lulls? Did we stop unloading our ships in the harbor of Saigon? Did we stop sending in bombs? Did we stop sending in personnel? Did we stop any of our activity in South Vietnam although we were insisting to stop bombing in the north they must stop ground action, infiltration into the south? Isn't it true that we continued our war activity in the south including our activity against their military personnel?

Ambassador GOLDBERG. Senator, I believe that activities in the south continued, our activities and the Vietcong activity but that really Mr. McNamara knows a lot more about that than I do and perhaps that might be addressed to him. But I am under the impression that the bombing stopped but war activity on all sides in the south continued.

U.S. ATTITUDE TOWARD INFILTRATION IN THE SOUTH

Senator MORSE. I want to make this point clear. North Vietnam hasn't been bombing the south. North Vietnam hasn't been killing American troops or South Vietnamese troops with North Vietnam bombs on any such bases as we are operating in the north. They have fairly little air power and naval power.

We have to be fair about this, as much as I hate the enemy, recognizing the fact that neutral countries look with favor on our position that if we stop the bombing, they ought to stop the infiltration. They take the position the north has a right to be where it is. They [take] the position that they have the right to move into South Vietnam to protect a Vietnam against what they consider to be a complete record of illegality that characterizes us from the time we refused to sign the accords and proceeded to support what I have said so many times, the first puppet government in South Vietnam.

Ambassador GOLDBERG. I am sure you would welcome this consideration of the problem and I am sure you noticed that if you will notice the revised resolution we have been considering; we not only talked about complete cease-fire and disengagement. We also dealt in paragraph (b) with the problem of introducing new military personnel, and you earlier commented on that, I think.

Senator MORSE. Yes. That is why I think this proposal that you are making this morning is so important. That is why I think your statement is going to be of great historic importance. Here we are proposing beyond any doubt that we want to reconvene this Geneva conference. As your testimony shows, that doesn't limit it to its old membership, it can be new membership. It doesn't stop the Security Council from in effect passing the responsibility to a reconvened conference.

NEGOTIATIONS WITH THE COMMUNISTS

I just think it is a sad thing that we didn't do it three years ago. I want to say that I shall always be of the opinion that this change of position from our earlier opposition to a reconvening of the Geneva conference, expressed in statements from the State Department in opposition to those of us who proposed it, that we were proposing to negotiate with Communists—of course we were proposing that. You have to do it; let's face up to it.

You are not going to have peace without negotiating with them.

But we have had a great change and I shall always be of the opinion that the statesmanship of our Ambassador to the United Nations has had a lot to do with the change.

SEATO AND U.N. CHARTER AS BASES OF OUR MILITARY OPERATION

My last question, Mr. Ambassador, refers to a speech of October 17 of the Under Secretary of State, Mr. Rostow, with reference to the United Nations Charter.

I quote:

We are in Vietnam because we are obliged to be there specifically by the SEATO treaty and generally by the United Nations Charter itself.

I eliminate the reference to the SEATO treaty. That is primarily a State Department matter and not within your jurisdiction.

My views are well known. There isn't the slightest basis of our military operation in Vietnam because of the SEATO treaty.

We had a group of international lawyers here the other day that I thought buried that fallacy of the State Department once and for all. I do not have a right, I think, to ask you the question as to whether or not you think we are obliged to be there specifically and generally by the United Nations Charter and if we are, what is there in the United Nations charter that obliges us to be there in South Vietnam with over a half million men carrying on an undeclared war?

Ambassador GOLDBERG. I hope the Chairman and the members of the committee will permit me to say that I have been so busy writing speeches that I haven't had a chance to read this one, and I—

Senator MORSE. You haven't missed anything.

Ambassador GOLDBERG. And I hope Mr. Katzenbach and Mr. Rostow will understand the spirit in which that has been said. We have been so busy on the Middle East, I don't want to comment on a speech that I really haven't read.

Senator MORSE. That is satisfactory to me. It gave me an opportunity to pay my disrespects to the speech. [Laughter.]

The Chairman. Senator Gore.?

ENCOURAGED BY PRESENT U.S. POSITION

Senator GORE. Mr. Ambassador, I think I take some encouragement from your appearance here today. I think it is an advance toward a peaceful settlement when you endorse the resolution on behalf of the President. I think you have made another advance when you say the Administration is willing to vote for a resolution even though it includes an invitation for the National Liberation Front and the North Vietnamese if that vote is necessary to inscribe it on the agenda. So I take encouragement from your appearance.

GENERAL ATTITUDE TOWARD OVERSEAS CHINESE

I would like to ask one thing, not that I wish to make any speech to you, but to clarify a statement I made earlier. You and I have both traveled in Southeast Asia before this war. Both of us have read about it and developed some knowledge of it. I take it you know how unpopular the so-called overseas Chinese have been throughout this region, and how Chinese dominance has been resisted for hundreds of years, particularly on the part of the Vietnamese.

Now, this was the background of the statement, the view I expressed earlier, that if we had in the earlier stages of this unfortunate episode chosen to support genuine self-determination of all of Vietnam, what-

ever that determination might be, that though a Communist regime may have emerged as a majority will, it need not follow that it would be a Red Chinese satellite—any more than Albania is a Moscow satellite or Yugoslavia is, either, a satellite of Moscow or Peking.

It is within that context that I said I thought we had made a basic error. What we are doing is driving Vietnam into the embrace of Red China. I only want to clarify that position.

You are free to make a comment, but I don't really solicit it unless you desire.

Ambassador GOLDBERG. Well, all I would say about that is in my General Assembly speech again delivered for the Government, the only way I can deliver speeches, I said that we would abide by the results of the choice. We have discussed what the choice ought to be.

Senator GORE. Yes.

Ambassador GOLDBERG. And I said that could go to the Geneva conference.

Senator GORE. Thank you for your appearance.

The CHAIRMAN. Mr. Ambassador, you know the committee very much appreciates this testimony. I think it has been extremely helpful and we are deeply in your debt for coming here and meeting with us in public.

Ambassador GOLDBERG. Thank you, Mr. Chairman, and members of the committee.

The CHAIRMAN. The committee is adjourned.

(Whereupon, at 12:25 p.m., the committee recessed, subject to call of the Chair.)

SUMMARY INDEX

(List of witnesses appears alphabetically in contents)

	Page
Abuse of forum at U.N.-----	90
Acrimonious debate should take place-----	45
Actions for the Security Council, suggested-----	80
Administration attitude toward neutralization of South Vietnam-----	177, 179
Aiken, Senator George D.: Examination of witness: Goldberg, Hon. Arthur J.-----	167-170
Amendments to U.N. Charter, possible-----	50
Applicability of SEATO treaty-----	93
Article 51 of charter, reference to-----	114
Attitude of General Assembly toward U.S. responsibility in Vietnam war-----	167
Attitude of nonpermanent members of Council-----	164
Attitude of other U.N. members toward the United States-----	6, 32
Attitude of Security Council members toward debate-----	156
Attitude of United States toward inviting China, NLF, and Vietcong to discussions-----	174
Basic principle of U.N. Charter-----	93
Bases of our military operations, SEATO and U.N. Charter-----	201
Bilateral negotiations with the Vietcong, chances for-----	53
Bombing cessation:	
A precedent to U.N. action-----	80
Consequences of, difficult to predict-----	55
During reconvened Geneva Conference-----	51
Effect of U.S.-----	183
Efforts in connection with the 1965-66-----	153
Importance of-----	94
Indications of support for U.S. offer for-----	86
Question of, of North Vietnam-----	76
Reasons for-----	54
To encourage negotiations-----	31
U.S. initiative for-----	5
United States must be prepared to stop-----	40
United States should make decision about-----	83
U.S. war activity during-----	199
Without condition-----	88
Bombing intensification:	
Reaction of U.N. members to-----	169
Call for cease-fire by General Assembly-----	77
Cambodia complaint to U.N. in 1964-----	151
Case, Senator Clifford P.: Examination of witness: Cohen, Benjamin V.-----	5
Cease-fire arrangements-----	8
Cease-fire control commission, report of-----	118
Cease-fire, initiation of steps to achieve-----	103
China's entering the war, possibility of-----	49
Clark, Senator Joseph S.:	
Examination of witnesses:	
Cohen, Benjamin V.-----	26-28
Gross, Ernest A.-----	88-90
Clear statement of U.S. peace aims, absence of-----	7
Comments of Hanoi, Peking, and NLF on U.N. involvement-----	158
Commitment by United States to follow U.N. recommendation-----	109
Communist attitude toward settlement under the Geneva accords-----	182
Communist country, definition of a-----	190
Communist regime in North Vietnam-----	189
Communist Vietnam, Soviet Union wants a-----	116

	Page
Comparison with American Civil War.....	116
Compromises suggested by North Vietnam.....	121
Confrontation in the Security Council, effect of.....	83
Congress and the executive branch, cooperation between.....	7
Congressional teamwork with the president.....	17
Contradiction between statements on Two Vietnams and One Vietnam by Goldberg.....	176
Contribution to the United Nations, U.S.....	10
Cooper, Senator John Sherman: Examination of witness: Cohen, Benjamin V.....	19-21
Danger of growing opposition to the U.N.....	50
Demands of Pham Van Dong.....	22
Demarcation line provision in Geneva accords.....	177
Effect of either resolution without bombing cease.....	94
Effect of the two resolutions.....	58
Escalation, advocacy of an all-out.....	108
Extent of discontinuing the firing.....	24
Facts of international life.....	85
Formulation of U.S. Vietnam war policy, participation in.....	170
French opposition to internationalizing of war.....	72
Fulbright, Senator J. W.: Examination of witness: Goldberg, Hon. Arthur J.....	162-165, 166, 179, 188-190
General Assembly action, effect of.....	82
General Assembly, taking the problem to the.....	91
General attitude toward overseas Chinese.....	201
Geneva Conference:	
Expanding membership of reconvened.....	173
Membership of.....	166
Reconvening of.....	120, 162, 165, 173
Gore, Senator Albert: Examination of witness: Goldberg, Hon. Arthur J.....	174-179, 189, 201-202
Great Powers have violated their obligations.....	129
Hanoi, attitude of, during 1965 bombing pause.....	181
Hickenlooper, Senator Bourke B.:	
Examination of witnesses:	
Cohen, Benjamin V.....	10-14
Gross, Ernest A.....	84-88
Historical anti-Chinese attitude in Vietnam.....	115
Ideological concept behind fight in Vietnam.....	188
Importance of getting Soviet agreement in U.N.....	104
Impotence of U.N. reasons for.....	46
Infiltration in the south, U.S. attitude toward.....	200
Influence of world opinion.....	123
Inscription debate to place matter on Council agenda.....	154
Internationalizing of war, French opposition to.....	72
International nature of Vietnam problem.....	145
International law, states should observe.....	128
Intervention, U.S. intervention under.....	127
Invasion of North Vietnam, effect of U.S. land.....	130
Invasion of South Vietnam, recognition of North Vietnam.....	84
Isolated position of the United States.....	105
Juridical grounds for United States being accused of charter violation.....	92
Land invasion of the north, possibility of a U.S.....	48
Lausche, Senator Frank J.:	
Examination of witnesses:	
Cohen, Benjamin V.....	21-26
Goldberg, Hon. Arthur J.....	180-183
Legal aspects of Vietnam situation are controversial.....	119, 131
Legal commitment versus a legal right.....	97
Legal issue of whether Vietnam united or not.....	117
Legal procedure for putting Morse proposal into action.....	78
Letter and resolution sent to U.N. in 1966.....	36
Limitations applicable to the United Nations.....	170
Limited recourse to the General Assembly.....	95
Limited use of the United Nations.....	88
Mansfield, Senator Mike: Examination of witness: Goldberg, Hon. Arthur J.....	170

	Page
Mansfield resolution as a first effort.....	43
McCarthy, Senator Eugene J.: Examination of witness: Goldberg, Hon. Arthur J.....	188
Mideast, U.S.S.R. and U.S. policies in.....	125
Military activity, simultaneous measures to lower level of.....	106
Morse, Senator Wayne: Examination of witnesses:	
Atwater, Elton.....	104, 107-110
Bingham, Hon. Jonathan B.....	42-45
Cohen, Benjamin V.....	18-19, 28
Goldberg, Hon. Arthur J.....	171-174, 199-201
Gross, Ernest A.....	78-84, 95-98
Wright, Quincy.....	125-131
Yost, Charles W.....	48-54
Multilateral action, SEATO treaty envisaged.....	73
Multilateral approach to a settlement.....	18
Multilateral peacekeeping machinery should be reinforced.....	48
NATO treaty, relationship of U.N. to.....	98
Negotiation and settlement, determining possibility of.....	21
Neutral and independent Vietnam, effect of a.....	178
Neutrality as basis for peace, U.S. position toward.....	179
NLF, willingness to negotiate with the.....	40
North Vietnam and Red China not being U.N. members, effect of.....	27
North Vietnamese charge against the United States.....	18
Nuclear bombing of China, effect of.....	130
Objectives of the United States and North Vietnam.....	56
Obligation of nonmembers of the U.N.....	81
Obligation to use the United Nations, U.S.....	113
Overtures made by the United States.....	11
Participation of United States in Security Council discussion.....	42
Peace aims, absence of clear statement of U.S.....	7
Peace conference of nonaligned powers.....	41
Peace objectives of Ho Chi Minh.....	24
Peaceful settlements, decline in use of the United Nations for.....	4
Peacekeeping burden in U.N., extent of U.S.....	86
Pell, Senator Claiborne: Examination of witnesses:	
Cohen, Benjamin V.....	29-32
Goldberg, Hon. Arthur J.....	185-187
Gross, Ernest A.....	90-95
Yost, Charles W.....	54-60
Political settlement by Vietnamese, chances of a.....	54
President's interest in use of United Nations.....	9
Prestige of U.N. at stake.....	44, 113
Principal purpose in Vietnam, question of our.....	189
Procedures of U.N. Charter, exhaust all.....	43
Purposes of resolutions.....	4
Recommended course of action for administration.....	58
Relationship of U.N. to NATO treaty.....	98
Relative role of Security Council and General Assembly.....	81, 122
Reservations concerning terms of S. Con. Res. 44.....	39
Resolution before U.N. Security Council.....	12, 17, 107
Responsibility of Security Council members.....	78
Role of Secretary General.....	104
Role of the U.N. in a solution of the conflict.....	42
Sacrifices disproportionate to objectives.....	56
SEATO treaty and U.N. Charter as bases of our military operation.....	201
SEATO treaty envisaged multilateral action.....	73
SEATO treaty: Applicability of.....	93
Submission of problem to U.N. under.....	191
U.S. intervention under.....	96, 127
Shortcomings of U.N. acknowledged.....	87

Soviet Union:	
Absence from Security Council in 1950.....	72
Attitude of, in regard to war.....	52, 185
Attitude of, toward a conference.....	52
Importance of getting their agreement in U.N.....	104
Position of the.....	114
Refusal to invoke the Geneva machinery.....	53
Wants a Communist Vietnam.....	116
Sparkman, Senator John: Examination of witness: Goldberg, Hon. Arthur J.....	165-166
Statements by United States on U.N. involvement in other crises.....	34
Symington, Senator Stuart: Examination of witness: Goldberg, Hon. Arthur J.....	183-185
Taylor-Rostow report on Vietnam.....	4
Terms and conditions of U.S. proposals to Security Council.....	146
Time schedule for U.S. withdrawal of troops.....	110
Tonkin Gulf incident.....	152, 180
Tragic dilemma of U.S. presence in Vietnam.....	74
Two-way debate, U.N. consideration could turn into.....	45
Unilateral aspect of Vietnam, duality of.....	183
Unilateral course of action in Vietnam, United States.....	97
Unilateral offer for action, possible.....	9
Uniting of all viewpoints.....	3, 16
U.N. responsibilities in Southeast Asia, U.S. attitude toward.....	71
U.N. responsibility under the charter.....	150
U.S. action toward reaching a settlement.....	19
U.S. power if bombing ceased.....	20
Vietcong:	
Chances for bilateral negotiations with the.....	53
Military bases and forces of.....	187
Vilification of the United States.....	25
Violation of U.N. Charter? Is United States in.....	29, 95, 128
Violation of U.N. Charter, Juridical grounds for United States being accused of.....	92
World opinion, influence of.....	123
World opinion of new U.N. resolution, effect on.....	174



