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The only restriction upon the authority of the General Assembly is that—and again I quote:

It may make recommendations to members of the U.N. or to the Security Council or to both except as provided in Article 12.

Now, that exception is what, of course, Senator Morse must have in mind in defining the relative authority of the Assembly and the Council to act in a particular situation.

That article, Article 12, provides that:

While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation.

Now, historically, as members of the committee will be aware, a broad interpretation has been given to the phrase I have just quoted. It does not mean when an item is on the agenda of the Security Council and the Security Council is not exercising the functions assigned to it that the General Assembly may not discuss and recommend with regard to such matter. But in order to dispel any possible and diversionary doubt or legal confusion, which the Soviets almost inevitably as well as perhaps other members of the Council would raise, the practice has been and would be appropriate in this case, I think, for the Security Council simply to remove the question from its agenda, if that is the will of a majority—that is, the constitutional majority. This is not a vetoable decision. This would clear the road for General Assembly action, and there would be nothing in the charter which would preclude it. There would be everything in my mind in principle to support and to justify such action.

EFFECT OF GENERAL ASSEMBLY ACTION

I turn now to the possible desirability of what might be called—if I paraphrase Senator Morse's question and comment correctly—a sort of minimal or less than all out action by the Security Council following what I think would be obviously an abrasive and probably inconclusive debate. I believe these considerations point toward General Assembly rather than toward Security Council action. Such action, it is true, would take the form of recommendation as distinguished from a binding decision, but I do not foresee the Security Council making an enforceable decision in any event under the circumstances.

The first consideration is that the absence of Communist China from the General Assembly is in this sense much less significant than its absence from the Security Council. Whatever one's views may be about the desirability or otherwise of Communist Chinese representation in the U.N., certainly its absence from the General Assembly in a situation of this sort is of less significance than its absence from the Security Council. The presence of the Nationalist Government of China on the Security Council places certain governments, particularly the Soviet Union, in a much more exposed position with regard to freedom of action than is the case in the General Assembly.

Let us assume for the sake of argument—that the Soviet Union is, without feeling in a position to say so publicly—let us assume the Soviet Union would be amenable to a solution or a settlement of the Vietnam war comparable to that which it, through others, agreed to
in Korea. In other words, let us assume for the sake of argument that the Soviet Union might be prepared in its own interest as well as the general interest to agree to a solution based on the status quo in Vietnam, the 17th parallel, and the Geneva accords. Then the use of the General Assembly would make it possible for the Soviet Government to take a position which while openly hostile to such an action, even perhaps including a negative vote on its part in the General Assembly, would not have the same decisive quality as a negative vote by the Soviet Union in the Security Council.

However, these are matters which perhaps are not as important as the possible advantages and disadvantages of a confrontation in the Security Council. On the one hand, this might have certain unifying and, if you like, morally cohesive consequences in our country. When people stand up to be counted in the Security Council and the Soviet Union obstructs Council action, the villains are separated from the nonvillains, so to speak.

**EFFECT OF CONFRONTATION IN THE SECURITY COUNCIL**

I think that such a confrontation has something to be said for it. But, on the other hand, I think back to our experiences in the Korean war, and frustrations aroused by Soviet obstruction in the Security Council. It is my view, sir, for what it is worth, that such a confrontation in the Security Council now would be more counterproductive than productive. It would not assist the organization in gaining stature, to say the least. It would not confront other members, not members of the Security Council, with their clear and present responsibilities under the charter.

After all, the 15 members of the United Nations Security Council include only 10 nonpermanent members of the entire membership, and there are many countries in Asia and elsewhere that are not members of the Security Council whose interest in the area, whose interest in world peace, whose responsibility is fully as engaged, or should be, as the members of the Council.

**UNITED STATES SHOULD MAKE DECISION ABOUT BOMBING CESSION**

Finally, I do feel, sir, that again that although the overriding concern of the U.S. Government and people must be the protection of our forces in Vietnam and their security and welfare, it seems to me, without in any way attempting to express a strategic or military judgment, that there is something to be said for the U.S. Government to consider the relative risks and dangers, the risk for peace on the one hand, the risk for security of our troops on the other. It is the United States itself which should make the decision whether or not it is feasible and desirable to suspend bombing. This should not be a decision thrust upon the United States which may perhaps have valid reasons of a security nature to continue its bombing. These are matters outside my knowledge and authority but I would think that a serious consideration should be given to the fact that if bombing were suspended simultaneously with recourse to the General Assembly, and a limited program put before the General Assembly of the sort I suggest, that there would be what I might call a built-in escape clause, a built-in safety valve, without the United States having to express
conditions that unless the General Assembly acted or some other condition we would resume bombing. It would be implicit in such a situation. We would have every right, as I said before, to expect and demand that the overwhelming weight of the General Assembly would be put behind the effort toward peace and negotiations and a cease-fire.

Time after time in these recent weeks we have seen members of the United Nations General Assembly stand up and declare in the forum that the obstacle to negotiations is the bombing of the north. In sheer poker terms, I would say let us call that bet. I do not think that they could be reasonably expected to be so irresponsible as to declare to the General Assembly on the one hand, that a cessation of bombing is a necessary precondition to negotiations and, on the other hand, refuse to throw the full weight of their governments behind a call for negotiations and a cease-fire under conditions of a cessation of bombing.

I think such a refusal or hesitation on their part would be little short of immoral.

Senator Morse. Thank you very much.

Senator Sparkman. Senator Hickenlooper?

RECOGNITION OF NORTH VIETNAM INVASION OF SOUTH VIETNAM

Senator Hickenlooper. Mr. Gross, I think your statement which I have just read is an excellent presentation of a point of view. I am sorry to say I do not entirely agree with that point of view. There is an articulate group in the United States which keeps talking about stopping the bombing as the key to the settlement. That might be one element, but I do not hear very many people talk about stopping the invasion of South Vietnam by the North Vietnamese. That seems to be in the background some place and it is not dusted off very much in the argument of these people. It seems to be all the fault of the United States, that we are the culprits in this situation.

It does seem to me there is some responsibility on the part of the North Vietnamese. There should be at least an argument to compel the North Vietnamese to stop their invasion of South Vietnam and stop disrupting the operations of the South Vietnam Government.

Do you believe there is any validity in that?

Mr. Gross. Yes, sir. In the statement I made with respect to the Morse resolution, I expressed the view that it should be rounded out and that aggression from the north should be recognized—the fact that there has been aggression and subversion mounted from the north.

As we all know, the International Control Commission Legal Committee in 1962 expressly found that there was such aggression and evidence of armed attack.

Senator Hickenlooper. I am not talking necessarily about your opinion now. You have explained that situation. But is there any more logic in putting the sole condition for a peaceful approach to this conflict on stopping the bombing from the north than there would be to put a sole condition on the stopping of the operations there on the cessation by the North Vietnamese of their operations in the south?

It seems to me that the two go hand in hand. One is equally important with the other in this matter.
Mr. Gross. My own view, Senator Hickenlooper, is that from a moral point of view it would be very difficult to deny the validity of what you have said.

Senator HICKENLOOPER. Or that it is a logical point of view.

FACTS OF INTERNATIONAL LIFE

Mr. Gross. From a logical point of view I hesitate only to this extent and for this reason. The facts of international life and the facts of power and the vulnerabilities of our own position—and we must view this entirely from the standpoint of our enlightened national self-interest, that is the only point of view from which I have attempted to approach the matter in my analysis—we must, I think, squarely face the fact that, as it sometimes has been put, and perhaps in an insufficiently serious way, but it has been said that "bombing has a bad press." It has been said that the United States' presence in Asia invokes recollections of the atomic bomb. It has been said and is widely felt that the United States is unilaterally and nakedly exposed to a war in which it is pursuing a self-judging course. Who has declared the right of the United States to be there? Where is the sanction which Secretary Dulles and President Eisenhower referred to? These are all intangibles.

I would think certainly if I were a soldier or an airman in Vietnam I would not like to see shipments of supplies being made during a period of suspension of bombing, which is precisely what happened during the preceding pauses, and I would like to see an even-handed judgment made which takes account of the fact that the North Vietnamese are committing acts of terror accompanying their aggression against South Vietnam.

But I also believe that in the long-term interest of the United States, in view of the fact that the problem of bombing of the north has achieved the prominence it has, has swayed so many governments to make public declarations, even Asian governments such as the Indonesian Minister a few weeks ago in the General Assembly, an anti-Communist foreign minister calling for a cessation of bombing, which Senator Hickenlooper refers to as the key to the question, I think it is seriously to be considered as a step to be taken if it is accompanied by such procedures as I suggest for widening international responsibility in the situation which is now completely irresponsibly disengaged.

I would like to see the Assembly or the Security Council or foreign offices make more public declarations that the North Vietnamese are guilty of the things of which Senator Hickenlooper says and that they have as high a duty to stop bombing and warfare in South Vietnam as we have to stop bombing of the north. I would like to see that. I just do not think it is a fact of international life.

SHOULD THE UNITED STATES "KNUCKLE UNDER"?

Senator HICKENLOOPER. Therefore, we should knuckle under and virtually surrender to the stop-the-bomb group without insisting that there be a corresponding halt in the invasion from the north, just because of the sentiment of those countries which, in many instances, could not survive without our support.
Mr. Gross. Well, I would not myself, with all respect, use the phrase "knuckling under." I think we should not do so if it is not within our long-term national interest.

My own point of view is that if we cease the bombing, as has been suggested by these statements made in the General Assembly, this is the key, we will be calling their bluff, and there is then their responsibility for following through the imperative logic of their pronouncements in this respect. It is a risk for peace.

INDICATIONS OF SUPPORT FOR U.S. OFFER TO CEASE BOMBING

Senator Hickenlooper. Do you understand from the public press, or other sources of information, that we have offered repeatedly to stop the bombing if they would stop supporting the insurrections in the south or if they would stop the insurrections in the south we would stop the bombing, whichever you want to put first?

Mr. Gross. Yes, sir; I have not only seen that in the public press but have had the opportunity of official and unofficial briefings on the same subject.

Senator Hickenlooper. Yes.

Mr. Gross. And of course we have—and I think we have been acting—I have no question we have acted in good faith in doing so. Those efforts, those offers, have been ineffectual. The question always comes back to what is in the best self-interest of the United States.

Senator Hickenlooper. In those cases have we had the support of the Russians or the French, or has there been any indication from the Red Chinese that they would look with favor on that kind of action?

Mr. Gross. So far as I am aware, Senator Hickenlooper, there has been no indication, certainly not to my mind, a sufficient indication of what you might call real reciprocity or mutuality in the expressed attitudes of governments. I think their concern has been more—their preoccupation, almost to the point of obsession, with the grave dangers of the continued conflict, and, of course, the question essentially must be whether it is to the long-term highest interest of the United States to bring peace to that area and, if so, how and when, and this is, after all, all we are discussing.

EXTENT OF U.S. PEACEKEEPING BURDEN IN U.N.

Senator Hickenlooper. Yes, I think I understand that theory all right. Has there been any peacekeeping in the United Nations which has not depended solely upon the strength and vigor and determination of the United States?

Mr. Gross. I think the answer to that is no, there has not. The United States—which led, of course, as the Senator knows so well, in the formulation of the United Nations—in its own interest as well as in the interest of world peace—has had to provide the sinews of that organization against the obstruction, vetoes, and all the walkouts of the Soviet Union, and the opposition now of the Communist Chinese, absent though they may be. But this, of course, is the historic role of the United States, given its power.

Senator Hickenlooper. The United Nations could not even keep the small peacekeeping force in the Gaza strip. U Thant, when Nasser
ordered him to get out, could not get to the pen and paper fast enough to order them to get out of there almost overnight. The U.N. utterly failed there.

In my judgment, the U.N. could have kept those peacekeeping forces there at least for a period of time and perhaps avoided this recent tragic difficulty in the Middle East. But it utterly failed to operate that way.

In the Congo the United States furnished all the sinews for the peacekeeping operation and neither France nor the Soviet Union would pay their share of the costs even after the decision by the World Court that they owed it as part of the obligation of their membership in the United Nations.

In Korea the entire burden of the enforcement of the so-called position of the United Nations fell upon the United States, with a few exceptions. I think one country had 5,000 troops in there and we had 400,000 or 500,000. In any case, we paid the bills.

How can we expect any kind of an equitable or judicial approach to this problem if we turn the problem over now to a speculative and uncertain United Nations where two at least or perhaps three of the most important nations involved are openly and continuously hostile to the United States? France is out to embarrass us in every way that she can. The Soviet Union is out to embarrass us in every way that she can. Red China is not a member of the United Nations and is supporting this war without any doubt. The Soviet Union is supporting this war with sophisticated weapons.

It looks to me like you would be turning the fox into the chicken coop there if you did that.

Mr. Gross. Might I make a comment on that, sir?

Senator Hickenlooper. Oh, indeed.

U.N. SHORTCOMINGS ACKNOWLEDGED

Mr. Gross. I do not think the Senator has asked a question, but I should like, if I may, to make a comment, Mr. Chairman.

It seems to me what Senator Hickenlooper raises here is the most decisive of all possible questions which are raised by Senator Morse's resolution. We tend to think of these problems, even the gravest such as Vietnam, as if they were separate and distinct from all other major issues which are also related to peace in which the United Nations is simply one instrument to bring such forces to bear in the support of peace as can be found.

I think when we are discussing the question of Vietnam in the context of Senator Morse's resolution we are really as Senator Hickenlooper has brought out so eloquently, we are really discussing the shortcomings, the frustrations, the very character and nature of the United Nations itself as well as the stake of the United States now and in the future in respect of an international organization, weak, stumbling as this one has been.

I believe in the case of Korea it was of great significance that the U.N. flag flew over the action and that General MacArthur was the executive authority designated as such on behalf of the United Nations.

I believe that it would be a mistake, if I may say so, to minimize the contributions made by other nations, small and inadequate as they
were from the standpoint of comparison to that of our own, the sacrifices there, the burdens there.

But it does seem to me, Senator Hickenlooper, will all respect, that the United Nations is more comparable to a hospital than to a firehouse, and that what we are trying to do, it seems to me—it always has seemed to me, and I have worked with it very closely, as I think the committee knows, from 1945 on—it has always seemed to me that what we are trying to do against the greatest odds is to develop a public health system, so to speak, in the international field of peace and security. And, of course, I would think that any American would feel that we have made a disproportionate sacrifice and borne a disproportionate heavy burden.

We could have, and we still can, retreat from those responsibilities on the ground that they are not being equitably shared. This is a very possible point of view. I disagree with it simply because it seems to me to be an unrealistic alternative. It is not an exit which is open to the most powerful nation in the history of the world whose very survival and certainly whose interests depend upon a reasonably stable international order.

We have borne these sacrifices, it seems to me, both out of a sense of moral obligation and also out of a sense of enlightened self-interest.

LIMITED USE OF THE UNITED NATIONS

I am not suggesting, Senator Hickenlooper, and my statement was not intended to suggest, that we abdicate our authority, our responsibility by turning it over—turning the question of Vietnam over to the United Nations and saying, “Here, bail us out of this, tell us how we can find a hasty exit, anything of that sort.” I said to the contrary, our deep involvement, the security of our forces, the absolute, I think, untenability of a precipitate or unconditional American withdrawal, all these would be highly crucial issues.

To protect our national interests against possible irresponsibility, I am suggesting, Senator Hickenlooper, a rather limited use of this organization, not to turn it over—not to turn over the problem to it for a solution but to make, if you please, a catalytic use of the organization, but above all to confront members of the United Nations with the very responsibilities which Senator Hickenlooper has pointed out here they have thus far failed to engage themselves with. This is really the essential purpose of my suggestion.

Senator HICKENLOOPER. Well, I thank you, Mr. Gross.

Mr. Gross. Thank you.

Senator SPARKMAN. Senator Clark?

STOPPING OF BOMBING WITHOUT CONDITION

Senator CLARK. Mr. Gross, as you know, I have enormous respect for your experience and your views. I find your statement most helpful, and I agree that what we have to do is to keep hammering, hammering, hammering on stopping the bombing of the north without condition.

I agree with you that we are taking a calculated risk that it might not work. I think, however, there is sufficient chance that it would
work so we must never stop this constant pressure to stop the bombing to see if it does work. That is not a question.

Mr. Gross. Yes, sir.

IS THE APPROACH IN THE MANSFIELD RESOLUTION WORTHWHILE?

Senator Clark. I would like to ask you only one question. Do you think the Mansfield resolution is worthwhile? It is a very much watered down Morse resolution and really is not much more than a pious exhortation, the resolving clause being, “that it is the sense of the Senate that the President of the United States consider taking the appropriate initiative” to assure that the resolution of January 1966 be brought before the Security Council for consideration.

That resolution has obviously loopholes big enough to drive a beer truck through.

On the other hand, I cosponsored it and as of now there are 56 Senators on it, including 12 of the 19 members of the Foreign Relations Committee and 10 of the 18 members of the Armed Services Committee. So I have no doubt it would pass the Senate by more than 70 votes. So my question to you is: Is this more or less an innocuous approach? It has to be innocuous to get all these Senators to support it. Is it worth while?

Mr. Gross. I would be very rash to express disagreement with so many distinguished Members of the Senate, to say nothing of the distinction of the sponsor.

My statement was designed to bring out—and I hope it did somewhat persuasively if not conclusively—that the road of the Security Council is a dead end road. We have fair warning of this, the bell has been rung on it.

If it seems desirable to pursue this matter to what I would call the virtual certainty of a frustrated conclusion in the Security Council in order to pave the way for General Assembly action for some reason—not necessarily legally but perhaps politically, morally or what have you—then, of course, this resolution would do the trick.

I must respectfully admit that one of the things I prefer about Senator Morse’s resolution is its second operative paragraph to which I referred in my statement which I think would strengthen the Mansfield resolution, Senate Resolution 180, by indicating clearly that it was not the sense of the Senate that if the Security Council were frustrated or were at a dead end that this would for all practical purposes satisfy the requirements of the situation so far as effective use of the United Nations is concerned.

Senator Clark. Do I understand you correctly, that you think if we wrote the second operative clause of the Morse resolution into the Mansfield resolution, we would have something worth passing?

Mr. Gross. I think so, sir; and I would also like to respectfully commend the third operative paragraph of the Morse resolution as well.

Senator Clark. You can see what happens. You are an experienced diplomat and first-class lawyer conducting negotiations. As you put the Morse resolution into the Mansfield resolution you lose cosponsors so the problem is at what point do you have the—I can never remember
whether it is the least common denominator or the greatest common multiple—and come out with something that is worth while.

But I take it you would encourage this committee to see if we could put these two resolutions together in a way which would still have a meaningful sense of the Senate.

Mr. Gross. Yes, sir.

Senator Clark. And nevertheless a good chance of getting it passed.

Mr. Gross. Yes. Yes, Senator Clark.

Senator Clark. Thank you. That is all, Mr. Chairman.

Senator Sparkman. Senator Pell.

Senator Pell. Thank you, Mr. Chairman.

EXPERIENCE AND OBJECTIVITY OF WITNESS' BACKGROUND

I am struck by the fact that you have a true distinction in that you have served under four Presidents—Hoover, Roosevelt, Truman, and Eisenhower.

Mr. Gross. Yes, sir.

Senator Pell. Although not under our present President, so you have both experience and objectivity.

Mr. Gross. Yes, sir.

Senator Pell. Which is quite rare in government, I think.

IS THERE AUTOMATIC REFERRAL TO THE GENERAL ASSEMBLY?

Following up the question of Senator Clark's, would it not be perfectly proper to assume that under article 11 of the charter that if the Security Council considered this matter and was not able to resolve it, then, in accordance with article 11, paragraph 2 with which you are far more familiar than I am, would it then automatically go to the General Assembly?

Mr. Gross. It would not, Senator Pell. My interpretation of the charter is not quite that, sir. There would not be an automatic referral. It would have to be inscribed on the agenda of the General Assembly, and the article, article 11, paragraph 2, to which Senator Pell refers, simply makes it clear that the General Assembly has the authority to deal with questions—to discuss and make recommendations with regard to questions concerning peace and security. The exception—that is to say the exception of article 12—which is the same exception as made in the preceding article with regard to the powers of the General Assembly—as I said before, the exception is limited to situations in which the Security Council is exercising the functions assigned to it.

Only under those circumstances is the General Assembly precluded from making recommendations, although even in that type of situation—the General Assembly can discuss the question.

ABUSE OF FORUM AT U.N.

Indeed one of the striking, and I think paradoxical aspects of the entire situation with regard to the use or nonuse of the United Nations is found in the following circumstance: Year after year—and we have witnessed it again during the past few weeks—member after member
stands up in the general debate of the General Assembly, the opening
debates of the General Assembly, dozens and dozens, and express their
official and high level views with regard to the Vietnam question or
certain aspects of it.

I think there is something, if I may say, rather illogical or intolerable
about a situation in which a government can utilize the forum of the
General Assembly on something of a hit and run basis, pick out of the
situation any element which strikes its fancy, make a statement on it,
engage in a discussion of it by making a statement from the rostrum
of the General Assembly, and then go home and forget about the
question.

It seems to me that this is having it both ways.

I think that this exposes the United States to all of the unfair
burdens and risks of the fact that other members of the United Nations
do not engage their responsibilities, at the same time expressing their
views, taking a public position, which incidentally is often quite
different from their privately expressed position, and in effect abusing
the forum of the United Nations in this regard.

I am sorry that Senator Hickenlooper is not here because I would
have liked to have added to my comment in response to his that it is
not a matter of the United Nations not being used as a forum for
debate and discussion of these questions. It is. The question is whether
it shall be more responsibly used for that purpose. I think this, the
present method of its use, is not good enough and I think it is not in
our national interest that it should continue in this way, if we can
do anything to help it.

Senator PELL. I am struck by your reference to the fact that nations
speak differently privately and publicly. I think our own public is
unaware of this fact, that very often governments speak to their people
in a very critical vein of the United States for domestic propaganda
consumption and yet privately express themselves on the same subject
to the U.S. Government quite differently. This, I guess, is one of the
facts of life with which we have to live.

TAKING THE PROBLEM TO THE GENERAL ASSEMBLY

But would it not be correct, going back to the point we were dis­
cussing, and saying that under the present resolution, if it is considered
by the Security Council and came to an impasse, there is no reason
in the world why it could not go to the General Assembly under that
same article of the charter?

Mr. Gross. That is correct, sir. The question is whether or not the
United States should take an initiative.

Senator PELL. Right.

Mr. Gross. And there, of course, I take it to be the sense of both
resolutions, which urge an initiative greater than that which has been
taken.

Senator PELL. But under the Mansfield resolution it certainly is
permissive, if not mandatory, that if the Security Council fails, the
problem can go to the General Assembly.

Mr. Gross. That is correct, sir. There is nothing in the Mansfield
resolution which would exclude that or preclude it. I think, however,
that perhaps I speak too much like a lawyer in this situation and with-
out sufficiently large awareness of the political aspect of the matter, so to speak, but it seems to me that Senate Concurrent Resolution 44, having explicitly registered this point, there might be an implied significance perhaps unfairly attributed to its omission from Senate Resolution 180.

**JUDICIAL GROUNDS FOR U.S. BEING ACCUSED OF CHARTER VIOLATION**

Senator Pell. In your view, are there any juridical grounds for saying that the United States has acted in violation of the United Nations charter in Vietnam?

Mr. Gross. Is that a question, Senator Pell?

Senator Pell. Yes.

Mr. Gross. I think it would be going much too far to say that the United States has acted in violation of the United Nations charter. I think, as has been pointed out by this Administration——

Senator Pell. Excuse me, I did not say we had, but I was asking you the question whether in your view we had.

Mr. Gross. I did not mean to attribute the meaning or intention to you. I was using this rhetorically. It would be going too far to say that it had, and it has been pointed out that article 51 of the charter provides for self-defense to prevent an armed attack. The Government of South Vietnam stated that an armed attack had taken place which they had resisted, and they asked for our assistance. I think it has been argued and it can be argued that we have not violated the charter.

What I think would be more just and accurate to say is that by not utilizing or attempting more effectively to utilize the United Nations, particularly in a catalytic or limited sense such as, for example, I have suggested as one of many possibilities, that we fall short of carrying out the spirit of the charter. The charter, of course, envisages as one of its first principles that the members, the "peoples of the United Nations," undertake, and I quote from the preamble, "To insure, by the acceptance of principles and the institution of methods, that armed forces shall not be used, save in the common interest." I think it is a basic principle of the charter that the common interest should be defined by collective judgment and collective responsibility and not unilaterally unless indeed it is necessary to meet an emergent self-defense armed attack situation, because the right of self-defense is preserved.

There is enshrined in the charter the principle that force shall not be used except in the common interest, and that there shall be the acceptance of the principles and the institution of methods by which those common interests are determined, and by which they shall be protected. As I said before, my primary concern over the years, and this, if I may say so, started in 1953 with statements similar to those which I have made today. I have always felt that there will be grave dangers to U.S. national interests in pursuing an essentially unilateral course in so complex a situation as Indochina.

I believe, in short, that we have not violated our obligations under the charter by intervening there, but we have not gone as far as we should have gone or should now go to observe the principles which are basic to the charter and, I think, to world peace.
A BASIC PRINCIPLE OF CHARTER

Senator PELL. Am I correct in understanding that your view is that in accordance with the charter, force should not be used except when it is determined multilaterally that a threat to the peace exists; that it should not be used under a unilateral determination?

Mr. GROSS. That is the basic principle of the charter.

Senator PELL. Would this not be a basic difference between this and Korea?

Mr. GROSS. Except that here, as I say, we do have the exception, the out, if you like, of article 51 of the charter which, of course, recognizes the inherent right of self-defense against armed attack, individual or collective self-defense against armed attack and this, of course, is a basic principle which is inherent in all societies and social systems and must be.

But the question of how long the right of self-defense continues is, of course, one of those very vexing questions with which all legal systems try to grapple. There are, there must be at some time, at some stage, unless there is to be sheer anarchy, some sort of corrective method of determining when the right of self-defense is spent, and when the common interest should be defined and defended by common judgments and common responsibilities. I think we are coming close to the stage, if we have not arrived at it already in Vietnam, when this should be the governing principle.

APPLICABILITY OF SEATO TREATY

Senator PELL. I imagine another way out would be article 52, section 2, pertaining to regional arrangements.

Mr. GROSS. Yes, Senator Pell, in respect of the applicability of the Southeast Asia Defense Treaty, a regional treaty, of course. I had not ventured to go into that in my opening statement.

I studied the matter carefully and was familiar at the time with the matter, and its origins, and referred to those in my opening statement, although superficially.

But in response to your comment, Senator Pell, it does seem to me that one of the basic moral weaknesses, and I think therefore essentially political weaknesses, of the U.S. position is that the Southeast Asia Treaty Organization has not itself taken action or made decisions with respect to this matter, and that several members of the Southeast Asia Treaty Organization are among the missing when the roll is called.

Senator PELL. This is a very interesting point of which the public, I think, is not aware, that you have brought out here, and that is that SEATO per se has never had a meeting on, or taken action in connection with the aggression in Vietnam; would that not be correct?

Mr. GROSS. That is my understanding. I have never heard of any such meeting, and I think there are good reasons, perhaps, why such a session has not been convened. I think the attitude of Pakistan, for example, would raise difficulties, as well as other members that are not necessary to enumerate here. But it does seem to me here from the legal point of view I should qualify the implications of this comment because, of course, the provisions of the Southeast Asia Treaty do
permit the parties singly, as well as severally, in terms of the treaty to meet the common danger in accordance with its, the individual party's processes and, therefore, unanimous agreement is not necessary.

However, this does not affect the moral or political consequences of the absence of certain members of the treaty organization itself and the Vietnam situation.

Senator Pell. Right.

I am struck, just as you are, if it is correct that there has been no meeting of SEATO or action taken devoted to the Vietnam problem.

**Importance of Cessation of Bombing**

I am struck by the unanimity with which all the witnesses who have come up here have stressed the importance of the cessation of the bombing as a preliminary step to United Nations consideration, not only to its consideration but to some sort of United Nations affirmative action.

I have been of this view with regard to the cessation of the bombing for other reasons. It is counterproductive to our American national interest. We are failing in the military objectives of interdicting the flow of men and goods; although we are making it difficult, expensive, and inconvenient for the north. In addition, the morale effects are counterproductive in that it is solidifying the North Vietnamese, while at the same time it has produced some abhorrence on the part of some South Vietnamese.

So I have always believed, from the very beginning, that the bombing was counterproductive even though it may eventually lead to the total defeat of North Vietnam.

**Effect of Either Resolution Without Bombing Cease**

Do you think that without a cessation of the bombing, either of these resolutions can have any effect in the United Nations, either the strong Morse one or the weaker one of Senator Mansfield which I cosponsored?

Mr. Gross. Without the benefit of actual consultations with U.N. members, I would have to qualify my response.

On the basis of such experience as I have had and exposure to the problem generally, I would without hesitation express the feeling that recourse to the Security Council or to the General Assembly, at a time we maintained our course of bombing the north, would be both unproductive, and I would think rather dangerous to our position.

In the General Assembly I have little doubt that there would be a very large and, perhaps overwhelming sentiment expressed for a resolution which would call upon the United States to cease bombing as a first step.

If we are not prepared to cease bombing, as I said in my earlier remarks, I do not think we should expose ourselves to that type of resolution which only puts us in the wrong, further deeper in the wrong. I do not think that would be in our national interest.

Therefore, I think so far as the General Assembly is concerned it would not be wise or prudent to submit the question to the General Assembly under the conditions of continued bombing.
With regard to the Security Council, of course, we do have the reserve power of the veto there. Senator Morse's resolution would call upon the executive branch in advance to announce, in effect, renounce its intention to use the veto.

Personally, with all respect to Senator Morse, I doubt that that would be a wise move for us to make in a situation in which we are engaged in mortal combat, where we have hundreds of thousands of troops involved. It seems to me we might very well find ourselves in a position of having to use that reserve power of the veto, reluctant as we would be to do so.

LIMITED RECOURSE TO THE GENERAL ASSEMBLY

Senator Pell. And yet you recommend that we go to the General Assembly where the veto would not apply?

Mr. Gross. My proposal of limited recourse to the General Assembly when bombing has been simultaneously ceased, reduces the risk to a bare minimum, it seems to me; and, as I said before, I would have sufficient confidence that more than a two-thirds majority of the General Assembly would respond to our cessation of bombing by calling upon all parties to cease fire and throw their weight behind efforts of peace.

I would think that the possible irresponsibility of the General Assembly would not be so serious a risk that we should not accept it, because of the greater risk which continued lonely and unilateral exposure places the United States in our own high national interest.

Senator Pell. I thank you very much because what you have done here is, as have the other witnesses, to add to the reasons of counter-productivity and the possibility of entering into negotiations, the third factor, and the very important one, that without cessation of bombing there is no practicable chance of the U.N. really becoming productively seized of the problem.

I thank you very much.

Senator Morse. Mr. Chairman.

Senator Sparkman. Senator Morse.

HAS THE UNITED STATES VIOLATED THE U.N. CHARTER?

Senator Morse. I want to file a caveat in my own self-protection as far as my record is concerned. I would not want it said that Wayne Morse sat here and remained silent in this colloquy between Senator Pell and one distinguished international lawyer, Mr. Gross, in connection with whether or not we have or have not violated the United Nations charter?

I have, of course, submitted at great length legal documentation to the contrary. I think we have been in open violation of article after article of the charter from the beginning and, of course, the differences, as I am sure Mr. Gross recognizes, are agreement on the operative facts.

After all, you apply legal doctrine to facts, and you can have honest differences of opinion as to what the facts are. If you have those differences then you get a different application of legal principles. I have great respect for the brilliance of our witness. If I agreed with him on the finding of the facts we would come out to the same legal conclusions.

But our difficulties, as my brief showed, and they are shared by
many international lawyers in this country who hold the opposite point of view from what has been expressed here this morning. I will not engage in argument; I just wanted the record to show that I filed my caveat, to wit, as to such points as this: that our military intervention in the first place was aggression. We had no right under the charter, article 37, 51 or 52 or several others, to take the unilateral action that we took.

It goes back, of course, to the very disputed premise about a commitment to a puppet government that we created in the first place, in open violation of the literal prohibitions of the Geneva treaty which our Secretary of State and President said that we would respect as tenets of international law. We never have.

When you move in in violation of those principles you, of course, automatically move in in violation of the principles of the charter of the United Nations.

So it is this original finding of fact in which international lawyers find themselves disagreeing and, therefore, reach different conclusion as to the justification of the U.S. intervention.

USE OF SEATO AS RATIONALIZATION FOR U.S. INTERVENTION

We not only have that original aggression which we cannot justify and which is causing us a great deal of trouble with other nations because of our unilateral course of action, but you also have SEATO which does not, as a matter of law, justify to any degree whatsoever what the U.S. position is in South Vietnam.

Don't forget the Secretary of State grabbed that as an afterthought, after the State Department put out their first white paper which was supposed to rationalize our intervention in South Vietnam and had never even a whisper about SEATO. But subsequently the Secretary of State came up with the remarkable finding that SEATO justifies our intervention.

But, as has been pointed out even by this brilliant testimony this morning, if you go back to the statements of Secretary Dulles when the treaty was before this committee for ratification—and don't forget his statements become a part of that treaty as far as its meaning is concerned through American ratification—you cannot separate his statement as to what this treaty means from what we approved. We did not approve something else than what he said it meant, for he spoke for the President of the United States. Don't forget in that cross-examination, Secretary Dulles made perfectly clear that SEATO is not NATO. He made perfectly clear that the military commitments of NATO were not involved in SEATO. If he had not made it clear, why, he could not have gotten that treaty through this committee.

It was perfectly clear that that was the issue that this committee drew with the Secretary of State at that time. So even on that score alone, if he had no other points that were involved, you could not justify using SEATO for rationalization of our unilateral course of action in South Vietnam.

But even under SEATO we could not have received approval on a military course of action, which we never had. Why? Because three nations made clear there was a standing dissent—Pakistan, Great Britain, and France. So you cannot justify it on that basis.
You cannot justify it on the basis of self-defense under article 1 because we were not attacked. We did the attacking. We violated the rights of the conflicting parties in a civil war in South Vietnam. I just wanted to get this caveat into the record because this is a general point of view of counsel on this issue on the other side of the table.

**U.S. UNILATERAL COURSE OF ACTION IN VIETNAM**

When you get to the Security Council you are going to get the acrimonious debate that I alluded to earlier this morning. The sooner we get that debate behind us and then move on either through further action in the Security Council or, as the witness says—and I think he is probably right—to the General Assembly, the better. But you have to get the atmosphere cleared in regard to this.

What the American people do not like to face up to is that we have followed a unilateral course of action in Vietnam to our everlasting historic discredit. We had better face up to it and not try to continue to perpetuate this unilateral military action in Vietnam where already the lives of over 13,000 American troops and thousands and thousands of Asians have been sacrificed.

You hear little talk by those who want to continue to escalate this war about what we are doing to others. It is as though just because we are in a combat we have to go along indefinitely inflicting this killing and suffering upon mankind and think we are going to make friends by doing it.

What we are doing is alienating ourselves around the world. This is bound up in this great international law debate. We must settle it—and we are never going to settle it until we stop our unilateral course of action, and make perfectly clear that the other nations have a duty to come in and take over. We ought to keep them on the spot until they do.

That is the caveat that I wanted to say, and I speak most respectfully to the witness. I never speak in a situation like this as a member of a committee without giving the person at the witness table an opportunity to make any comment he wants.

**LEGAL COMMITMENT VERSUS A LEGAL RIGHT**

Mr. Gross. Mr. Chairman, I really will use self-restraint because of the hour, and I think the committee is entitled to the exercise of that quality on my part.

I would only like to say that the Southeast Asia Treaty, as I view it, gives the United States in terms a right. It does not, however, impose a commitment from a legal point of view. It seems to me that there has been some confusion by some statements on the part of certain of our officials which fail to distinguish clearly between the very important question of legal commitment versus a legal right.

Sometimes the commitment under the SEATO is talked about as if it were a legal commitment when what is really meant is a moral commitment as to which there might be differences of view, and I do not go into that.
The only other comment I would like to make is with regard to the United Nations. Reference has been made to the North Atlantic Treaty, Senator Sparkman, and I would like, if I may, to refer to the fact that in the unanimous report of the Senate Foreign Relations Committee on the North Atlantic Treaty, which obviously imposed no essentially different obligation upon the United States than SEATO—if anything, it imposed a more direct and compelling one—that the report of this committee makes the statement explicitly of the relationship of the United Nations to the North Atlantic Treaty in terms which I believe apply to the Southeast Asia Treaty as well. The Senate Foreign Relations Committee said in its report:

Lest there be any misunderstanding about the relative position of the Treaty and the United Nations Charter, Article 7 makes clear the overriding character of the Charter with respect to the obligations of the signatories, who are also members of the United Nations.

Then the report goes on with one more sentence, if I may:

In the opinion of the Committee, the Treaty rightly recognizes the primary responsibility of the Security Council in this field—

Meaning peace and security—and makes clear the intent of the signatories not to compete with this responsibility or interfere with it in any way.

Although the reference is to the Security Council, in order to support my point with regard to the General Assembly, if I may read just one more sentence from the report of this Committee:

This desire not to compete with or impair the authority of the United Nations is applicable not only to the Security Council but to other organs of the United Nations which the Committee understands the parties intend to use wherever appropriate.

It is my respectful submission that this express statement with regard to what was headed the paramount authority of the United Nations with regard to NATO, must also by every standard of reason and logic apply to SEATO as well.

Thank you, Mr. Chairman.

Senator Sparkman, thank you, Mr. Gross.

We are supposed to be in the Senate by 12:15 for the joint session.

(In connection with Mr. Gross’ testimony, the following letter was subsequently received:)

National Council of the Churches of Christ in the U.S.A.,
Department of International Affairs,

Hon. J. William Fulbright,
Chairman, Senate Foreign Relations Committee,
New Senate Office Building, Washington, D.C.

Dear Senator Fulbright: The General Board of the National Council of Churches at its meeting on September 15, 1967, adopted the enclosed “Resolution on Vietnam.” A major operative paragraph in that resolution asks for a shift in U.S. policy concerning Vietnam at two points, as follows: “The first is to stop the bombing of North Vietnam for an unspecified period of time. The second is, simultaneously with the first, to request the UN (preferably the General Assembly) or other international agency to take up the question: What steps should be taken and procedures adopted to assure a peaceful settlement in Vietnam? The newly introduced Senate resolution concerning reference of the Vietnam issue to the UN deserves popular support.” The resolution referred to, as is later specified, is S. Con. Res. 44 of September 11, 1967, introduced by Senator Wayne Morse.
The Senate Foreign Relations Committee is now conducting hearings on the Morse resolution, as well as on S. Res. 180 of October 25, 1967, which was co-sponsored by 57 members of the Senate. Both of these deal with the question of the possible role of the UN in bringing about an honorable settlement to the Vietnam conflict. The Honorable Ernest A. Gross, in his testimony before your Committee, has correctly stated the challenge here as one of finding "the most effective and practicable way of engaging the responsibilities of the U.N. membership and of bringing to bear their collective weight on the side of a just settlement." Mr. Gross, in addition to being an eminent international lawyer and former delegate to the UN, is also Chairman of the Advisory Committee of the National Council of Churches' Department of International Affairs.

As the NCC resolution indicates, the initiative in this matter should be taken by the United States. Both resolutions before your Committee are in accord with this position. It is our further conviction, however, that this should be done in conjunction with a cessation of the bombing of North Vietnam. Here again we would concur with Mr. Gross's testimony on this point in which he questioned both the prudence and the profitability of doing the first without the second. By combining these two initiatives, however, those UN members who see the bombing as the chief obstacle to peace would be afforded an opportunity to use their combined influence to bring about negotiations. There is also, of course, some evidence to support the view that the bombing has not achieved its objectives militarily while producing side effects which are both detrimental to our national interest and of questionable morality. For both reasons, then, this dual initiative has much to commend it.

I would appreciate it if you would make this letter and the accompanying resolution of the National Council of Churches a part of the record of the hearings on S. Con Res. 44 and S. Res. 180.

Thank you.

Sincerely,

ARTHUR S. FLEMMING.

RESOLUTION ON VIETNAM, ADOPTED BY THE GENERAL BOARD, SEPTEMBER 15, 1967, ATLANTA, GA.

This past summer has witnessed a heavy intensification of the war in Vietnam. We cannot speak of that war without recalling that in these months also there have occurred, among other things, riots in our cities, the emasculation of a once proud commitment to foreign aid for development, and an unresolved crisis in the Middle East. In each of these, there is much to suggest that a profound re-evaluation of the moral basis of U.S. life is overdue. Urgent issues are at stake: among them, U.S. attachment to security and the status quo, as contrasted with U.S. commitment to justice and to freedom. There is urgent need to re-examine and to reaffirm the requirement of God for justice and freedom, upon which alone are based any security and order worth having.

In regard to Vietnam, recent developments suggest various courses of action that the U.S.A. might take.

One is greatly increased escalation of the military effort to secure defeat of North Vietnam and, therefore, the Viet Cong. This policy will involve vast destruction. It will greatly increase the danger of war with China and perhaps Russia. It will, in our judgment, employ means that will defeat our objectives in Vietnam. We therefore vigorously oppose escalation of the U.S. military effort there. We believe there is a better way to end the conflict.

Another course of action is to continue the military operation at generally the present level. Although this is high, it is still the level of limited and not all-out war. This course of action will almost certainly involve a long war. We do not believe this policy to be morally justified. In our judgment the destruction it would entail, both in meeting major military engagements and in a hamlet-by-hamlet operation, would defeat the U.S. objectives of helping to achieve a free and just society in Vietnam.

A further course of action is to de-escalate the U.S. military effort, e.g., by revising U.S. concepts of military strategy, and adopting a strategy of the defense of those areas now controlled by Government of Vietnam and U.S.A. forces. If accompanied by steps designed to secure a peaceful settlement of the war, such a policy of de-escalation offers greater hope of a just settlement than a policy which envisages either a long war or an escalated military effort.

We believe that measures designed to set in motion a process of peaceful settlement should be inaugurated at once. We fully recognize that heavy responsibility
for the war and the present condition of Vietnam rests with the National Liberation Front and Hanoi. Nevertheless, we believe that a solution achieved by military victory alone, if that were possible, would subvert the interests of security, justice and peace, and therefore would not serve the best interests of the U.S.A. We believe, therefore, that the following steps should be taken:

(a) We ask that the U.S. make clear to the newly elected government in Saigon the necessity of large-scale, convincing efforts to establish social justice in South Vietnam, and the necessity of prompt efforts to secure a just, peaceful settlement with the National Liberation Front and Hanoi. It is essential, in our view, that the U.S. declare that the Government of Vietnam should take its own initiatives and make its own decisions to secure an early, peaceful settlement of the future of Vietnam. We urge that the U.S. pledge its support of all such efforts. In the absence of such efforts, we urge the U.S. Government to re-examine its commitments in Vietnam.

(b) As the General Assembly of the UN is about to convene, we ask that there be a shift in U.S. policy at two points. The first is to stop the bombing of North Vietnam for an unspecified period of time. The second is, simultaneously with the first, to request the UN (preferably the General Assembly) or other international agency to take up the question: What steps should be taken and procedures adopted to secure a peaceful settlement in Vietnam? The newly introduced Senate resolution concerning reference of the Vietnam issue to the UN deserves popular support.

Such a change in policy, we believe, would help create a situation on the world scene and in Vietnam that would assist in securing a peaceful settlement of the war. As the United States takes these steps, we believe it should clearly restate its desire for an early peaceful settlement and its willingness to withdraw its military forces upon reasonable assurance of the security of the area involved. We believe that the highest morality now urgently requires the compromises which will produce a peaceful settlement and help secure conditions for the establishment of freedom and justice. We believe that U.S. moral strength will now be shown not by continuing a massive military program, but by making efforts toward peace which, though they may involve risk, are imaginative, sustained and credible. We support the positions of those in Congress and in the Administration who have clearly advocated these objectives.

In the urgency of our situation in September, 1967, we call upon all Christians to communicate effectively their views to the officials of our Government.

The General Board determines to commence the process of implementation of this resolution, under the leadership of the President of the NCC as follows:

(1) A representative group from the Executive Committee of the General Board, and others as deemed necessary by the President of the NCC, will present officially and in person to the highest officials of the United States of America and the Congress, the positions of the NCC on Vietnam.

(2) Each member communion through its appropriate officers and agencies will be requested specifically to witness to their support of the positions of the NCC on Vietnam by implementing in their respective communions the suggestions which follow and through other methods, in order that members of the churches may express their conviction on Vietnam. This request will be made also to councils of churches and church women:

- to intensify their efforts to secure study, debate and action among their membership.
- to seek out those in their membership who are prepared to act on these matters, calling them together in localities, regions, and nationally for the purpose of common action.
- to secure actions about Vietnam from all possible church meetings, judicatories, and assemblies, and to publicize them.
- to use available time on radio and TV for the purpose of debate concerning Vietnam.
- to raise question with government officials and to inform them of their views, in face-to-face discussions or by letter or telegram. At this time, the Senate Concurrent Resolution 44 on reference to the UN, and a policy of deescalation are subjects of particular importance.

We also ask that urgent attention be given to the important Christian witness involved in the response of church members to Vietnam Christian Service, as part of the program of Church World Service. Such direct relief aid to the war sufferers in Vietnam demonstrates the moral sensitivity of Christian Americans and helps the cause of genuine reconciliation needed in the process of peace negotiations and especially of the eventual rehabilitation of the country.
INTRODUCTION OF DR. ELTON ATWATER

Senator Clark. Dr. Elton Atwater of University Park, Pa., is one of my constituents and a personal friend. It will be impossible for me to come back this afternoon as I must go to Philadelphia to make a speech.

I would like, if I might, Mr. Chairman, to place in the record a brief statement about Dr. Atwater's qualifications, and express my regret to him that I will not be able to be here to hear his testimony.

I have, however, Doctor, read your excellent paper and find myself in accord with its conclusions.

Dr. Atwater is presently a professor of political science at Pennsylvania State University. He came to Pennsylvania State originally from American University. Before that, he had a distinguished academic career at American University, at the Graduate Institute of International Studies at Geneva, and as an associate professor of political science in both Elmira College and American University.

He is the associate director of the Quaker program at the United Nations; past director and is presently serving on behalf of the Friends Committee on National Legislation.

It was my pleasure last Sunday to speak before the United Nations Committee at State College and to address the group with respect to the 22d anniversary of the United Nations.

Dr. Atwater and his wife were very active indeed in persuading me to go up there and in making the arrangements for what was a very successful meeting.

I am sure the committee will be most interested in the testimony that Dr. Atwater will give us, and I regret very much that I cannot be here to hear him.

Senator Sparkman. Thank you, Senator Clark.

The committee will stand in recess until 2 o'clock.

(Whereupon, at 12:05 p.m., the committee recessed, to reconvene at 2 p.m., the same day.)

AFTERNOON SESSION

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

Senator Clark this morning introduced Dr. Elton Atwater. I want to associate myself with the introductory remarks and I want to insert in the record at this point, Mr. Reporter, a biographic sketch of Dr. Atwater.

(The biographic sketch of Dr. Atwater follows:)

ELTON ATWATER, PROFESSOR OF POLITICAL SCIENCE, THE PENNSYLVANIA STATE UNIVERSITY

ACADEMIC TRAINING

B.A. University of Rochester, 1934
M.A. The American University, Washington, D.C., 1936
Ph. D. The American University, 1939.
Diploma from the Graduate Institute of International Studies, Geneva, Switzerland, 1938
PROFESSIONAL EXPERIENCE

Assistant Professor of Political Science, Elmira College, 1939–1943
Director, Foreign Service Training Program, American Friends Service Committee, 1946–1947
Associate Professor of International Affairs, The American University, Washington, D.C., 1947–1950
Associate Professor of Political Science, the Pennsylvania State University, 1950–1957; Professor of Political Science here since 1957.
Associate Director of the Quaker United Nations Program, New York City, and Non-Governmental Organization Representative accredited to the U.N. Economic and Social Council, 1957–1959. Responsibilities included the exploration of various ways whereby greater use might be made of U.N. programs in the field of technical assistance, economic development, and social welfare services.
Since 1964, has been developing and directing a U.N. Intern Program for Pennsylvania State graduate students under which the latter work as research aides in U.N. Delegations and other offices for one or two terms.

PUBLICATIONS

Contributor of articles on international relations to the 1964 edition of the World Book Encyclopedia.
Have presented statements on several occasions before the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations in Washington, D.C. on foreign aid legislation and legislation relating to the United Nations.
Contributor of articles to the American Journal of International Law, the Public Opinion Quarterly, Christian Century, and Friends Journal.

Senator Morse. For those in attendance, I want to say that we are about to listen to one of the experts in the field of international law. We are delighted, Professor Atwater, to have you with us. You may proceed in your own way.

STATEMENT OF ELTON ATWATER, PROFESSOR OF POLITICAL SCIENCE, THE PENNSYLVANIA STATE UNIVERSITY

Mr. Atwater. Thank you very much, Mr. Chairman.
My name is Elton Atwater. I am professor of political science at the Pennsylvania State University. I am here today on behalf of the Friends Committee on National Legislation. Although this committee is widely representative of the views of many Friends or Quakers, it is not authorized to speak for all members of the Religious Society of Friends. No single organization is authorized to do this.

SUPPORT FOR MORSE RESOLUTION

I speak today in general support of the resolution, which you introduced, Mr. Chairman, calling on the President to request United Nations action on the Vietnam conflict through the Security Council or, if this is impossible, through the General Assembly.
The President has repeatedly stressed his desire for peace in Vietnam and said that he or his representatives would meet any time, any place, and with anyone authorized to engage in meaningful discussions on ending the conflict. As recently as last Monday, October 23, 1967, following the antiwar demonstrations in Washington, D.C., he said:

In every way we can, we search for peace in Vietnam. But we appear to be searching alone.

Your resolution offers a means of broadening that search by enlisting the help of the great majority of United Nations members who are also deeply disturbed by the Vietnam war, who do not feel that the problem can be solved by military measures, and who support the effort to bring both sides to the conference table.

**VIETNAM CONFLICT SHOULD HAVE GONE TO U.N. LONG AGO**

The Vietnam conflict should have been taken to the United Nations long ago before the President authorized U.S. military forces to engage in combat operations. Unlike the case of the Korean war, there has been no United Nations or international finding of “aggression” in Vietnam, and no U.N. or international authorization of military action. There have only been charges and countercharges of “aggression” by both sides, with each side apparently expecting the rest of the world to take its claims at face value.

No careful lawyer or judge would base his conclusions on the claims or statements of one party to the dispute, but this is in effect what we have been doing by not having earlier sought the United Nations authorization and action to deal with the Vietnam problem. Admittedly, the Vietnam case is much more complicated than that of Korea, involving initially charges of indirect aggression and subversion rather than direct military attack. But if the United States had had a really strong case, it should have been willing to let the United Nations evaluate it. And even if the Security Council had been unable to act because of a veto, more vigorous initiatives by the United States in the General Assembly might have produced a sufficient consensus to enable U.N. representatives to have exercised a moderating or mediating influence earlier in the conflict.

**INITIATION OF STEPS TO ACHIEVE A CEASE-FIRE**

But there is little to be gained now in attempting to assess responsibility for past failures. What is important at the moment is to initiate steps to achieve a cease-fire and to open negotiations looking toward some kind of settlement under which South Vietnam can freely establish its own internal political institutions, with international guarantees of its security and with international assistance for its economic rehabilitation and development.

I believe the United Nations can be helpful in initiating such action provided that the United States gives convincing evidence that it is prepared to reduce the level of military activity and enter into meaningful discussions.
SIMULTANEOUS ANNOUNCEMENT OF OUR WILLINGNESS TO HALT BOMBING

At this point I would like to depart from my prepared statement long enough to agree with what was so ably said this morning by Mr. Gross as to the importance of accompanying the announcement of taking the case to the Security Council with a simultaneous announcement of our willingness to halt the bombing and to negotiate with all parties, including the National Liberation Front.

The United Nations is no superpower, and there are many severe limitations on what it can do, arising from the veto power in the Security Council and the fact that Communist China and North Vietnam do not sit in the United Nations and are strongly opposed at this moment to U.N. involvement.

As recently as September 16, 1967, Secretary General U Thant said at a press conference:

I would be the happiest man if the Security Council were in a position to contribute toward the settlement of the Vietnam problem . . . But the plain fact is that in matters of that nature involving peace-keeping, the Security Council will not act and cannot act in the face of opposition of one permanent member. That has been the experience of the United Nations in the last twenty-two years.

ROLE OF SECRETARY GENERAL

I might add at this point, Mr. Chairman, that it has been a little difficult for some of us like yourself who have been urging that the U.N. take up this matter, to find that the Secretary General has felt this was not a wise course of action. It has not been easy to maintain this point in the face of a position of this sort, and yet in view of the political realities which exist at the United Nations, the Secretary General, of course, has a very strong case.

Senator Morse. May I say, Professor, that, when the Secretary General makes those statements, I always remember he is not the United Nations, just an officer of it, and the questions of policy, after all, rest for final determination not in his office but in the Security Council and in the General Assembly.

When I say that I do not in any way reflect against him. I have great admiration and respect for him. I happen to think that we must insist through the Security Council and the General Assembly that policy be formulated and then call upon the Secretary General to execute it.

Mr. Atwater. I agree with you, and I feel that frequently member governments, our own Government in particular because of its tremendous influence, can often make the job of the Secretary General much easier by taking a stronger, more vigorous position in support of U.N. action. I hope we will do so in this case, and I think there is the opportunity here, as I am about to argue, to do exactly that.

IMPORTANCE OF GETTING SOVIET AGREEMENT

I do believe that simply referring the conflict to the Security Council or the General Assembly may not be very productive unless the Soviet Union modifies its present opposition to U.N. involvement in this case, and unless it also agrees to help get North Vietnam to the conference table.
I think we cannot emphasize too much the importance of getting Soviet agreement along the lines of this sort. I think there is a chance of persuading the Soviet Union to modify its position on these points if the United States were to announce an unconditional cessation in the bombing of North Vietnam and a willingness to negotiate with all interested parties, including the National Liberation Front. I certainly agree fully with U Thant's assessment that an unconditional cessation of the bombing of North Vietnam is the first priority in getting negotiations started. I am glad to see that the number of Senators and Representatives supporting such a move is steadily increasing.

Thus far, the President and the Secretary of State have objected to another unilateral bombing halt without some specific indication that Hanoi would undertake reciprocal action. But if the President were to call for a Security Council consideration of the Vietnam question, as contemplated by the Morse resolution, and if he simultaneously announced a cessation of the bombing and a willingness to negotiate with all interested parties, including the National Liberation Front, the political atmosphere would at once change for the better. The chances of getting a positive response from Hanoi would improve tremendously, and real possibilities would emerge for some American-Soviet consensus on Security Council action. I believe this might break the logjam, and this is why I feel it so important to link simultaneously with the call for United Nations action a U.S. declaration of a cessation of the bombing.

**ISOLATED POSITION OF THE UNITED STATES**

The United States would not now be searching for peace alone but would be enlisting the help of the entire United Nations machinery, including the very great assistance of the Secretary General. Action of this sort would go a long way toward overcoming the increasingly isolated position of the United States in the United Nations on the Vietnam issue.

This isolated position was very pointedly evident during the recent general debate in the U.N. Assembly during September and October. Out of 109 U.N. members who made foreign policy statements during this period, only five gave outright support to the U.S. policy in Vietnam—Thailand, Nationalist China, the Philippines, Australia and New Zealand. A few others—United Kingdom, Nigeria, Togo and Gabon—agreed with the United States that some reciprocal action by Hanoi should accompany a U.S. halt in the bombing. But there were no more than perhaps nine countries all together which indicated in this way some kind of direct support for U.S. military policies in Vietnam.

Mr. Chairman, I think that says a lot about where the United States stands on the Vietnam issue at the United Nations. Only nine out of 109 countries were willing to say publicly that they support our military policies.

On the other hand, 16 countries, including the Communist bloc, plus the United Arab Republic, Algeria, Syria, Yemen, the Congo (Brazzaville), Cambodia, Mali, and Mauritania, strongly condemned U.S. policy, while some 45, including several of our NATO allies like Canada, Belgium, Netherlands, Norway, and Denmark, called for a halt in the bombing.
When countries like Canada, Belgium, Netherlands, Norway, and Denmark say this kind of thing publicly, I think it is time we paid attention. I think this is the first year that many of these countries have spoken out as strongly in this way as they have.

STATEMENT ALONG LINES OF GENEVA AGREEMENT

A halt in the bombing, coupled with vigorous U.S. initiatives to secure United Nations action, would create an entirely different international political atmosphere and would, in my opinion, bring an almost unanimous U.N. effort to achieve a cease-fire and meaningful negotiations. From this point, the Security Council might reach a consensus on proposing a reconvening of the Geneva Conference to undertake negotiations for a broader settlement of the Vietnam question along the lines of the earlier Geneva agreements on this subject.

The United States has also called for a return to the Geneva agreements, as did 43 other delegations in the recent U.N. General Assembly debates, including the Soviet Union. Under the improved political atmosphere resulting from a U.S. bombing halt, I would expect that the Soviet Union could be persuaded to join with the United Kingdom as the other cochairman of the Geneva Conference in calling for a reconvening of that body.

SIMULTANEOUS MEASURES TO LOWER LEVEL OF MILITARY ACTIVITY

Here again, I emphasize the great importance of urging simultaneous measures to lower the level of military activity at the same time that we call for a session of the Security Council.

I feel, as Mr. Gross did this morning, that unless the United States is prepared to take that kind of action, it may be very unproductive if the Vietnam case comes up at the United Nations. Like Mr. Gross, I would also feel much better if the United States announced this position in advance, or simultaneously with taking the case to the Security Council, rather than waiting to see if the Security Council might demand a halt in the bombing. In the latter event, we would be in a much more awkward position.

So, for these reasons, Mr. Chairman, I hope the Senate will not only approve the Morse resolution, but will also take steps to urge upon the President the very great importance of taking simultaneous action to halt the bombing and to be prepared to negotiate with all parties. In this way, the United States, with the United Nations help, might at last get started on the long and difficult road towards a meaningful peaceful settlement.

COMMENT ON MANSFIELD RESOLUTION

If I might be permitted to add one word concerning the resolution of Senator Mansfield. I prepared this statement before I was aware of the text of his resolution and so did not include reference to it.

I have had occasion to look at it this morning. My quick reaction to it is that any resolution which would get this matter before the United Nations should be supported, although I prefer the stronger wording of your resolution. I think that the key idea, though, is to have
the Senate urge the President to take simultaneous action to stop the bombing and to indicate a willingness to negotiate with other parties. Whether you follow the weaker language of the Mansfield resolution or the stronger language of your resolution, Mr. Chairman, I think that other simultaneous action is essential if we expect to have successful results at the U.N. In getting greater Soviet cooperation to bring pressure to bear on Hanoi and to get steps initiated that would look toward peace talks.

Senator Morse. Well, I share your view.

SUGGESTIONS FOR MANSFIELD RESOLUTION

As I have already expressed on this record, the Mansfield resolution would be very helpful in that it would do what I have referred to descriptively as building a bridge between this committee and the Congress and the White House in regard to this issue.

I have not any doubt that there will be suggestions for some word changes in it in this committee and in the executive session such as, for example, where it is said that the President "consider," in my judgment, ought to be changed to language in which the committee says that the Congress recommends to the President that he submit the issue to the United Nations.

Then I think there is some merit in the point of view of Mr. Gross this morning that language be included to make clear that it was the recommendation of the Congress that it go beyond the Security Council to the General Assembly if the issue gets bogged down in the Security Council.

VIETNAM ISSUE IS ALREADY ON SECURITY COUNCIL AGENDA

Mr. Atwater. I would agree with both of those suggestions. If I might make one further point, I think that the Mansfield resolution points to one useful approach, and that is the fact that the Vietnam issue is already on the agenda of the Security Council as a result of the U.S. initiative in January of 1966. By reactivating that agenda item it is not necessary to go through the long procedural debate that we went through in January and February of 1966 at the U.N. to get it on the agenda of the Security Council. It could be done more quickly and possibly more usefully.

Senator Morse. I think it is well that that be pointed out for the record.

It was my objective from the very beginning to have a resolution before the Security Council that would really be an effective one.

I violate no confidence, I am sure, when I say that Senator Mansfield and I have stressed the point in our conversations with the Administration, that in a sense the resolution that is sent up is not even vetoable, and that to get to the veto stage a bare majority would put it on the agenda, and that is where it is going to stay, in my judgment, until the United States makes some commitments.

The resolution carries no commitment from the United States. I think that in view of the developments in Asia, we have a clear obligation to commit ourselves to abide by the jurisdiction of the Security Council or the General Assembly, and that is why my resolution calls
for a cease-fire. It leaves no room for doubt that we are offering to submit it to the jurisdiction and abide by the jurisdiction of the U.N., provided it in turn carries out its concomitant and corollary responsibility of taking the necessary steps to enforce the peace under the procedures provided for in the charter.

RECOMMENDATION OF CONGRESS

I think that step has to be taken. But I am not taking the position now that the Mansfield resolution has to go that far. The hearings, the debate on the floor of the two Houses if, as, and when the resolution goes to the two Houses for a vote, will make the legislative record on these points, and the President will be in position to take note of them. The result will be to then place upon him the responsibility as far as executive action is concerned to submit a resolution which he thinks the executive branch ought to submit.

I have confidence that he is not going to ignore the judgment of the Congress because, as I have said so many times, I do not question his sincerity or his motivation in trying to find an honorable way out of the very serious situation that has developed in Asia threatening the peace of the world, most of the responsibility for which history will show rests squarely on the shoulders of the United States for reasons that I alluded to this morning.

ADVOCATION OF AN ALL-OUT ESCALATION

Suppose the President orders a suspension of the bombing—and, of course, I am for suspending it; I oppose its ever starting. I do not think we ever had the slightest justification for dropping a single bomb on North Vietnam or giving destroyer coverage to South Vietnamese navy boats that started the aggression against North Vietnam at the time of Tonkin Gulf. Many people do not know about that, not very many of them; they do not even like to hear it discussed. But don't forget that before Tonkin Gulf, there was not a single Administration witness who ever came before this committee when we put the question to them, "Do you have any evidence of troop infiltration from North Vietnam into South Vietnam?" Not a single witness before Tonkin ever said they had any evidence, the slightest evidence, of the historic case before this committee of any infiltration of troops into South Vietnam prior to Tonkin Gulf.

Many South Vietnamese went up to North Vietnam to be militarily trained, but we could not very well object to that in view of the training of foreign troops that we are participating in the very hour that I now speak. It was their right.

But you are going to hear the argument, and I want your opinion about it, that if the President orders a cessation of the bombing, and then the proposal for United Nations intervention breaks down either in the Security Council or the General Assembly, and that avenue is closed to us, which I hope will never happen, but let us assume it in my hypothesis, then do you think there will be an increased demand on the part of those in our country advocating an all-out escalation to urge that upon the Administration and upon the American people?

Do you think they would run that risk in the United Nations approach?
Mr. Atwater. There is, of course, the risk that if the United Nations takes it up and then is unable to do anything immediately, there would be clamor, appeal for stronger, more vigorous U.S. action.

Of course, there is this risk. Any policy, as you have said so many times, has risks. The question is, what risks are you going to take?

I feel that emphasis in much of our discussion today has been put upon the type of formal diplomacy which takes place at the U.N. in their formal meetings and, perhaps, not enough emphasis on the informal diplomacy which takes place in the corridors and behind the formal meetings, which is in many ways more productive and which is essential if there is to be agreement in the formal meetings.

I think the very fact that this question is on the minds of 122 governments, that they are seeking and working as hard as we are to find a way out of the dilemma immeasurably increases the opportunity for moderate influences to make themselves felt.

I think one of the great advantages of United Nations involvement lies in the moderating influence which comes from United Nations deliberations, from the value of considering other viewpoints and other approaches to the problem. We have seen this happen many times when the General Assembly has taken up a critical issue, such as in the Lebanese crisis in August 1958, when the General Assembly reached a consensus after the Security Council had been stymied by the veto.

The same thing happened again in the Congo crisis in September 1960, after the Security Council had been deadlocked by a Soviet veto.

The matter went to the Assembly, and here the broader discussions and moderate voices of other members helped to develop a consensus which was unanimously accepted and acquiesced in by even the Soviet Union which abstained in the voting. If the Vietnam question went before the United Nations, and if the United States simultaneously stopped the bombing of North Vietnam, I think there would be tremendous political pressure on governments to find a way of achieving a cease-fire by both sides.

There has been a lot of skepticism about unilateral U.S. action, but if we work through the United Nations we could generate considerable international pressure to get a genuine multilateral cease-fire. I think there would also be greater pressure on the Soviet Union to cooperate in this effort if the United States takes the position which I and others here have suggested.

So, of course, there is risk, but I think the risk is far less than the risk of continuing this bombing, because I see no end to that except a major land war in Asia.

Senator Morse. I want to thank you very much for your comment on my question. I agree with your thesis.

Commitment by the United States

Mr. Atwater. Might I make one other point in reference to something you said a moment ago, in reference to the importance of having in the resolution some commitment by the United States to follow whatever the Security Council or Assembly should recommend.
I certainly agree with this, although it might be important to point out that in the charter, the United Nations members are already obligated to do this. Article 25 of the charter specifically says that members of the U.N. agree to accept and carry out decisions of the Security Council.

The obligation to carry out Security Council decisions is in the background, then, of the United Nations procedures, but if it would be any easier to get a resolution through Congress without a clause committing us to support U.N. action it is, of course, quite possible that article 25 of the charter would cover the situation adequately.

Senator Morse. I think that deserves very careful consideration.

If we find, as you say, we have a problem of getting that one vote over 50 percent, why, we had better consider it.

On the other hand, whenever you start a litigious matter that involves arbitration and mediation, although the parties are bound to abide by the results, the arbitrator or mediator always at the beginning of the case gets them to commit themselves to that commitment. When you are one of the defendants, as we are, anonymously speaking in this case, it is a good thing to assure others that they are dealing with a country that will agree to abide by the jurisdiction.

**TIME SCHEDULE FOR U.S. WITHDRAWAL OF TROOPS**

On the other point that you made, I only make this comment and then I will subside. If we should get to the point, speaking hypothetically, where a breakdown occurs in regard to a multilateral intervention to enforce the peace in Southeast Asia, my position always has been that once you reach that crossroads, the United States cannot justify continuing making war in Southeast Asia, but ought to announce a time schedule step by step, dropping back to lines of defense that we can hold to protect the men we have over there, give the countries in Asia a time schedule, a number of months, 3 or 6, to work out their own problems among themselves, following which we will withdraw.

It is only at that point that I would favor a withdrawal when there has been due notice, and give them time to prepare themselves in order to avoid the difficulties that would result from a precipitous withdrawal on our part.

It is not understood by many in this country. But if you cannot get other nations to participate in trying to prevent the spread of this war into a greater threat to the peace, if you give them an opportunity to do that, which this particular procedure we are holding hearings on seeks to give them, then I think the United States owes it to its own history and to mankind to announce that after a certain period of time we will withdraw our forces and we will leave an Asian war to Asians to handle, as we should have done in the first place.

Thank you very, very much, indeed.

Mr. Atwater. Thank you, Mr. Chairman.

Senator Morse. Our next witness will be Dr. Quincy Wright, professor of international law, University of Virginia.

Dr. Wright, please come forward and take the witness chair. I am going to ask Dr. Wright to close his ears for a moment while I address myself to a delegation of students that I see in the room, as well as others.
PRAISE FOR DR. QUINCY WRIGHT

I am always pleased when students attend our hearings because educational processes go on, may I say, in the Congress as well as in the classroom. To these students, I want to say that you have stepped into an opportunity this afternoon to hear, in my judgment, one of the greatest teachers in our country, and one of the keenest scholars of American academic life.

I shall not read all of Professor Wright's qualifying credentials. I shall put them in the record, and make comments about a few of them.

I told him this morning when I welcomed him that he should not be blamed for any viewpoint that I hold that is a mistaken one, for any viewpoint that I have fought for in connection with my work on the Foreign Relations Committee that is sound, he deserves no small credit for. Although I never sat at his feet in the classroom, I have sat at his feet as I have studied his writings and followed his brilliant career in international law for many years.

I cannot begin to tell you students how pleased I am to sit with you as a student this afternoon and listen to Dr. Quincy Wright. I should mention his teaching at Harvard and Minnesota and Chicago, and New Delhi, India, and now he is professor of international law at the University of Virginia.

You students need to do a great deal of reading of his writings. If I were back teaching, his writings in the field of international law would be on the compulsory reading list, such as the “Enforcement of International Law Through Municipal Law in the United States”; “Control of American Foreign Relations”; “Mandates Under the League of Nations”; “The Causes of War and the Conditions of Peace”; “Legal Problems in the Far Eastern Conflict”; “A Study of War”; “Problem of Stability and Progress in International Relations”; “The Study of International Relations”; “Contemporary International Law, a Balance Sheet”; “International Law and the United Nations”; “The Strengthening of International Law”; “The Role of International Law in the Elimination of War”; a few among his many scholarly writings in this whole field of international law and foreign relations.

(The biographic sketch of Dr. Quincy Wright follows:)

BIOGRAPHIC SKETCH OF DR. QUINCY WRIGHT, OF CHARLOTTESVILLE, VA.

Born: December 28, 1890, Medford, Massachusetts

Experience:
1915-16—Research Fellow, University of Pennsylvania
1916-19—Assistant Professor, Institute International Law, Harvard
1919-21—Assistant Professor Political Science, Harvard
1921-22—Associate Professor Political Science, Harvard
1922-23—Professor, University of Minnesota
1923-31—Professor Political Science, University of Chicago
1931-36—Professor International Law
1936-57—Visiting Research Scholar Carnegie Endowment for International Peace
1957-58-62—Visiting Professor International Law, Indian School of International Studies, New Delhi
1962-1963—International Relations, Columbia University
1968-1961—Professor, International Law, University of Virginia
SUBMIT VIETNAM CONFLICT TO UNITED NATIONS

CONFERENCES ATTENDED AND OTHER ACTIVITIES

Member Board of Editors, American Journal International Law, Member, American Political Science Association, Member, American Philosophy Society, Member, American Society of International Law, Member, American Institute Pacific Relations, Member, Commission to Study the Organization of Peace.

PUBLICATIONS

Enforcement of International Law Through Municipal Law in United States, 1916
Control of American Foreign Relations, 1922
Mandates Under the League of Nations, 1930
The Causes of War and the Conditions of Peace, 1935
Legal Problems in the Far Eastern Conflict, 1941
A Study of War, 1942
Problem of Stability and Progress in International Relations, 1954
The Study of International Relations, 1955
Contemporary International Law, a Balance Sheet, 1955
International Law and the United Nations, 1956
The Strengthening of International Law, 1959
The Role of International Law in the Elimination of War, 1961

Senator Morse. Dr. Wright, we are honored to have you and we await the contribution that I know you will make to this historic hearing.

For you students, as I think you come to study the United Nations, are going to find even before you get through college that this hearing will be worthy of your careful analysis because every witness to date has contributed testimony which I think could be bound. I am not sure but what, when we get through with these hearings, we will not have a group of scholarly statements that I think should be published as a Senate document and be made available to the libraries of the country.

That is the way I feel about the hearings, and the way I feel about our present witness.

You take over, Doctor, and we will sit in your seminar.

STATEMENT OF QUINCY WRIGHT, PROFESSOR EMERITUS OF INTERNATIONAL LAW, UNIVERSITY OF CHICAGO AND THE UNIVERSITY OF VIRGINIA

Mr. Wright. Thank you very much, Senator Morse.

I am glad to talk about this subject to which I have given a good deal of attention. You have probably seen an article I wrote about the legal aspects of the Vietnam situation in the American Journal of International Law.

Senator Morse. I quoted from it in two speeches.

MORSE RESOLUTION FAVORED

Mr. Wright. I am strongly for your resolution. I have not been able to study the Mansfield resolution, but I noticed in the paper yesterday that it seems to be considerably weaker than your resolution, and I am in favor of a strong resolution on this subject.

I favor your resolution because I think it is in the interests of the United States to have the Vietnam situation examined in the United
Nations. I think it is really an obligation of the United States to take a positive initiative.

I also think that it is in the interest of the United Nations to have a full discussion of the situation, and it is also an obligation of the United Nations to have such a discussion. Finally, I think United Nations discussion and recommendation is in the interests of mankind or the world as a whole.

**IN INTEREST OF UNITED STATES TO STRENGTHEN UNITED NATIONS**

Now, the United States has a national interest in this subject because it is in our interest to strengthen the United Nations. That is the first point I would make.

President Eisenhower, President Truman, and President Kennedy all said that the United Nations was the major instrument for the maintenance of peace in the world.

I think they were right, and they went on to say it was, therefore, in the interests of the United States to strengthen the United Nations.

If important questions that obviously are within the scope of the United Nations are not discussed there the United Nations is bound to be weakened. It is in our interest to maintain the prestige of the United Nations.

**IN INTEREST OF THE UNITED STATES TO END VIETNAM WAR**

It is also in our interest to make every effort to end the war in Vietnam with as much saving of face as we can get.

The prospects of negotiation seem to me pretty dim as long as it is on a bilateral basis. The United States offers the possibility of bringing about a conference or multilateral negotiation that would end the war. So for those two reasons the United States has a strong national interest in the purpose of this resolution.

**OBLIGATION TO USE THE UNITED NATIONS**

I also think it has an obligation. We should not overlook the fact that the first obligation undertaken in the United Nations Charter is to settle international disputes by peaceful means. That is a primary obligation.

While the United States has sought to place the matter on the agenda of the United Nations since January 1966, there has been no great pressure to do so. The Senate, by this resolution, may bring strong pressure on the Administration to carry out the obligation which we have undertaken to settle disputes peacefully.

**PRESTIGE OF U.N. AT STAKE**

Now, these interests and obligations of the United States are closely related to the interests and obligations of the United Nations.

The United Nations has an interest in discussing this because, as I said before, the United Nations loses in prestige by bypassing important questions which might be resolved by United Nations discussion.

There are, I am aware, people who say it is injurious to the prestige
of the United Nations if a matter is brought before it, but it does not succeed in bringing about a settlement.

I hope that the United Nations will bring about a settlement, but I think it is more injurious to the prestige of the United Nations if it bypasses matters which are clearly within its competence.

I believe the Secretary General has indicated that it is unlikely that the United Nations can act effectively in the Vietnam situation and the matter should be left to quiet diplomacy.

Well, I do not agree with him. Quiet diplomacy seems to have failed and it may be possible for the United Nations to deal effectively with the situation. In any case I do not think that it ought to be bypassed.

I should emphasize that the United Nations is under an obligation to take measures. Article 39 of the charter provides that "the Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken."

There is a positive obligation. Other articles say it is a "primary responsibility" of the Security Council "To maintain international peace and security." I do not think that the United Nations can properly, within the terms of its charter, escape the obligation to do what it can in this situation.

REFERENCE TO ARTICLE 51 OF CHARTER

I should also refer to article 51 of the charter by which the United States has sought to justify its action in Vietnam on ground that it is engaged in "collective self-defense against armed attack."

I will have something to say about that argument, which I know Senator Morse is interested in. But even if we are in Vietnam on that basis, I should like to call attention to the fact that this same article says that if an armed attack occurs against a member of the United Nations, and self-defense is undertaken, it can only be continued "until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter."

Even if the State Department's theory is entirely correct, that we are in there for the defense of South Vietnam, still the United Nations is under a responsibility, under the charter, to take such measures as it can to restore international peace and security.

The United Nations has, therefore, in my judgment, an obligation to do something and, as a member, an important member, of the United Nations, the United States should leave no stone unturned to see that the United Nations undertakes this responsibility.

POSITION OF THE SOVIET UNION

There has been a good deal of discussion on what the United Nations could do. It is said the Soviet Union will not allow a debate.

I think we should consider the position of the Soviet Union. It is certainly important that the United States and the Soviet Union should act together if there is to be effective action in the United Nations.
When those two countries have agreed there has nearly always been effective action in the United Nations as in the Suez episode in 1956 and the Palestine situation in 1949.

As I see it, the Soviet Union would like to have these hostilities stopped. They are giving assistance to Ho Chi Minh, and a lot of it, and they may give more so as to prevent the situation from being taken over by China.

No doubt there is rivalry between the Soviet Union and Communist China on which shall be the leader of communism in Asia, in Africa, and in other underdeveloped areas of the world.

The Soviets realize that geographically China is more able to assist Vietnam. They would not like to see China actually take over North Vietnam, and in my judgment, our policy may lead to China doing exactly that.

HISTORICAL ANTI-CHINESE ATTITUDE IN VIETNAM

Ho Chi Minh would greatly prefer to get aid from the Soviet Union. He is a Communist, but also a Vietnamese Nationalist. We must recall that for nine centuries Vietnam has struggled to maintain its independence against China.

I should also note that in 1946, after Ho Chi Minh had fought the Japanese, and the Chinese had come into portions of North Vietnam, in order to get the Chinese out, Ho Chi Minh invited the French to come in in place of the Chinese.

At that time the Chinese were the Chinese under Chiang Kai-shek, and the French had just recognized the Democratic Republic of Vietnam with Ho Chi Minh as its president. So Ho's invitation to the French is not surprising but it is an interesting indication of the desire of Ho Chi Minh to be protected even by the French against China.

To go on with the history a bit, very soon after this, France changed its position, decided it wanted to recolonize Indo-China, withdrew its recognition of Ho Chi Minh, and set up Bao Dai, who was a playboy who had been Emperor of Annam, as President of the Republic of Vietnam. Thus Vietnam as a whole was to be a protectorate of France. Then, of course, Ho Chi Minh turned against France, and the 7 years' war began.

This history indicates the desire of Ho Chi Minh to maintain a united, strong, nationalist Vietnam against the power of either China or France.

I think that the Soviet Union goes along with that. They would like to have a strong Communist Vietnam that would not be absorbed by China, and that would be a friend of the Soviet Union, maintaining its position in that part of the world.

Senator Morse. May I interrupt for just a moment, Dr. Wright?

DELEGATION OF PARLIAMENTARIANS FROM GUATEMALA

A delegation of parliamentarians from Guatemala has been brought into the hearing room and the Chair would be honored if they would come up and take seats at the committee table while we listen to this distinguished American scholar discuss the issues before us. If they would like to, we will be glad to have them take seats at the committee table.
Mr. Reporter, at the end of the hearing today, please insert in the record the names and biographic material on our foreign visitors. (See p. 147.)

I am sorry for the interruption, but I know you would be pleased to have the parliamentarians from Guatemala listen to the testimony. I am honored to have them, particularly honored to have them hear you. You may proceed.

SOVIET UNION WANTS A COMMUNIST VIETNAM

Mr. Wright. I think the Soviet Union would like to have this war stop, but they will not go against Ho Chi Minh. They want to build him up as a Communist power there against China about whom they are worried.

If this is correct, it seems to me there is a good chance of getting cooperation from the Soviet Union within the United Nations.

I think it would only be possible if we have an unconditional stopping of the bombing first. Ho Chi Minh has committed himself to no negotiation unless the bombing stops, and the Soviets have followed him in that. So I do not think we can possibly get any cooperation from the Soviets unless the bombings stop.

So I should think that this resolution might be effective in bringing the United Nations to deal with the matter in the Security Council or the General Assembly if there is first a stopping of the bombing.

QUESTION OF RECIPROCATION

Now, we have this question of reciprocation. I thought that Ernest Gross' argument was very convincing this morning when he said that if you had a full debate, and many countries committed themselves within the United Nations to the proposition that hostilities should stop, that they would feel a responsibility to get Ho Chi Minh to respond. As I read the record, Ho Chi Minh has indicated that he would respond if the bombing stops unconditionally, but what further demands would he be likely to make before he would meet in a conference?

I think we must realize, and this is evident from the bit of history that I gave, that Ho Chi Minh has dedicated himself to an independent, united Vietnam.

COMPARISON WITH AMERICAN CIVIL WAR

I have, to the discontent of some people, compared his position to that of Abraham Lincoln. I recently have been reading some of the documents in the early stages of the American Civil War. The Confederate leaders in their call to arms of the Confederacy said they were in grave fear that they were going to be the victims of aggression from the North. "Unprovoked aggression" is what Jefferson Davis called it, and "So we must defend ourselves against it."

I may say also that I had the opportunity to look over some secret correspondence of the British cabinet members of that time. Some of this material has recently been made available by Lord Mountbatten, whose wife was descended from Lord Palmerston. These documents include correspondence between Lord Palmerston, the prime minister
Lord John Russell, the foreign minister, Gladstone, chancellor of the exchequer, and other members of the British Government. The correspondence makes it clear that the British Government for various reasons, wanted the South to win for commercial reasons as well as Lord John Russell's argument that it was a case of self-determination, for obviously the South wanted to be independent. So the British planned to intervene. In fact, in September of 1861, Palmerston set a date for a cabinet meeting to recognize the Confederacy. I would say that the British relations to the South were similar to the relations of the United States to South Vietnam, but the British did not intervene.

The Cabinet meeting was called off because Lincoln, who was aware of the situation, changed the war from a war to save the Union to a war to abolish slavery, and the attitude of the British against slavery was so strong that once Lincoln had issued the preliminary Emancipation Proclamation, the British Government realized that it could not go into the war.

The British cabinet ministers had discussed the question: "Might we not get Lincoln to end the war by offering mediation on the basis of independence of the Confederacy and calling attention to the lives lost in the war, the barbarities of it, and the improbability that the North could win?" British intelligence was certain that the South would win in 1862.

But Secretary of State Seward convinced them that an offer of mediation would be rejected; that intervention would mean war—Seward had said it would be a serious violation of international law, and, as I said, they finally abandoned that idea.

Ho Chi Minh seems to be as much dedicated to a united, independent Vietnam as Abraham Lincoln was on that occasion. The people of South Vietnam are certainly less dedicated to independence than were the people of the Confederacy.

LEGAL ISSUE OF WHETHER VIETNAM UNITED OR NOT

The legal issue in this war is whether Vietnam is one or two. Now, as I said, when the war against France was being fought, both sides said there is just one Vietnam. The issue was: Who shall be the government of that Vietnam? Should it be Bao Dai with French protection or an independent democratic Vietnam under Ho Chi Minh who was recognized by both Communists and non-Communists as the symbol of Vietnamese nationalism?

That position was accepted by the Geneva Conference of 1954. After Ho Chi Minh had defeated the French at the battle of Dienbienphu, the French were hunting for a way to get out, and with the assistance of the British Foreign Minister, Anthony Eden, who also was anxious to have the war stopped, as were the Russians, they brought about the Geneva Conference.

There is no doubt about the intent of the Geneva Conference. It was to save the face of the French. It was to get Ho Chi Minh to stop fighting by accepting his desire for an independent, united Vietnam, and so the cease-fire was arranged between the armies of France which had been supporting Bao Dai, and the armies of Ho Chi Minh.

The cease-fire was signed by these two, and it explicitly said that
it was a temporary cease-fire line dividing Vietnam into two zones. The idea of two states was explicitly denied.

The cease-fire agreement went on to say that the administration of the northern zone should be under Ho Chi Minh and of the southern zone under the French. They were the two who had signed the cease-fire agreement. Each should be responsible for not allowing its zone to get any military assistance from outside beyond replacements or to make any alliances with an outside power.

The United States did not sign this. We were not asked to sign the cease-fire. It was only between the two armies.

There was, however, a resolution in the Geneva Conference which provided that there should be an election in July 1956 to terminate the cease-fire line, and to decide who would be the Government of the united Vietnam.

The United States, I regret to say, set about wrecking this settlement almost immediately, with collaboration of Diem who had succeeded to Bao Dai in the South after the French had withdrawn in 1955. It was the responsibility of the French to carry out the provisions of the Geneva Conference, but the French withdrew, perhaps under U.S. pressure as recently suggested by De Gaulle. That left South Vietnam with Diem, who said he was not bound by the Geneva agreements and at once welcomed the assistance of the United States to establish an independent South Vietnam.

REPORT OF CEASE-FIRE CONTROL COMMISSION

The Control Commission on the Cease-Fire, composed of a Canadian, a Pole, and an Indian, in an early report, found that there were violations of the cease-fire agreement by South Vietnam in importing arms beyond replacements and in making a virtual alliance, referring to the SEATO agreement. Dulles had made this, and while South Vietnam was not a party it was declared a protected zone under SEATO. The Control Commission said this was a virtual alliance.

Diem tried to justify these actions because he had not signed the conference resolution and, of course, he was not a party to the original cease-fire arrangements.

If that was the case, then when the French withdrew there was not any cease-fire arrangement because somebody in the southern zone had to be responsible for maintaining it. It is my opinion as an international lawyer that in law Diem succeeded to the obligations of France under the cease-fire arrangement and, therefore, when he got military assistance from the United States and made a virtual alliance, it was in violation of his obligation.

I was in India in 1958 lecturing at the Indian School of International Studies. India did not recognize either Vietnam but received consulates from both.

While I was there both Ho Chi Minh and Diem were invited to lecture at the Indian School of International Studies. Diem presented his point of view, that he was not a party to the arrangements, and that he was an ally of the United States.

Ho Chi Minh—and this was 1958—two years after the election was supposed to have been held, Ho Chi Minh was trying to get India to demand that the election which was called for be held. Well, Nehru
did. He had been bringing pressure to hold it as had France, England, and Russia but they had not succeeded because Diem and the United States were in control in the south.

Very soon after this Ho Chi Minh gave up on the Geneva agreement. He felt he had been sold down the river twice. He had been first sold down the river by France which had first recognized him, and then withdrawn in 1946, and now he had been sold down the river by the United States and Diem who had frustrated the Geneva arrangements.

It was only then that the Vietcong began guerrilla activity in the south and he began to infiltrate forces to help them. By that time he was convinced that his efforts to implement the Geneva agreement had failed.

I think that under international law he could properly say that the Geneva cease-fire was suspended. He agreed to it because it was to be temporary and would be ended by the election in 1956 which he was convinced he would win and would become the Government of the whole of Vietnam. In this, I may say, President Eisenhower agreed with him. President Eisenhower made a statement that all the information he had was to the effect that 80 percent of the population of Vietnam would vote for Ho Chi Minh. He was regarded as a nationalist leader of Vietnam.

LEGAL ASPECTS OF VIETNAM SITUATION ARE CONTROVERSIAL

I may say that this interpretation which I have given you of the legal aspects of the Vietnam situation is agreed to by about half the American international lawyers, and about half support the State Department’s brief which holds that South Vietnam had become a de facto state. It is highly controversial among American international lawyers.

I attended a meeting of the Institute of International Law at Nice, France, last September. European jurists are very much interested in the Vietnam situation. And those with whom I talked agreed with my position on the law.

I think there is, in principle, only one Vietnam, not two, and that American action was not in collective defense against an armed attack from another state. The United Nations Charter in fact says article 51 refers only to an armed attack against a member of the United Nations, and South Vietnam is certainly not a member of the United Nations. I think, however, a broad construction would cover an attack against another state but not against a zone of a state, if the cease-fire agreement was legally suspended.

DR. WRIGHT’S ARTICLE ON THE LEGAL ISSUE

Senator Morse. Dr. Wright, I am going to interrupt for a ruling. I want the attention of the official reporter. I would like to have you obtain from Dr. Wright a copy of his law article that he has been referring to. I would like to have it printed in full at the close of his testimony this afternoon, because undoubtedly some of the discussion that will take place between the witness and the Chair will deal with some of the points raised in this article. I want the article as part of the record.
Some of those points will relate to the discussion that the Chair had with Mr. Gross this morning. Let the record show, Dr. Wright, that my study to date satisfies me that not only do you have the substantial body of international lawyers in this country who share your analysis of the U.S. position in Vietnam vis-a-vis international law, but in other parts of the world as well. The international lawyers I have found overwhelmingly support the analysis that you have made.

We have one other group in our country represented primarily by the lawyers from the State Department who, I say most respectfully, I think have written as special pleaders more than as scholars.

You may proceed.

Mr. Wright. What I have been saying I have thoroughly documented in the article referred to.

I think that most people in the United Nations, if this is brought before them, would say the issue is not to determine who is the aggressor or invoke penalties, but to stop the fighting.

SECURITY COUNCIL PROPOSES PROVISIONAL MEASURES

The charter provides that before designating anybody the aggressor, the Security Council may propose "provisional measures" and, as a matter of fact, that has been the usual procedure of the United Nations.

Provisional measures usually mean getting a cease-fire without branding either side as being at fault. You are more likely to get it in that way and that, I suppose, would be the procedure if the purpose of this resolution is achieved.

I do not know what would happen if this was submitted to the Security Council.

Obviously, the first thing to do would be to invite all of the belligerents to attend. The charter provides that nonmembers of the United Nations can be invited when a dispute is being discussed and that, of course, would include North Vietnam, South Vietnam and, I think, what is called the South Vietnamese Liberation Front, or the Vietcong. They are a major party in the hostilities. Communist China also has a vital interest and its consent would be necessary to bring about peace.

I think it probable that some of these countries would not come. Communist China has said she would not come to another meeting of the United Nations. She was invited to come during the Korean affair, and did not get anywhere. She is not likely to come to another meeting until she represents China in the United Nations as she thinks she ought to. Ho Chi Minh also has said the United Nations is not the proper forum and without him the Vietcong would not attend.

RESUMMONING OF GENEVA CONFERENCE

That would mean that probably the best the United Nations could do would be to call for a cease-fire, and they might, if the United States should unconditionally stop bombing, get Ho Chi Minh to agree to that, provided they also recommended the resummoning of the Geneva Conference.
That Conference included all of the belligerent parties, as well as the great powers, but not the Vietcong. The latter should be invited as they are a principal belligerent and their present relations with North Vietnam seem uncertain.

As I said, the Geneva Conference was based on the assumption of one Vietnam.

The United States has said on occasion that it is ready to negotiate on the basis of the Geneva agreements and Premier Pham Van Dong of North Vietnam said the same on April 8, 1965, but I think they disagree on what the Geneva agreements meant.

If the United Nations recommended a resumption of the Geneva conference they would ask the two chairmen of that conference, the British and the Soviets, to summon it. The first matter on the agenda would be, what does the Geneva agreement mean? North Vietnam would say it meant one Vietnam, the government to be determined by an election; and very likely the United States would say it meant two Vietnams. The conference would have to argue on that question and there would have to be compromises. North Vietnam has suggested some compromises.

**Compromises Suggested by North Vietnam**

First, Ho was demanding that the United States completely withdraw from the south and accept one Vietnam.

Premier Dong, however, on April 8, 1965, and the SVLF (Vietcong) on July 22, 1965, suggested that for a time there would have to be two Vietnams eventually to be united by the Vietnamese people themselves. I do not know whether some disagreements have arisen between the South Vietnamese Liberation Front (the Vietcong) and Ho Chi Minh.

Senator Morse. I interpreted that as raising the possibility, Doctor, that the Vietcong are possibly thinking of two states with a federation between the north and the south as a possible compromise setting up a form of federal government with two sovereign states. They did not spell it out, so that we know enough what they had in mind. I only mention it because that is a bridge to be crossed.

We do not know what the final settlement will be, but the important thing, as you say, is to stop the fighting and stop the war which means, of course, that the United States, instead of maintaining a primary position over there ought to move as rapidly as possible into a secondary position and turn the final settlement over to neutral parties who, in turn, ought to get it turned over to the Asians themselves for their own self-determination as rapidly as possible.

Mr. Wright. I agree with that estimate entirely.

I think there are various parties with different interests in this matter. I think the Soviets and the Chinese are not all together on the matter. I am not sure that North Vietnam and the Liberation Front think the same and, of course, the Government in Saigon looks different from all of them.

There are different views of what the settlement should be, and those views would have to be compromised in a conference in which all ought to appear.
But I was interested in this point. The constitution of South Vietnam, which was adopted last year says it is intended for Vietnam as a whole. The ballots in the recent election were printed in some of the papers and the Thieu-Ky ballot had on the top a map of Vietnam as a whole.

As well as I could make out, not only the winning military party but all the 10 candidates for president in South Vietnam wanted to have a united Vietnam. Of course, Ho Chi Minh does.

So all Vietnamese seem to be together on the conception of Vietnam as one state. But they have some differences on just what should be the government, what the constitution should be and how unity should be achieved.

I do not think there is much support in Vietnam for the American position that there must be two states. In fact, there were some qualifications to that even in the State Department's brief which said that at least for the time being there would have to be two states.

We cannot overlook the important fact that there is a sentiment of national unity in Vietnam, and that sentiment is something which, in the long run, is pretty likely to prevail.

I think that there is a possibility through the United Nations getting a cease-fire, and getting a real conference going if we want it enough to stop bombing in the North.

I think it is in our interest to do so and also in the interests of the United Nations. I believe that a strong Senate resolution of the kind proposed by Senator Morse would be of real importance in getting the Administration to working to achieve this result.

RELATIONS OF SECURITY COUNCIL AND GENERAL ASSEMBLY

There is on other point I might make, and that is the relations of the Security Council and the General Assembly.

It is possible that the Security Council will agree to a resolution but it would be necessary I think to convince the Soviet Union that we are not intransigently opposed to a conference which might prepare the way for a single government in Vietnam.

The Soviets might go along with this provided there is an unconditional cease-fire that I think is a prerequisite.

There is another factor, the exposition of positions. In preliminary speeches in the General Assembly some 50-odd United Nations members spoke on Vietnam and nearly all of them wanted peace.

This is clearly the view of most of the countries in Asia outside of the immediate Southeast Asian area and of the countries in Europe and Africa.

This has an influence on the great powers. I think it is significant in the Congo that the Security Council was able to reach important decisions although always with abstentions by some great power because it was obvious that most of the African countries wanted the resolution, and the great powers, neither the United States nor the Soviet Union nor Great Britain, wanted to offend the African powers. Since there have been a large number of unaligned states in the United Nations, which both the Communists and the anti-Communists are
interested in winning over or in keeping unaligned there has been a
disposition not to exercise a veto in the Security Council, if it would
be unpalatable to the unaligned states.

That is an influence which might make possible a resolution of
some kind in the Security Council.

If there were not such a resolution and the Security Council bogged
down, the issue could and should go to the General Assembly. That
body can discuss any situation threatening peace placed before it by a
member but can make recommendations only if the situation is sub­
mitted by the Security Council, or if the Security Council takes it off
its agenda, or if, according to the uniting for peace resolution, which
we put through in 1950 after the Soviets had come back in the Securi­
ty Council during the Korean affair, a majority of the General Assem­
bly decided that because of a veto the Security Council is unable to
function.

It would not be difficult to get the Vietnam situation into the Gen­
eral Assembly if the Security Council is unable to reach a conclusion
because of the veto.

I would agree with Senator Morse's resolution that it ought to go
first to the Security Council. That body has first responsibility under
the charter and I think there is a possibility, as I have said, of its
voting a resolution. If it does not, then I agree it should go to the
General Assembly. The Assembly might generate a debate manifest­
ing what one could call a world public opinion.

“THE ESCALATION OF INTERNATIONAL CONFLICTS”

I made a study two years ago which was published in the Journal of
Conflict Resolution, on “The Escalation of International Conflicts.”
It analyzed 45 conflicts which had occurred since 1914, including the
two World Wars, and tried to answer the question: What were the
factors that resulted in settlement or escalation of these conferences?
Two of these conflicts escalated into World War; some of them were
settled without any hostilities, and then you had all degrees of hos­
tility between.

I discovered that the factors that made for escalation were, first,
perception by each party of a very strong national interest in the
issue.

Second, perception by each that its military strength together with
that available from its allies would give it in the long run superior
military position.

The factors which made against escalation were first increasing
costs. If either or both parties decided that the costs in lives and in
money were greater than the national interest warranted, escalation
might stop and there would be a stalemate or a settlement.

INFLUENCE OF WORLD OPINION

But the other factor inhibiting escalation which seems to have been
important in these conflicts was world public opinion. A good many
of them, as a matter of fact, were submitted to either the League of
Nations or the United Nations, and world public opinion seems to
have had an influence.