SUBMISSION OF THE VIETNAM CONFLICT TO THE UNITED NATIONS

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 CONSIDERATION OF VIETNAM CONFLICT

OCTOBER 26, 27, AND NOVEMBER 2, 1967

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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, Hickelloorper, 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
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 should take the appropriate initiative through his representative at the United Nations to assure that the United Nations 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—Advisor, 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.
Memberships and Clubs.—Member, Phi Beta Kappa.

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 unifying 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-ROSTOP 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, 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 AIDS

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.
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 standstill 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 mainte-
nance 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 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 exercising 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 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.


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.
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 indican-
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 recriminations 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.
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.

IScessation 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 Morse.

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 view 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.
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 is 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 you are 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 longlived 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 CRISIS

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. STATEMENTS ON THE NEED FOR UNITED NATIONS INVOLVEMENT IN CERTAIN INTERNATIONAL CRISIS

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."

"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, 1966 1

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.

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.
SUBMIT VIETNAM CONFLICT TO UNITED NATIONS

"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?

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