

A CIA cable on July 22 reported that Khanh told one of his associates, "my plan now is to get the Americans involved in North Vietnam." In a discussion with Taylor and U. Alexis Johnson on July 27, however, Khanh, according to Taylor's cable to Washington, "again spoke strongly about a natural war-weariness and the need to bring hostilities to a prompt end. Once more it came out clearly that he is thinking about reprisal tit-for-tat bombing rather than a movement north withdrawal forces or massive bombing. . . . He wants to do this reprisal bombing to encourage his people and to hasten Ho Chi Minh to conclude that the support of the VC should end."<sup>4</sup>

A meeting of the NSC was held on July 25, presumably to discuss the situation in Vietnam, and it would appear that several proposals for further military actions were considered during and immediately after the meeting. The *New York Times*, citing a summary of a Department of Defense command and control study of Tonkin Gulf decisionmaking prepared by the Institute for Defense Analyses for the Defense Department, which it said it obtained at the same time it obtained the *Pentagon Papers*, reported that after the meeting the JCS proposed "air strikes by unmarked planes flown by non-American crews against several targets in North Vietnam, including the coastal bases for Hanoi's flotilla of torpedo boats." McNaughton reportedly sent the plan to Rusk on July 30.<sup>5</sup>

On July 27, it was decided that 5,000 more U.S. military advisers would be sent to Vietnam in response to Westmoreland's June 25 request for 4,200 additional men, and the Vietnamese were so informed. This, too, may have been timed to placate Khanh, and as a further demonstration of the commitment of the United States to the defense of South Vietnam.

#### *Provocation: 34-A Raids and DE SOTO Patrols*

Of the various actions being undertaken to bring greater pressure on the North, the most provocative were the 34-A raids and the DE SOTO patrols. The 34-A raids on coastal areas of North Vietnam were being carried out by high-speed boats manned by commandos from South Vietnam and other countries who had been recruited and were supported and led by the CIA. DE SOTO patrols, which had been approved by President Kennedy in 1962, were highly-classified missions off the coast of North Vietnam by destroyers of the U.S. Navy equipped with specialized electronic gear which was manned by personnel from the National Security Agency (NSA, the U.S. Government's communications intelligence agency). The purpose of the patrols was to gather information on North Vietnam's radar systems, as well as various other kinds of military intelligence, and to conduct a "show of force." They had been conducted intermittently, and reportedly without incident. None of them, however, had been conducted concurrently with 34-A raids against the North Vietnamese coast.

<sup>4</sup>Johnson Library, NSF Country File, Vietnam.

<sup>5</sup>*The Pentagon Papers as published by the New York Times* (New York: Bantam Books, 1971), p. 258. The command and control study, which was subsequently denied to the Foreign Relations Committee, remains classified.

According to studies of the period, the most recent DE SOTO patrol of North Vietnam prior to the patrol conducted on July 31, 1964 occurred on March 10, 1964. This is not correct. There was another patrol in July 1964 immediately preceding the July 31 mission, and along almost the same course. In fact, the destroyer which made the July 31 patrol picked up the "black box" containing NSA's electronic gear from the destroyer which had just returned from patrol.<sup>6</sup> There had been no incidents during the patrol which had just ended, but neither had there been any 34-A operations against the North Vietnamese coast in the vicinity of the patrol.

In addition to the 34-A operations and the DE SOTO patrols, other military activities were being directed at North Vietnam during the summer of 1964, and may have contributed to a perception of threat by the north. In addition to those noted above, U-2 aircraft were making high-altitude reconnaissance flights over North Vietnam, and on July 25, U.S. reconnaissance planes based in Thailand also began flying communications intercept missions off the North Vietnamese coast.<sup>7</sup>

On July 15, 1964, the decision was made to send another DE SOTO patrol into the Gulf of Tonkin on July 31, using the destroyer U.S.S. *Maddox*. It is not entirely clear how the decision to undertake the patrol was made, who was involved in making it, or what debate there was, if any. Responsibility for all major U.S. covert operations worldwide, including both DE SOTO patrols and 34-A operations, had been vested in the so-called "303 Committee" of the NSC (this name was bestowed by NSAM 303 of June 2, 1964, the sole purpose of which was to change the name of the group after public disclosure of the term "special group") the successor to the NSC's Special Group under President Kennedy, composed of the Deputy Secretary of Defense, the Deputy Under Secretary of State for Political Affairs, the Deputy Director (Plans) of the CIA, and the Special Assistant to the President for National Security Affairs. As of July 1964 these were: Cyrus Vance (DOD), U. Alexis Johnson (State), Richard Helms (CIA), and McGeorge Bundy (White House). Bundy was Chairman of the group.<sup>8</sup>

The 303 Committee had delegated operational responsibility for both the DE SOTO patrols and 34-A operations to the JCS. The JCS assigned responsibility for the DE SOTO patrols to the Joint Reconnaissance Center, Operations Directorate (Ops Center), in the Defense Intelligence Agency (DIA), which drew up tentative schedules for patrols, based in part on intelligence requests from the CIA and NSA and sent them to CINCPAC (Commander in Chief, Pacific, then Adm. Ulysses S. Grant Sharp, Jr.), presumably after approval by the 303 Committee. CINCPAC selected the dates for pa-

<sup>6</sup>CRS interview with Comdr. John J. Herrick (USN, Ret.), Nov. 27, 1984. See also McNamara's testimony in U.S. Congress, Senate, Committee on Foreign Relations, *The Gulf of Tonkin, The 1964 Incidents*, Hearing on February 20, 1968, 90th Cong., 2d sess. (Washington, D.C.: U.S. Govt. Print Off., 1968), p. 27.

<sup>7</sup>Futrell, *The Advisory Years to 1965*, p. 228.

<sup>8</sup>Within State, responsibility, at least for 34-A operations, apparently had been delegated to William Bundy, Llewellyn Thompson, and Michael Forrestal. William C. Trueheart, formerly with the U.S. mission in Saigon, was also involved. In Defense, responsibility for 34-A apparently had been delegated to John McNaughton, Assistant Secretary for International Security Affairs.

trols and issued orders to the Commander, Seventh Fleet, and gave copies of the orders to MACV in Saigon.<sup>9</sup>

The 34-A operations were planned initially by MACV in Saigon, and were sent through CINCPAC to Washington for approval by the JCS Special Assistant for Counterinsurgency and Special Activities (then Maj. Gen. Rollen Anthis), who sent a copy of the proposed schedule for the next month to the 303 Committee for its approval.

Thus, there were four points in the decisionmaking system where information about both the proposed DE SOTO patrols and the proposed 34-A operations was available: MACV (Westmoreland's headquarter in Saigon), CINCPAC, the JCS, and the 303 Committee. The division of responsibility for the two programs could have resulted, however, in a compartmentalization of knowledge that may have contributed to one hand not being fully informed as to what the other was doing. MACV was responsible for operating the 34-A program, but it was not in charge of the DE SOTO patrols even though it was informed about the schedule for those patrols. CINCPAC, which was responsible for the DE SOTO patrols, was informed about the 34-A operations, but was not directly involved in their conduct. The JCS was involved in scheduling both 34-A operations and DE SOTO patrols, but the two programs were handled by separate entities within the JCS staff system. The 303 Committee had responsibility for approving and overseeing both 34-A operations and DE SOTO patrols, but apparently left many of the details to the JCS, CINCPAC and MACV. In a real sense, therefore, coordination between the two programs may have occurred primarily at the operational level in CINCPAC and MACV, where the functional relationships between the two programs could be expected to come into sharpest focus.

According to a document prepared at the time, the July 15 decision to send the *Maddox* on a patrol on July 31 was made by the 303 Committee, as requested by CINCPAC.<sup>10</sup> Evidence is not available, however, as to whether at this or any of the other three points in the system there was any consideration of the fact that a 34-A raid on the coast of North Vietnam near the route to be taken by the *Maddox* had already been ordered for the night of July 30. Nor is there any evidence that at one or more of these points any consideration was given as to whether the North Vietnamese might assume that there was a connection between the July 30 34-A raid and the July 31 DE SOTO patrol.

On the night of July 30, 1964, 34-A South Vietnamese and other commandos, led by American advisers, raided the North Vietnamese islands of Hon Me and Hon Niem in the Gulf of Tonkin, while

<sup>9</sup>According to Joseph C. Goulden, *Truth is the First Casualty* (Chicago: Rand McNally, 1969), p. 123, the intelligence gathering part of the plan for the July 31 DE SOTO patrol was reviewed and approved by McCone for the CIA, by the Deputy Director of Defense Research and Engineering for the DIA, by Eugene G. Fubini for NSA, and "routinely" by the Bureau of Intelligence and Research (INR) of the State Department and the NSC.

<sup>10</sup>Johnson Library, NSC History File, Gulf of Tonkin Attacks, "Chronology of Events Relating to DESOTO Patrol Incidents in the Gulf of Tonkin on 2 and 4 August 1964," p. 1. This 3-page summary; and an attached 11-page chronology, were prepared by the Department of Defense, Joint Reconnaissance Center, Operations Directorate, and sent to the White House on Aug. 10, 1964, by Col. Ralph Steakley, Chief. The 11-page chronology consists mainly of technical details on the location of the *Maddox*, and brief reports from the ship during the Aug. 2 attack.

about 120 miles away the U.S.S. *Maddox* was headed toward the same area to conduct its DE SOTO patrol the following day. It is not known whether either group was aware of the other's existence and mission. How much more awareness there may have been in Saigon, Honolulu, and Washington is also unknown, and may even be unknowable. What is clear is that the U.S. and South Vietnam were provoking North Vietnam, and it may be reasonable to assume that at some point in the decisionmaking system these various operations were being orchestrated toward that end. George Ball said as much in discussing the Tonkin Gulf incidents of August 2 and 4, 1964, in an interview with Michael Charlton of the British Broadcasting Company.<sup>11</sup>

Ball. At that time there's no question that many of the people who were associated with the war saw the necessity of bombing as the only instrument that might really be persuasive on the North Vietnamese, and therefore were looking for any excuse to initiate bombing.

Charlton. And this may have been the incident that those people were waiting for.

Ball. That's right. Well, it was: the "de Soto" patrols, the sending of a destroyer up the Tonkin Gulf was primarily for provocation.

Charlton. To provoke such a response in order to pave the way for a bombing campaign?

Ball. I think so. I mean it had an intelligence objective. But let me say, I don't want to overstate this, the reason the destroyer was sent up was to show the flag, to indicate that we didn't recognize any other force in the Gulf; and there was some intelligence objective. But on the other hand I think there was a feeling that if the destroyer got into some trouble, that would provide the provocation we needed.

Early on the morning of Sunday, August 2, 1964, the *Maddox* was attacked in the Gulf of Tonkin by three North Vietnamese torpedo boats, and the *Maddox*, as well as planes from the carrier U.S.S. *Ticonderoga*, returned their fire, reportedly sinking one and damaging if not sinking the other two.<sup>12</sup>

<sup>11</sup>Charlton and Moncrieff, *Many Reasons Why*, p. 108.

<sup>12</sup>See the excellent article in *U.S. News and World Report*, "The 'Phantom Battle' That Led to War," July 23, 1984.

For primary materials on the Gulf of Tonkin incidents, two files in the Johnson Library are most useful: the "Gulf of Tonkin Attacks" in the NSF NSC History File, and "Gulf of Tonkin Miscellaneous," as well as the chronological material for Aug. 1964 in the NSF Country File, Vietnam. For original congressional materials, see especially the printed hearings of the joint executive session on Aug. 6, 1964, of the Senate Foreign Relations and Armed Services Committees, published in sanitized form in 1966: *Southeast Asia Resolution* (Washington, D.C.: U.S. Govt. Print. Off., 1966), and the subsequent hearings in Feb. 1968, in which the Foreign Relations Committee reexamined the 1964 incidents: *The Gulf of Tonkin: The 1964 Incidents*, cited above. Another important source is the series of three Senate speeches by Senator Morse on Feb. 21, 28, and 29, 1968, which consisted primarily of the draft report prepared by the staff of the Foreign Relations Committee. *CR*, vol. 114, pp. 3813-3817, 4578-4581, 4691-4697. See also *PP*, Gravel ed., vol. V., pp. 320 ff, which contains a complete text of this part of the report, some sections of which were missing from Vol. III; Goulden, *Truth is the First Casualty*; Anthony Austin, *The President's War* (Philadelphia: J. B. Lippincott, 1971), in the writing of which Austin had access to files of the Foreign Relations Committee; Eugene C. Windchey, *Tonkin Gulf* (New York: Doubleday, 1971). John Galloway did a brief study of the passage (and subsequent reexamination by the Senate) of the resolution, *The Gulf of Tonkin Resolution* (Rutherford, N.J.: Fairleigh Dickinson University Press, 1970), which also contains all of the pertinent documents, hearings, and debates on the resolution, as well as the key statements from the North Vietnamese on the Gulf of Tonkin incidents. Also useful is David Wise, "Remember the *Maddox!*" *Esquire*, (April 1968).

Several hours earlier, Comdr. John J. Herrick, the commander of Destroyer Division 192, who was then on the *Maddox* as commander of Task Group 72.1, had become concerned about the possibility of an attack, and had ordered the captain of the *Maddox*, Comdr. Herbert L. Ogier, to change course, while sending a message to their superior that "continuance of patrol presents an unacceptable risk. . . ." <sup>13</sup> Herrick was told that the *Maddox* should return to the assigned course when it was prudent to do so, but that it could change course again if need be. (The *Maddox* resumed course soon thereafter, but shortly before the attack began Herrick received information from electronic monitors aboard the *Maddox* that the torpedo boats were being ordered to attack, and he again ordered the ship toward the open sea.)

After receiving word of the attack on the morning of August 2, President Johnson met with Rusk, Ball, Vance, Wheeler for a briefing on the situation. According to one account, "He did not seem overly upset. He was more interested in the postal bill and, for more than an hour, treated his advisers to a lecture on the problems of moving such a bill through Congress." <sup>14</sup>

On August 2, the President ordered an augmented patrol to continue, and on August 3 the U.S.S. *Turner Joy* joined the *Maddox*. Johnson said in his memoirs: "We were determined not to be provocative, nor were we going to run away. We would give Hanoi the benefit of the doubt—this time—and assume the unprovoked attack had been a mistake." <sup>15</sup>

According to George Ball, <sup>16</sup>

Though some of the President's advisers urged an immediate retaliatory move, the President wished for an even stronger record. So, rather than keeping our ships out of this now established danger zone, the President approved sending both the *Maddox* and the destroyer *C. Turner Joy* back into the Gulf. I was upset by this decision; the argument that we had to "show the flag" and demonstrate that we did not "intend to back down" seemed to me a hollow bravado.

Later that day, several congressional leaders were briefed on the attack (including Minority Leader Dirksen, Russell, Humphrey), and they were said to have voiced strong support for the President's actions. <sup>17</sup>

On the afternoon of August 3, the President met with Rusk, McNamara and Wheeler, and it was agreed that, for the moment, no additional action was required. <sup>18</sup> There are as yet no available notes of that meeting, but apparently one of the subjects discussed was the 34-A operations scheduled for the night of August 3, and the addition of more targets for those raids. After the meeting, Rusk sent Taylor a cable informing him that more targets were

<sup>13</sup>CR, vol. 114, p. 4693. This and several other important messages could not be found in the files of the Johnson Library. They were obtained by the Senate Foreign Relations Committee in 1967-68 in conjunction with the committee's reconsideration of the Gulf of Tonkin incidents, and were quoted in the committee's hearing or by Morse in his three speeches.

<sup>14</sup>Kalb and Abel, *Roots of Involvement*, p. 171.

<sup>15</sup>*The Vantage Point*, p. 113.

<sup>16</sup>*The Past Has Another Pattern*, p. 379.

<sup>17</sup>Austin, *The President's War*, p. 25, and Goulden, pp. 24-25.

<sup>18</sup>Johnson Library, NSC History File, Gulf of Tonkin Attacks, McGeorge Bundy Chronology of Events August 3-7, a memorandum to George Reedy dated Aug. 7, 1964.

going to be added. He also told Taylor, contrary to the denials of the executive branch in its discussions with Congress and in its public statements, that there was, indeed, a direct connection between the 34-A operations and the North Vietnamese attack on the *Maddox*, and that the attack on the *Maddox*, rather than being unprovoked, was directly related to the 34-A raids. This is what Rusk's cable said: "We believe that present OPLAN 34A activities are beginning to rattle Hanoi, and MADDUX incident is directly related to their efforts to resist these activities. . . . We have no intention yielding to pressure." <sup>19</sup> In a meeting of the NSC on August 4, after a second attack on the *Maddox* was thought to have occurred, CIA Director McCone took the same position, as will be seen, arguing that in attacking U.S. ships the North Vietnamese were reacting defensively to 34-A raids, and were not trying to provoke the United States.

A secret meeting was then held later on the afternoon of August 3 at the Capitol, attended by members of the Senate Foreign Relations and Armed Services Committees, and the majority and minority leaders, at which 25 Senators, including Fulbright, Mansfield and Morse, were briefed on the situation by Rusk, McNamara, and General Wheeler. According to one account, it was revealed at the meeting that the *Maddox* had deliberately gone inside the 12-mile coastal limit claimed by North Vietnam (the U.S. recognized only a three-mile limit), that South Vietnamese 34-A vessels had bombarded the coast of North Vietnam on July 31, and that, according to McNamara, the North Vietnamese may have mistaken the *Maddox* for a South Vietnamese boat. Both Rusk and McNamara called the attack "entirely unprovoked." <sup>20</sup> After the meeting, Senator Russell, chairman of the Armed Services Committee, told the press that there had been some South Vietnamese naval operations in the Gulf of Tonkin, and these could have "confused" the North Vietnamese. The State Department denied Russell's statement, saying that such a mistake was highly unlikely. <sup>21</sup>

Judging by an exchange in Senate debate on the Gulf of Tonkin Resolution several days later, it would appear that those who attended this highly secret meeting on August 3 were also told by administration officials that the *Maddox* had the capability of intercepting North Vietnamese radio messages—the so-called "radio intercepts" that were to play such an important role in the subsequent debate about the occurrence of a second attack on August 4. Those Senators present at the meeting were apparently cautioned, however, about the sensitivity of this information. When Senator Morse mentioned during the debate on the resolution that the *Maddox* moved out to sea "because there was some concern about some intelligence that we are getting," Senator Lausche began to ask him about it and Morse cut him off, saying "I am not going to comment on that. I think I have said all that I have a right to say within the proprieties. . . . I do not think I should say it. I do not believe the Senator from Ohio should say it, either." <sup>22</sup>

<sup>19</sup>Johnson Library, NSF Country File, Vietnam, Washington to Saigon 336, Aug. 3, 1964.

<sup>20</sup>Austin, p. 28. There are apparently no notes or summary of that meeting.

<sup>21</sup>*New York Times*, Aug. 4, 1964, and Austin, p. 28.

<sup>22</sup>CR, vol. 110, p. 18424.

As the DE SOTO patrol resumed on August 2-3, Rear Adm. Robert B. Moore, the Commander of carrier Task Group 77.5 (which included the flagship *Ticonderoga*) sent Herrick this message:<sup>23</sup>

It is apparent that DRV has thrown down the gauntlet and now considers itself at war with the United States. It is felt that they will attack U.S. forces on sight with no regard for cost. U.S. ships in Gulf of Tonkin can no longer assume that they will be considered neutrals exercising the right of free transit. They will be treated as belligerents from first detection and must consider themselves as such.

Faced with the fact that, as Moore so flatly stated, U.S. vessels in the Gulf of Tonkin would be treated by North Vietnam as belligerents, even in international waters, Herrick requested on August 3 that the patrol be terminated. This was rejected by Adm. Thomas H. Moorer, Commander in Chief of the Pacific Fleet, who said:<sup>24</sup> "Termination of DE SOTO patrol after two days of patrol ops subsequent to *Maddox* incident does not in my view adequately demonstrate United States resolve to assert our legitimate rights in these international waters." The only course modification by CINCPAC was to direct the *Maddox* and the *Turner Joy*, at the request of U.S. officials at the U.S. military command (MACV) in Saigon to remain somewhat north of their scheduled location "to avoid interference with 34-A Ops." In a message to Admiral Sharp (CINCPAC), Admiral Moorer also stated that this change in location would "possibly draw NVN [North Vietnamese Navy] PGMs [patrol boats] to northward away from area of 34-A Ops . . ." thus suggesting that U.S. officials, at this point at least, despite denials by the executive branch, were using the DE SOTO patrol in conjunction with 34-A operations.

On the night of August 3, another 34-A raid was made on the coast of North Vietnam, and on the morning of August 4 Herrick sent a message that, based on electronic monitoring of North Vietnamese communications, North Vietnam ". . . considers patrol directly involved with 34-A ops. DRV considers U.S. ships present as enemies because of these ops and have already indicated their readiness to treat us in that category."<sup>25</sup> When he was asked on August 6 during testimony before the Foreign Relations Committee on the Gulf of Tonkin Resolution about the 34-A operations, McNamara did not mention the raids on August 3.<sup>26</sup> Later he stated that he learned of those raids only after he had testified on August 6.<sup>27</sup> The record shows, however, that McNamara met with the President on the afternoon of August 3 to discuss, among other things, the 34-A operations scheduled for that night. In addition, there was at least one message sent to his office prior to his testimony on August 6 providing information on the August 3 raids.<sup>28</sup>

<sup>23</sup>CR, vol. 114, p. 4580.

<sup>24</sup>*Ibid.*, p. 4694.

<sup>25</sup>*The Gulf of Tonkin, The 1964 Incidents*, p. 40.

<sup>26</sup>See *Southeast Asia Resolution* *passim*.

<sup>27</sup>*The Gulf of Tonkin, The 1964 Incidents*, p. 15.

<sup>28</sup>On the morning of Aug. 4, a cable from Westmoreland's headquarters in Saigon, a copy of which went to "OSD [Office Secretary of Defense] McNamara," reported on the details of the raids. The cable, 040955Z, is in the Johnson Library, NSF Country File, Vietnam.

### August 4, 1964: The U.S. Retaliates Against North Vietnam

At 7:40 p.m. Saigon time on the evening of August 4, (7:40 a.m. in Washington), Herrick sent a message to Admiral Moorer that, based on radio monitoring, the North Vietnamese appeared to be preparing to attack the *Maddox* and the *Turner Joy*.<sup>29</sup>

At 9:12 a.m., McNamara called the President to tell him about the information. Although there still had not been an attack, the President told Democratic congressional leaders, who were at the White House for their weekly legislative breakfast meeting, about the situation, and said that if there were to be an attack he thought the U.S. would have to retaliate.<sup>30</sup> The leaders agreed, and there was also agreement on the desirability of a congressional resolution. White House assistant Kenneth O'Donnell, a former Kennedy aide, said that after the meeting Johnson wondered about the political effects of military retaliation, and O'Donnell said that he and Johnson "agreed as politicians that the President's leadership was being tested under these circumstances and that he must respond decisively. His opponent was Senator Goldwater [who had been nominated for the Presidency by the Republican Party at its convention in late July] and the attack on Lyndon Johnson was going to come from the right and the hawks, and he must not allow them to accuse him of vacillating or being an indecisive leader."<sup>31</sup>

After his breakfast meeting with the leadership, Johnson told Majority Leader Carl Albert (D/Okla.) that he wanted to discuss another subject. The conversation that followed was interrupted by a phone call, probably the second (at 9:43 a.m.) of four that McNamara made to the President during the morning, in which McNamara reported that the two ships were under attack. According to Albert, Johnson said to the person who was calling, "They have? Now, I'll tell you what I want. I not only want those patrol boats that attacked the *Maddox* destroyed, I want everything at that harbor destroyed; I want the whole works destroyed. I want to give them a real dose."<sup>32</sup>

Meanwhile, McNamara met at the Pentagon, beginning at about 9:25 a.m., with representatives of the JCS. At 9:30 a.m. Herrick reported that vessels which were evaluated as hostile were closing rapidly.<sup>33</sup> At 9:52 a.m., Herrick radioed that the *Maddox* and the

<sup>29</sup>Saigon time was 12 hours ahead of Washington during daylight savings time. The *Maddox* was in the next time zone, with a 13-hour difference, but was operating on Saigon time.

<sup>30</sup>Present were from the House, Speaker McCormack, Albert, and Boggs, and from the Senate, Humphrey, Carl Hayden (D/Ariz.) and George Smathers. Mansfield was absent.

<sup>31</sup>Austin, pp. 29-30.

<sup>32</sup>CRS interview with Carl Albert, Oct. 31, 1978.

<sup>33</sup>These and other facts about the events of Aug. 4 are derived from the 48-page "Chronology of Events Tuesday, August 4 and Wednesday, August 5, 1964 Tonkin Gulf Strike," Third Draft, Aug. 25, 1964, located in the Johnson Library, NSF Country File, Vietnam. This, as well as other materials cited below, including a 74-page transcript of selected telephone conversations on Aug. 4 between the Pentagon, CINCPAC and the White House, was prepared in conjunction with compilation by the White House staff of information on the Gulf of Tonkin incidents. There is no information on who prepared the chronology or the telephone transcript, or on the criteria for selection of material. For whatever reason, the chronology does not contain, nor does the telephone transcript, any material relating to the messages to and from the *Maddox* and the *Turner Joy* seeking to confirm that an attack had occurred, except for the initial message from Herrick at 1:27 p.m. on Aug. 4 (see below) suggesting further evaluation.

This chronology should not be confused with the chronology cited earlier which was prepared by the office of Col. Steakley.

Turner Joy were under "continuous torpedo attack." At approximately 11:30 a.m., Rusk, McGeorge Bundy and McCone joined the group. It was agreed to recommend to the President a limited airstrike on the torpedo boat bases.

At about 1 p.m., Rusk, McNamara, Vance, McCone and McGeorge Bundy met with the President for lunch. Johnson's first reaction was that the North Vietnamese must be punished. He agreed that the response should be an airstrike, and he ordered preparations to be made.

George Ball, General Wheeler and CIA Deputy Director (for Plans) Helms joined the group after lunch for a discussion of the details of the airstrike.

At 1:27 p.m. Herrick sent this "flash" message: "Review of action makes many reported contacts and torpedoes fired appear doubtful. Freak weather effects on radar and overeager sonarmen may have accounted for many reports. No actual visual sightings by Maddox. Suggest complete evaluation before any further action taken."<sup>34</sup>

At 1:59 p.m., before the full printed text of Herrick's 1:27 p.m. message was available in Washington, Gen. David A. Burchinal, Director of the Joint Staff (JCS), who was serving as McNamara's contact with Admiral Sharp (CINCPAC), was talking by telephone to Sharp in Honolulu. Sharp had received Herrick's new message, and told Burchinal what it said. Burchinal asked him to secure more information. At 2:08 p.m., Sharp told Burchinal that despite Herrick's message, there was no doubt that a torpedo attack had occurred. He said, however, that many of the reported attacks may have been due to inaccurate sonar reports, ". . . because whenever they get keyed up on a thing like this everything they hear on the sonar is a torpedo."<sup>35</sup>

McNamara was at the White House at this point, but was receiving reports from Burchinal, including the information about Herrick's 1:27 p.m. message suggesting further evaluation, which he, in

<sup>34</sup>Johnson Library, NSF Country File, Vietnam. In the 1968 hearings of the Senate Foreign Relations Committee reexamining the 1964 Gulf of Tonkin incidents, (*The Gulf of Tonkin, The 1964 Incidents*, p. 80), Senator Fulbright, referring to the 1:27 p.m. message from Herrick, said this to McNamara:

"But that alone almost, if I had known of that one telegram, if that had been put before me on the 6th of August, I certainly don't believe I would have rushed into action."

<sup>35</sup>Johnson Library, NSF Country File, Vietnam, "Transcript of Telephone Conversations, 4-5 August," p. 31.

There is no available information concerning the coverage of the 74-page transcript, and thus no way, at present at least, of knowing how to evaluate the document as a source. There is no information on what phone calls pertaining to the Gulf of Tonkin were recorded in the Pentagon during Aug. 4, and which calls may have been excluded from the transcript. Nor is there any indication as to who compiled the transcript, or whether any changes were made in it, and, if so, what changes were made and by whom. Judging from the transcript, most if not all of the important calls between the Pentagon and Admiral Sharp and within the Pentagon, as well as between the White House and the Pentagon, were recorded on Aug. 4. Yet there are no phone calls in the transcript dealing with efforts, discussed below, after Herrick's 1:27 p.m. message, to get him to confirm that an attack occurred. In this respect, the transcript bears a strong resemblance to the Chronology of Events, Aug. 25 Draft, which, as was noted above, also does not refer to any of those messages after Herrick's 1:27 p.m. message.

The only available evidence that the White House staff attempted to collect all of the "pertinent" (the word used in the memo) recorded telephone calls made on Aug. 4 is a one-page document in the Johnson Library, NSF Country File, Vietnam, entitled "Steps in Remaking Gulf of Tonkin Tape," dated Aug. 24, 1964. It is apparently an internal Pentagon document, which is unattributed, directing those concerned to search the "master tape" for recorded conversations that were not included on an "original small tape" (which may have been sent earlier to the White House), and to send the new tape to the White House by the next day. In the memo, there is reference to the "goal of getting EVERYTHING recorded."

There is also no evidence as to whether any of the tapes themselves are still in existence.

turn, gave to the President. At 4:08 p.m., after he returned to the Pentagon, McNamara called Admiral Sharp to ask about the latest information on the attack. Sharp described what had happened, and McNamara said, "There isn't any possibility there was no attack, is there?" Sharp replied, "Yes, I would say there is a slight possibility." He added that he was trying to get further information. McNamara said, "We obviously don't want to do it [carry out the retaliatory strike] until we are damned sure what happened." He asked Sharp, "how do we reconcile all this?" Sharp said that the order to retaliate should be held "until we have a definite indication that this happened." McNamara told him to leave the "execute" order in effect (it was sent to Sharp a few minutes later) and to call him by 6 p.m.<sup>36</sup>

Meanwhile, in the Gulf of Tonkin, where it was about 2 a.m. on August 5, the battle finally seemed to have ended, but verification of the attack on the two ships was extremely difficult. Besides the darkness, bad weather had added to the problem of visibility. Because of the cloud cover, most of the star shells (flares) fired by the ships to illumine the area burned out before they came out of the clouds. Planes from the *Ticonderoga*, which were supporting the destroyers, also reported restricted visibility (3 miles) and deteriorating weather conditions (3,000 feet broken), but also said they could see clearly enough to see the two American ships, and, because of the dark, could have seen gunfire from any attacking ship. "Returning pilots," according to a message from the *Ticonderoga* (at 3:28 p.m. Washington time), "report no visual sightings of any vessels or wakes other than Turner Joy and Maddox. Wakes from Turner Joy and Maddox visible for 2-3000 yards."

At 1:54 p.m. Washington time, Herrick sent this message:<sup>37</sup>

Maddox and Joy now apparently in clear further recap reveals Turner Joy fired upon by small calibre guns and illuminated by search light. Joy tracked 2 sets of contacts. Fired on 13 contacts. Claims positive hits 3, 1 junk, probable hits 3.

Joy also reports no actual visual sightings or wake. Have no recap of aircraft sightings but seemed to be few. Entire action leaves many doubts except for apparent attempted ambush at beginning. Suggest thorough reconnaissance in daylight by aircraft.

This message, as well as Herrick's message at 1:27 p.m., were sent after Herrick and Commander Ogier of the *Maddox* had conducted an experiment once the engagement appeared to be over. After 26 sonar reports (all from the *Maddox*, and none from the *Turner Joy*) which had been identified as torpedoes, they suspected that the sonar operator on the *Maddox* was hearing reflections from the *Maddox* as it made its evasive weaving turns. So they experimented with a few high speed turns, and, as they suspected, each one was reported by the sonar operator in the same manner as the previous reports. Herrick said later, "It was the echo of our outgoing sonar beam hitting the rudders, which were then full

<sup>36</sup> Johnson Library, NSF Country File, Vietnam. "Telephone Conversation between Secretary McNamara and Admiral Sharp." This conversation was not included in the compilation of telephone transcripts cited above.

<sup>37</sup> Johnson Library, NSF Country File, Vietnam, 041754Z.

over, and reflected back into the receiver. Most of the *Maddox's* reports were probably false."<sup>38</sup>

At 2:48 p.m., in response to continuing efforts of his superiors to get further confirmation of the attack, Herrick sent this message:<sup>39</sup>

Certain that original ambush was bonafide. Details of action following present a confusing picture. Have interviewed witnesses who made positive visual sightings of cockpit lights or similar passing near Maddox. Several reported torpedoes were probably boats themselves which were observed to make several close passes on Maddox. Own ship screw noises on rudders may have accounted for some. At present cannot even estimate number of boats involved. Turner Joy reports 2 torpedoes passed near her.

At 4:47 p.m., McNamara and Vance met with the JCS "to marshal the evidence to overcome lack of a clear and convincing showing that an attack on the destroyer had in fact occurred."<sup>40</sup> Five factors were considered to be especially important:

1. The TURNER JOY was illuminated when fired on by automatic weapons.
2. One of the destroyers observed cockpit lights.
3. A PGM 142 shot at two U.S. aircraft (From COMINT).<sup>41</sup>
4. A North Vietnamese announcement that two of its boats were "sacrificed." (From COMINT)
5. Sharp's determination that there was indeed an attack.<sup>42</sup>

McNamara and the JCS concluded, based on these five points that there had been an attack, and at 4:49 p.m., the National Military Command Center (NMCC) in the Pentagon transmitted the "strike execute" message to CINCPAC.

Throughout the afternoon of August 4, the White House was relying on McNamara for confirmation of the August 4 attack. It was August 7 before McGeorge Bundy asked for copies of the NSA intercepts. According to a memorandum for the record on August 8 from the White House Situation Room, which handled the request, he asked for "all intercepts which preceded and related" to the second attack. He received some but apparently not all of the intercepts. The memorandum stated that "the attached messages" were "selected by CIA and NSA."<sup>43</sup>

While McNamara and the military were examining the evidence of the attack and preparing plans for retaliating, a congressional resolution was quickly prepared on August 4 by Abram Chayes

<sup>38</sup>U.S. News and World Report, July 23, 1984, and CRS Interview with Commander John J. Herrick (USN, Ret.), Nov. 27, 1984.

<sup>39</sup>Johnson Library, NSF Country File, Vietnam, 041848Z.

<sup>40</sup>Chronology of Events, Tuesday, August 4 and Wednesday, August 5, 1964 Tonkin Gulf Strike," cited above.

<sup>41</sup>COMINT, communications intelligence, refers here to National Security Agency communications intercepts.

<sup>42</sup>Sharp had called the Pentagon at 5:23 p.m., during McNamara's meeting with the JCS, to report that the COMINT intercept about the sacrifice of the two boats was convincing evidence for him that the attack had occurred. It is interesting, however, that when Sharp asked Gen. David A. Burchinal, who was Director of the Joint Staff, whether he had seen that message, Burchinal said he had not. Later in the conversation, however, Burchinal said that McNamara was "satisfied with the evidence," even though at that point McNamara also apparently had not seen the COMINT intercept in question. Transcript of Telephone Conversations, p. 37.

<sup>43</sup>Johnson Library, NSF Country File, Vietnam. The "attached messages" are not attached to the copy of this memorandum contained in this particular file, however.

working with George Ball<sup>44</sup> According to Chayes, who had been the State Department's Legal Adviser from 1961 until June of 1964, "The main thing . . . that Ball wanted me to deal with, . . . was this question of Executive-Congressional relationships. . . . the whole problem . . . was how do you get a resolution without acknowledging that Congress had any authority in this? . . . I didn't look at whatever the evidence was. . . . It was simply that he [Ball] wanted me to look at the resolution and make sure that we're not giving away any part of the President's power in this resolution. And so I spent . . . a couple of hours, talking about the resolution, going over it and making sure that it didn't go beyond the earlier resolutions in the acknowledgment of a requirement of congressional participation."<sup>45</sup>

When George Ball was asked later about his role, he replied:<sup>46</sup>

. . . I don't think I ever saw the resolution until it was in final form. . . . the President asked me to help get it through and I went up and talked to Bill Fulbright and some of the others, and did what I was supposed to do. . . . I don't think I thought about it very much. I was just doing a chore. I don't think I fully realized the total implications. The President wanted to get some legitimizing action for what he was doing. The war distressed me, to be quite frank about it.

Ball added, "I don't think that Congress ought to give that kind of open-ended authority to any President."

At 6:15 p.m., the President met with the NSC. McNamara outlined the plan to strike the North Vietnamese torpedo boat bases and to conduct armed reconnaissance along the North Vietnamese coast, as well as to send reinforcements to the area to demonstrate the U.S. "will to escalate." The attack would be accompanied by a Presidential announcement and a congressional resolution. Rusk stated, "An immediate and direct reaction by us is necessary. The unprovoked attack on the high seas is an act of war for all practical purposes."<sup>47</sup> The President asked, "Do they want a war by attacking our ships in the middle of the Gulf of Tonkin?" CIA Director McCone replied, "No. The North Vietnamese are reacting defensively to our attacks on the off-shore islands. They are responding out of pride and on the basis of defense considerations. The attack is a signal to us that the North Vietnamese have the will and determination to continue the war. They are raising the ante." (Following this, a comment by the President as to how the U.S. should respond has been deleted from the notes of the meeting.) Carl Rowan, Director of the U.S. Information Agency, asked, "Do we know for a fact that the North Vietnamese provocation took place? Can we nail down exactly what happened? We must be prepared to be accused of fabricating the incident." McNamara replied, "We will know definitely in the morning." (The remainder of his reply has been deleted from the notes.) After this discussion,

<sup>44</sup>"Draft Joint Resolution on Southeast Asia," undated, but filed under 8/4/64, is in the Johnson Library, NSF NSC Meetings File. This is probably the Chayes-Ball version, which, after changes in wording but not in substance, became the Gulf of Tonkin Resolution.

<sup>45</sup>CRS Interview with Abram Chayes, Oct. 13, 1978.

<sup>46</sup>CRS Interview with George Ball, Sept. 30, 1980.

<sup>47</sup>Johnson Library, NSF NSC Meetings File. The notes of this meeting have been sanitized in several places.

which lasted about 20 minutes, the President asked the members of the NSC whether they had any objections to the plan. "All NSC members approved the plan."<sup>48</sup> The President ordered the attacks to take place, thus putting into effect the "strike execute" message which had been sent at 4:49.

At 5 p.m., the White House started asking 16 congressional leaders and committee chairmen and ranking members to attend a meeting with the President. At 6:45 p.m., the President opened the meeting with a report on the attack.<sup>49</sup> He then explained that he had already ordered retaliation, and would make a public announcement later in the evening after U.S. planes were over their targets. Rusk, McNamara, McCone and General Wheeler also spoke. Rusk emphasized the importance of demonstrating U.S. resolve in defending Southeast Asia, as well as affirming the right of U.S. ships to use the international waters of the Gulf of Tonkin. The President added: "We want them to know we are not going to take it lying down, but we are not going to destroy their cities. We hope we can prepare them for the course we will follow."

Speaker McCormack said that the attacks were an act of war, and that the U.S. had to respond. Senator Russell urged the President to "get the last one of them [torpedo boats]."

Mansfield was the only congressional leader to express opposition to Johnson's decision. He read a prepared statement which is summarized in the notes of the meeting: "I don't know how much good it will do," he said. "May be getting all involved with a minor third rate state. Then what is to come in response, if not Korea for China? The Communists won't be forced down. A lot of lives to mow them down." The President asked Mansfield if he had an alternative. Mansfield replied that the U.S. should consider the attacks as "isolated acts of terror," and should take the matter to the U.N. Rusk said that one problem with that suggestion was that China had not committed itself, and that a limited attack would impress the Chinese with the seriousness of the United States' purpose, while also demonstrating that the U.S. would keep the conflict limited.

Senator Hickenlooper, while feeling that the U.S. should not be seeking a "confrontation," also supported retaliation, and added, "There should be no doubt as to whether the President should have the right to order the Armed Forces into action. Should not have to quarrel for weeks as to whether he had the authority or not. It is my own personal feeling that it is up to the President to prepare the kind and type of resolution he believes would be proper. It is up to Congress to say whether they will pass it or not." President

<sup>48</sup>Chronology of Events, Aug. 25 draft, p. 30.

<sup>49</sup>The following discussion is based on notes on the Aug. 4 meeting with congressional leaders which have been declassified and are in the Johnson Library, NSF Meetings Notes File. See also Austin, p. 42; *Washington Post*, Aug. 5, 1964; and the *New York Times*, Aug. 5 and 8, 1964. These Members of Congress were present at the meeting: from the House, Speaker McCormack, Albert, Vinson, and Morgan, and Republicans Halleck, Leslie C. Arends (Ill.) and Frances P. Bolton (Ohio); from the Senate, Democrats Mansfield, Russell, Fulbright, and Humphrey, and Republicans Dirksen, Saitonstall, Kuchel, Hickenlooper, and Aiken. There are several versions of the notes of this meeting. For an explanation and a discussion of the meeting see Mark A. Stoler, "Aiken, Mansfield and the Tonkin Gulf Crisis: Notes from the Congressional Leadership Meeting at the White House, August 4, 1964," *Vermont History* 50 (Spring 1982), pp. 80-94. The author is grateful to Dr. David Humphrey, Archivist at the Johnson Library, for calling this article to his attention.

Johnson replied, "I had that feeling but felt I wanted the advice of each of you and wanted to consult with you. We felt we should move with the action recommended by the Joint Chiefs, but I wanted to get the Congressional concurrence. I think it would be very damaging to ask for it and not get it." "I don't think any resolution is necessary," he added, "but I think it is a lot better to have it in the light of what we did in Korea." McCormack responded, "I think the Congress has a responsibility and should show a united front to the world."

House Republican Leader Charles A. Halleck (R/Ind.) said, "The President knows there is no partisanship among us," and he noted that in the case of the Cuban missile crisis he had been the first to speak up in support of President Kennedy. But he wondered, "Are we getting fouled up here on something we could put off?"

As the meeting ended, Halleck said, "If we are going to have it [the resolution], it has to be overwhelming. . . . I think it will pass overwhelmingly as far as I am concerned."

The President said, "I have told you what I want from you," and he proceeded to go around the table and ask each Member of Congress to state his position. Every Member, including Mansfield and Fulbright, said he would support the resolution. Aiken indicated his reluctance, as well as his acceptance of the reality of the situation in which Congress was being placed, when he commented, "By the time you send it up here there won't be anything for us to do but support you."

Later in the evening Johnson talked by telephone with Senator Goldwater, who said he supported the decision. Goldwater told the press, "I believe it is the only thing he can do under the circumstances. We cannot allow the American flag to be shot at anywhere on earth if we are to retain our respect and prestige."

In an interview some years later, Senator Goldwater commented:<sup>50</sup>

I'll be perfectly honest with you. I have very grave doubts that there was ever any incident in the Gulf of Tonkin that would have required congressional action. I think it was a complete phony, and I've yet to run into a Navy man that will tell me there was. . . . I think Johnson plain lied to the Congress and got the resolution. . . . About the only way he could have gotten congressional support was to insinuate that there had been an attack on an American ship. . . .

Goldwater added, however, that the U.S. could have retaliated without action by Congress, based on the power of the Commander in Chief to use the armed forces.

Goldwater was also asked if, even before the 1964 Presidential campaign began, President Johnson was planning on going to war after the election. He replied: "Oh, I don't think there's any question. You might say the troops had gotten their orders but nobody knew about it."

Efforts to confirm the second attack continued throughout the late afternoon and evening of August 4. At about 5:30 p.m., Admiral Sharp, possibly in the call at 5:23 p.m. cited above, is said to

<sup>50</sup>*New York Times*, Aug. 5, 1964, and CRS Interview with Barry Goldwater, Aug. 20, 1980.

have reconfirmed his belief that an attack took place, and after the call McNamara is said to have told a top aide to make doubly sure that Sharp was willing to state that the attack had occurred.<sup>51</sup> Sharp then sent an urgent message to Herrick at 5:34 p.m. asking for further confirmation.<sup>52</sup>

1. Can you confirm absolutely that you were attacked?
2. Can you confirm sinking of PT boats?
3. Desire reply directly supporting evidence.

At 5:58 p.m. (5:58 a.m. on the *Maddox*), Herrick sent his final situation report, in which he said:<sup>53</sup>

... Turner Joy claims sinking one craft and damage to another with gunfire. Damaged boat returned confire-no hits. Turner Joy and other personnel observed bursts and black smoke from hits on this boat. This boat illuminated Turner Joy and his return fire was observed and heard by T J personnel. Maddox scored no known hits and never positively identified a boat as such.

4. The first boat to close Maddox probably fired torpedo at Maddox which was heard but not seen. All subsequent Maddox torpedo reports are doubtful in that it is suspected the sonarman was hearing the ships own propeller beat reflected off rudders during course changes (weaving). Turner Joy detected 2 torpedo runs on her one of which was sighted visually passed down port side 3 to 5 hundred yards.

5. Weather was overcast with limited visibility. There were no stars or moon resulting in almost total darkness throughout action.

Finally a message was sent to both the *Maddox* and the *Turner Joy* asking in part: "Can you confirm you were attacked by PT or Swatow (patrol boat)?" The *Maddox* did not reply, but at 7:10 p.m., Cdr. Robert C. Barnhart, the commanding officer of the *Turner Joy*, sent this message:<sup>54</sup>

1. Confirm being attacked by 2 pt craft. Evidence as Fol:
  - A. Target fired torpedo sighted by director off and dir crew plus port lookout.
  - B. Target burned when hit. Black smoke seen by co [commanding officer] and many other personnel.
  - C. Target silhouette sighted by some topside personnel.
  - D. Target tracked on surface search and fire control radar at high speeds erratic maneuvers.
2. Sinking only highly probably and as fols:
  - A. Target tracked on search and fire control radars.
  - B. Shell bursts observed on radar all over contact.
  - C. Hits reported visually.
  - D. Target disappeared from radar scope while within radar range.
  - E. No further burning or smoke seen.

At about 9 p.m., Admiral Moorer sent this message to the *Turner Joy*: "Who were witnesses? what is witness reliability? most impor-

<sup>51</sup>Goulden, p. 155.

<sup>52</sup>CR, vol. 114, p. 4695.

<sup>53</sup>Johnson Library, NSF Country File, Vietnam, 042158Z.

<sup>54</sup>Johnson Library, NSF Country File, Vietnam, 042310Z.

tant that present evidence substantiating type and number of attacking forces be gathered and disseminated."<sup>55</sup> The reply, the text of which is not available, was reported to have been received in Washington at 1:15 a.m. on August 5.<sup>56</sup>

In Washington at 11:37 p.m. on the night of August 4, while Admiral Sharp and others were still collecting evidence that the attack on the *Maddox* and the *Turner Joy* had occurred, President Johnson went on nationwide television to announce that the U.S. was retaliating with airstrikes (Operation PIERCE ARROW) on North Vietnamese torpedo boat bases and POL (petroleum, oil, lubricants) supplies.<sup>57</sup> "... renewed hostile actions against United States ships on the high seas in the Gulf of Tonkin," he said, "have today required me to order the military forces of the United States to take action in reply. The initial attack on the destroyer *Maddox* on August 2 was repeated today by a number of hostile vessels attacking two U.S. destroyers with torpedoes. . . . repeated acts of violence against the armed forces of the United States must be met not only with alert defense but with positive reply. . . ." "firmness in the right is indispensable today for peace. That firmness will always be measured. Its mission is peace."<sup>58</sup>

#### Aftermath

On August 7, Herrick submitted eyewitness statements from himself, Commander Ogier, and other officers and members of the crew of the *Maddox*, on the events of August 4. In his statement, Herrick concluded:<sup>59</sup> "I had no opportunity to visually sight by unaided human eye any of the action. However, it is my opinion that certainly a PT boat action did take place. The number of boats involved and the number of torpedoes fired I cannot accurately determine." Commander Ogier said, "I believed [at] the time that the *Maddox* was under attack by PT boats. Later I doubted that so many torpedoes could have been fired and have missed. I am now convinced that the torpedo attacks did take place."

Ogier also said that he was forwarding to the fleet commander a recorded tape of the sonar effects which had occurred during the August 4 incident, and that "an evaluation . . . of the hydrophone effects may disclose proof of the presence of the torpedoes." Whether this evaluation was ever made, and what disposition was made of the tape, is not known.

On August 9, 1964, a team of two Department of Defense civilians and two military men was sent from Washington to investigate the August 4 incident. They interviewed personnel from the *Maddox* and the *Turner Joy*, as well as pilots on the *Ticonderoga*.

<sup>55</sup>CR, vol. 114, p. 4695.

<sup>56</sup>*Ibid.*, p. 4695.

<sup>57</sup>*Public Papers of the Presidents*, Lyndon B. Johnson, 1963-1964, pp. 927-928.

<sup>58</sup>On Aug. 6, in a speech at Syracuse University, the President said, among other things, "The attacks were deliberate. The attacks were unprovoked." The Government of North Vietnam, he said, had committed an act of aggression against the United States, "Aggression—deliberate, willful and systematic aggression—has unmasked its face to the entire world. The world remembers—the world must never forget—that aggression unchallenged is aggression unleashed."  
*Ibid.*, pp. 928-930.

<sup>59</sup>0710512, from CINCPACFLT (Commander in Chief, Pacific Fleet), Johnson Library, NSF Country File, Vietnam. McNamara used some of the eyewitness accounts when he testified in 1968, but apparently did not use others in which doubts about the attack may have been expressed. See *The Gulf of Tonkin, The 1964 Incidents*, pp. 16-17.

In a copy of their draft report—the final report is still classified—they reported eyewitness accounts of a torpedo wake, hits on enemy craft that were verified by radar and black smoke, sightings of the PT boats themselves, and a search light. They concluded: "Although details engagement will require considerable data refinement, believe attack clearly occurred essentially as described in [this] cable."<sup>60</sup>

Although two U.S. pilots aboard the *Ticonderoga* were later quoted by McNamara as supporting eyewitnesses for the August 4 attack on the two U.S. destroyers,<sup>61</sup> one other Navy pilot on the *Ticonderoga*, Commander James B. Stockdale, leader of another attack squadron and later a prisoner of war of the North Vietnamese for eight years, thought that there had been no attack, and that the U.S. was "... about to launch a war under false pretenses, in the face of the on-scene military commander's advice to the contrary." Stockdale also had been flying over the two destroyers that day, as he had when he and others from the *Ticonderoga* attacked the North Vietnamese PT boats on August 2. On August 4, despite limited visibility, he said he could see the destroyers clearly, but never saw any other boats: "Not a one. No boats, no boat wakes, no ricochets off boats, no boat impacts, no torpedo wakes—nothing but black sea and American firepower."<sup>62</sup>

When Stockdale was then ordered to lead the reprisal strike against North Vietnam on the morning of August 5, his reaction was "Reprisal for what? . . . I felt like I had been doused with ice water. How do I get in touch with the President? He's going off half-cocked."<sup>63</sup>

In the several days after the August 4 incident, questions were also being raised by at least one high-ranking official of the CIA, and then or later by a high ranking official of the NSA as well. Ray S. Cline, Deputy Director of the CIA, began looking at the evidence, and within about three days after the incident he decided that there probably had not been an attack. He based his conclusion on the fact that the intercepts being used as evidence were too close in time to the events to have been "real time" intercepts.<sup>64</sup> As he commented some years later, "I began to see that the [intercepts] which were being received at the time of the second attack almost certainly could not have referred to the second attack because of the time difference involved. Things were being referred to which, although they might have been taking place at that time, could not have been reported back so quickly."<sup>65</sup>

Cline thinks that the intercepts which were purported to be from the incident on August 4 were after-action reports on the attack of

<sup>60</sup> Johnson Library, NSF Country File, Vietnam, 101155Z.

<sup>61</sup> McNamara stated in his 1968 testimony: "The commanding officer of Attack Squadron 52 from the *Ticonderoga* (Comdr. G. H. Edmonson, USN) and his wingman (Lt. J. A. Burton), while flying at altitudes of between 700 and 1,500 feet in the vicinity of the two destroyers at the time of the torpedo attack both sighted gun flashes on the surface of the water as well as light anti-aircraft bursts at their approximate altitude. On one pass over the two destroyers, both pilots positively sighted a 'snakey' high speed wake 1½ miles ahead of the lead destroyer, U.S.S. *Maddox*." *The Gulf of Tonkin, The 1964 Incidents*, p. 16.

<sup>62</sup> For similar reports by two other pilots see *U.S. News and World Report*, July 23, 1984, p. 62.

<sup>63</sup> James Bond Stockdale and Sybil B. Stockdale, *In Love and War* (New York: Harper and Row, 1984), pp. 21, 23.

<sup>64</sup> CRS Interview with Ray S. Cline, Dec. 14, 1984.

<sup>65</sup> Quoted by *U.S. News and World Report*, July 23, 1984, p. 63.

August 2. Those involved in reacting to the incident were probably too keyed-up, he says, to evaluate the evidence dispassionately. They also wanted to get on with tit-for-tat military action against North Vietnam, and this, too, created a psychological climate which did not encourage a calm study of the facts.

Several days after the August 4 incident, Cline testified before the President's Foreign Intelligence Advisory Board, which was inquiring, as it usually does in cases involving substantial U.S. intelligence activity, into the Gulf of Tonkin attacks. He discussed the attack on August 2, but told the group he did not have the evidence to confirm that there had been an attack on August 4.

When he became Director of Intelligence and Research in the Department of State in 1967, Cline had occasion to study Gulf of Tonkin files in that office, and found that the August 4 incident had also been examined afterwards by analysts in State. He says he came across memoranda which raised questions about the incident, and that the file convinced him that there had not been a second attack.

In 1972, Louis Tordella, then Deputy Director of NSA, is also reported to have told staff members of the Senate Foreign Relations Committee that intercepts purportedly pertaining to the August 4 incident pertained instead to the August 2 attack.<sup>66</sup>

In addition to the inquiry made by the President's Foreign Intelligence Advisory Board, a study of the August 4 Gulf of Tonkin incident was also made soon afterwards for the Weapons Systems Evaluation Group in the Pentagon by the Institute for Defense Analyses, a private arm of the Pentagon. Its title was *Command and Control of the Tonkin Gulf Incident, 4-5 August 1964*. It is not known what kind of a report, if any, was made by the Intelligence Advisory Board, but whatever report there might have been is still classified. The command and control study is also still classified, despite efforts of the Foreign Relations Committee, beginning in 1968, to obtain a copy on a classified basis.<sup>67</sup> Based on a description by the committee's staff, the document "... will show that the Administration was becoming more and more uncertain about the nature of the incident in the Gulf of Tonkin but decided to go ahead with the attack on North Vietnam in spite of this increasing uncertainty."<sup>68</sup>

Some of those who were involved at the time have taken the position that the DE SOTO patrols and the 34-A operations were intended to provoke the North Vietnamese into responding, thereby creating a "crisis" that could be used to galvanize congressional and public support for U.S. action against the North Vietnamese. George Ball is one of these:<sup>69</sup>

... I think that there was a feeling on the part of the President that he had to get a new grant of power from the Congress, that some overt act of aggression might justify it, and if such an act of aggression occurred then he wanted to be ready

<sup>66</sup> *U.S. News and World Report*, July 23, 1984, p. 64.

<sup>67</sup> See *The Gulf of Tonkin, The 1964 Incidents*, p. 2.

<sup>68</sup> A note at the conclusion of a staff memorandum, Jan. 30, 1968, on "Examples of Misinformation Given to SFRC and Armed Services at time of Incident," in the papers of the Committee on Foreign Relations, National Archives, RG 46.

<sup>69</sup> Charlton and Moncrieff, *Many Reasons Why*, p. 109.

so he could use that opportunity to get the kind of support from the Congress so that he wouldn't be acting alone . . . it was a tactical opportunity that they were looking for . . . he had a feeling that if he were going to take the measures which the military were telling him were going to have to be taken if we were going to win the war, that he had to be sure of his ground and get a much firmer support. The Tonkin Gulf Resolution was that kind of expression of support from the Congress which he felt he needed.

Another is James Thomson, a member of the NSC staff at the time, although he was not directly involved in the events of August 4:<sup>70</sup>

Mr. Thomson. I was in the White House, the NSC staff at the time, and some of my colleagues indicated very clearly that there was no credible evidence that the second incident had, in fact, ever taken place. It was judged, however, to be useful nonetheless, to show, as the papers regularly put it, our will or our resolve, regardless of the absence of a clear *causus belli*.

The Chairman [Senator Fulbright]. And this was interpreted to mean if we showed the will then the North Vietnamese would surrender. I mean, being faced with such overwhelming power, they would stop. Is that really the way they were thinking?

Mr. Thomson. "Would be brought to their knees" was the phrase that was used.

The Chairman. And, in effect, be willing to settle it on our terms; is that correct? Is that a fair summary?

Mr. Thomson. That was the hope, yes.

The Chairman. So, again, that was rather a serious mistake in judgment, too; wasn't it?

Mr. Thomson. It was, sir.

Thomson explained that beginning in late May or early June 1964 the administration wanted to obtain broad discretionary authority from Congress which it could use if the situation in Vietnam required it, especially if the Executive needed to act when Congress was not in session. When the first attack occurred on August 2, the administration began to think that this could provide such an opportunity. The second attack, although "more dubious," gave "imprudent, harassed people" the chance they needed to get congressional approval. The evidence to support the attack was inconclusive, Thomson added, but by then the decision was so far along that it could not be reversed; "the operational procedures had gone so far that the Administration had to fish or cut bait."<sup>71</sup>

Other key participants have argued, however, that the U.S. did not intend to create a crisis, and that the Gulf of Tonkin incidents were not "engineered" as an excuse for U.S. military action. In fact, William Bundy says, ". . . it didn't fit in with our plans at all, to be perfectly blunt about it. We didn't think the situation had deteriorated to the point where we had to consider stronger action

<sup>70</sup>U.S. Congress, Senate, Committee on Foreign Relations, *Causes, Origins, and Lessons of the Vietnam War*, Hearings, 92d Cong., 2d sess. (Washington, D.C.: U.S. Govt. Print. Off., 1972), p. 54.

<sup>71</sup>Memorandum of conversation between Thomson and Carl Marcy, chief of staff of the Senate Foreign Relations Committee, Jan. 3, 1968, SFRC Papers, National Archives, RG 46.

on the way things lay in South Vietnam . . . nobody would have planned this, nobody did plan it. It was totally unexpected and the response was entirely on the level."<sup>72</sup>

". . . the case on any Administration intent to provoke the incidents [on August 2 and 4]," Bundy says, "is not simply weak, it is non-existent. Not at any level of command is there a scintilla of evidence, after exhaustive internal and external searches, that points to any anticipation by the Administration of the incidents, much less any intent to provoke them."<sup>73</sup> This is his analysis of what happened:

Miscalculation by both the US and the NVN is, in the end, at the root of the best hindsight hypothesis of Hanoi's behavior. In simple terms, it was a mistake, for an Administration sincerely resolved to keep its risks low, to have the 34A operations and the destroyer patrol take place even in the same time period. Rational minds could not readily have foreseen that Hanoi might confuse them . . . but rational calculations should have taken account of the irrational . . . in the form of a few days' postponement of the patrol. . . .

Bundy adds, ". . . there was a major element of straight misunderstanding in what took place. Washington did not want an incident, and it seems doubtful that Hanoi did either. Yet each misread the other, and the incidents happened."

#### *The Gulf of Tonkin Resolution*

On August 5, Johnson sent the proposed Gulf of Tonkin resolution to Congress.<sup>74</sup> Before the resolution was officially transmitted it had been reviewed by congressional leaders at the meeting on August 4, and ". . . in light of their comments redrafts continued in the evening, and at a breakfast meeting in the Department of State [on August 5] the Secretary and his associates hammered out a short, basic, agreed version with the bipartisan leaders."<sup>75</sup>

In a conversation with the President on August 4, McGeorge Bundy questioned whether the events in the Gulf of Tonkin should be used to obtain a resolution.

"My first reaction," he said in an interview some years later, "was that this was not the right way to get the kind of resolution that would really ensure that the Congress meant what it said." It was just a little episode. . . . I would have just ridden out that particular episode." "That was just one conversation between me and the President," Bundy added. "His reaction was that he had already decided the other way, and to climb on board."<sup>76</sup> "It is perfectly plain," Bundy said, "that when you get to the Gulf of Tonkin that he [Johnson] knew in his own mind that he had a problem of a resolution, and he seized that episode to get the resolution."

<sup>72</sup>Charlton and Moncrieff, *Many Reasons Why*, p. 117. Bundy, who was on vacation the first week of August 1964, had written a memorandum on July 31 stating his understanding that the U.S. would continue on its existing course in Vietnam until at least the end of the U.S. Presidential campaign, and that although further actions might be required in Vietnam, they would not be undertaken during the campaign.

<sup>73</sup>Bundy MS., appendix to ch. 14, p. 14A-36.

<sup>74</sup>For his statement see *Public Papers of the President*, Lyndon B. Johnson, 1963-1964, pp. 930-931.

<sup>75</sup>McGeorge Bundy chronology, cited above.

<sup>76</sup>CRS Interview with McGeorge Bundy, Jan. 8, 1979.

Bundy is reported to have held a White House staff meeting on the morning of August 5 at which he stated that the President was requesting a congressional resolution. "After Bundy finished, Douglass Cater, a White House adviser on domestic issues, was one of the first to speak up. 'Isn't this a little precipitous?' he asked. 'Do we have all the information?'"

"Bundy looked quickly at him and said 'The President has decided and that's what we're doing.'

"Cater, new in the White House, persisted: 'Gee, Mac, I haven't really thought it through.'

"Bundy, with a very small smile: 'Don't.'"<sup>77</sup>

This was the text of the Gulf of Tonkin Resolution as it was submitted to and approved (with one minor change) by Congress:

#### Joint Resolution\*

To promote the maintenance of international peace and security in southeast Asia.

Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these people should be left in peace to work out their own destinies in their own way: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Sec. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably

<sup>77</sup>Halberstam, *The Best and the Brightest*, p. 44.  
\*Public Law 88-408

assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

The language of the Gulf of Tonkin Resolution was a hybrid of language from previous resolutions, but it was closer to that of the Middle East Resolution of 1957 than to any of the others.<sup>78</sup> Like that resolution, the Gulf of Tonkin Resolution provided that the security of the area concerned was vital to U.S. interests and to world peace. It also provided, as did the Middle East Resolution, that the U.S. was prepared to use its armed forces to assist affected nations, and that it would do so "as the President determines." This contrasts with the statement in the Middle East Resolution: "if the President determines the necessity thereof." Although the Middle East Resolution required the President to determine the need for such action, the Gulf of Tonkin Resolution went beyond that to give full advance approval to the President to decide whether, how, when and where to use force, and how much force to use. In this respect, the Gulf of Tonkin Resolution was stronger than the Middle East Resolution, and more comparable to the 1955 Formosa Resolution's provision that the President could use force "as he deems necessary." The Formosa Resolution, however, specifically authorized the President to do so, whereas the Gulf of Tonkin stated it as a given. Thus, the Gulf of Tonkin Resolution appears to have been the strongest and most complete, in terms of its approval of Presidential power, of any of the five foreign policy resolutions passed by Congress between 1955 and 1965. (See below for the Executive Branch's interpretation of the Gulf of Tonkin Resolution.)

On the day (August 5) the Gulf of Tonkin Resolution was introduced, Morse made a major speech in the Senate in which he called the resolution a "predated declaration of war."<sup>79</sup> ". . . our actions in Asia today are the actions of warmaking," he said. The Gulf of Tonkin incident was ". . . as much the doing of the United States as it is the doing of North Vietnam. For 10 years, the United States, in South Vietnam, has been a provocateur, every bit as much as North Vietnam has been a provocateur. For 10 years, the United States, in South Vietnam, has violated the Geneva agreement of 1954. For 10 years, our military policies in South Vietnam have sought to impose a military solution upon a political and economic problem." "We have been making covert war in southeast Asia for some time," he added, "instead of seeking to keep the peace. It was inevitable and inexorable that sooner or later we would have to engage in overt acts of war in pursuance of that policy. . . ."

<sup>78</sup>The Middle East Resolution provided: ". . . the United States regards as vital to the national interest and world peace the preservation of the independence and integrity of the nations of the Middle East. To this end, if the President determines the necessity thereof, the United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism: *Provided*, That such employment shall be consonant with the treaty obligations of the United States and with the Constitution of the United States." For more information on the Middle East Resolution, as well on the 1955 Formosa Resolution, see pt. I of this study. For a discussion of the 1962 Cuba and Berlin Resolutions, see pp. 129-130 above. For a discussion of the June 1964 draft of a congressional resolution on Vietnam, see pp. 266-270 above.

<sup>79</sup>CR, vol. 110, p. 18133-18139.

Morse then referred to the bombardment of islands off the coast of North Vietnam by the South Vietnamese, an action, he said, that the U.S. Government knew was occurring at a time when U.S. ships were on patrol in the vicinity. "Was the U.S. Navy standing guard," he asked, "while vessels of South Vietnam shelled North Vietnam? That is the clear implication of the incident."

Unknown, reportedly, to anyone in the Senate or the press, Morse had received a phone call that morning from a source in the Pentagon, who has never been named, who told him that the *Maddox* was not on a "routine patrol," as the administration had claimed, but was an intelligence ship, and that its mission was associated with the 34-A raids. The U.S., the source said, was engaging in provocation in the Tonkin Gulf.<sup>80</sup>

Morse confided some of his doubts to fellow Senators, but found them unwilling to oppose the President. One said to him,<sup>81</sup> "Hell, Wayne, you can't get in a fight with the President at a time when the flags are waving and we're about to go to a national convention. All Lyndon wants is a piece of paper telling him we did right out there, and we support him, and he's the kind of president who follows the rules and won't get the country into war without coming back to Congress."

That afternoon (August 5), a meeting of leaders from the Senate Foreign Relations and Armed Services and the House Foreign Affairs Committees was held in Mansfield's office to decide how the resolution would be handled. Present were Mansfield, Fulbright, Hickenlooper, Aiken, Russell, and Leverett Saltonstall (R/Mass.), and from the House, Dr. Thomas E. Morgan (D/Pa.), chairman of the Foreign Affairs Committee, and Mrs. Frances Bolton (R/Ohio), the ranking Republican on the committee. There were also several staff members present, including Pat Holt, a senior member of the Foreign Relations Committee staff, and then acting chief of staff in the absence of Carl Marcy. Holt later recalled his reaction to the group's plan to act quickly on the resolution:<sup>82</sup>

We'd have a joint hearing of Foreign Relations and Armed Services the next morning, report it, call it up, have a quick debate and pass it. I listened to all of this with growing disbelief, and I remember Bill Darden [William H. Darden, chief of staff of the Senate Armed Services Committee] and I talked to each other about it. We thought it was wildly unrealistic for senators to expect action to be taken on it that quickly, because Bill and I had been through the debate on the Middle East Resolution in '57 which tied up the two committees for weeks. The Formosa Resolution in '55 didn't take very long, but it took some days anyhow. Both of these had caused a good deal of unhappiness on the part of some senators who eventually voted for them, and we didn't see that there was any way under heaven that either the joint committee or the Senate could act on the Gulf of Tonkin thing as fast as it did, particularly in view of the way the thing was worded, which looked to us like pretty much a blank check and a pre-dated declaration

<sup>80</sup>Goulden, p. 48 and Austin, pp. 67-68.

<sup>81</sup>Goulden, p. 49.

<sup>82</sup>CRS Interview with Pat Holt, Dec. 13, 1978.

of war. Well, that just shows how much more senators know about the Senate than the staff does.

At the meeting, there was a brief discussion of the language of the resolution, and according to Chairman Morgan, Mansfield argued that it should be left unchanged, and that it should be passed in the same form that had been sent to Congress by the President.<sup>83</sup>

On August 6, executive session hearings were held on the resolution in both the House and the Senate. The hearing of the House Foreign Affairs Committee lasted 40 minutes. The combined hearing of the Senate Foreign Relations and Armed Services Committees lasted 1 hour and 40 minutes.

Prior to the meeting of the House committee, Chairman Morgan held a caucus of the Democratic members of the committee at which he urged them to approve the resolution without change. At the conclusion of the hearing he made the same plea to the full committee. "I had to practically get down on my hands and knees to plead with my committee, please don't change a single word in this resolution."<sup>84</sup>

At the hearing of the House Foreign Affairs Committee, Secretary Rusk said that the administration was asking for the resolution because ". . . it has seemed clearly wise to seek in the most emphatic form a declaration of congressional support both for the defense of our Armed Forces against similar attacks and for the carrying forward of whatever steps may become necessary to assist the free nations covered by the Southeast Asia Treaty." "We cannot tell what steps may in the future be required to meet Communist aggression in southeast Asia," he added.

Secretary of Defense McNamara described the events preceding the request for the resolution, and characterized the attacks as "deliberate and unprovoked." The *Maddox*, he said (without mentioning that it was an intelligence ship), was on a "routine patrol in international waters."

Rusk commented on the specific provisions of the resolution. He pointed out that the wording of section 1 of the resolution ("That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression") was a recognition of the President's "authority and obligation" to defend U.S. forces against attacks. With respect to the language in section 2 stating that the U.S. was "prepared, as the President determines, to take all necessary steps, including the use of armed force" to defend Vietnam, Rusk said that this was "similar to the authority embraced in the Formosa resolution of 1955, the Middle East resolution of 1957, and the Cuba resolution of 1962." He gave copies of each of these to members of the committee so that they could compare the language. "There can be no doubt," he added ". . . that these previous resolutions form a solid legal precedent for the action now proposed. Such action is required to make the purposes of the United States clear and to protect our national interest."

<sup>83</sup>CRS Interview with Thomas E. Morgan, Apr. 3, 1979.

<sup>84</sup>*Ibid.*

Rusk said that although he would not take the committee's time to discuss the constitutional aspects of the resolution, "I believe it to be the generally accepted constitutional view that the President has the constitutional authority to take at least limited armed action in defense of American national interest. . . ." <sup>85</sup>

In his "briefing book," a large black looseleaf notebook with materials covering all of the possible points on which he might have to testify, Rusk had a memorandum prepared by State's legal adviser, "Legal Questions and Answers on the Gulf of Tonkin," August 5, 1964, which he could use if necessary to answer questions about constitutional aspects of the resolution. That memorandum made it clear that in the view of the executive branch, as was subsequently maintained, the President did not need congressional approval or authorization to use U.S. forces in Vietnam, even against North Vietnam, and that the resolution, therefore, was a political rather than a legal or constitutional instrument. These were some of the key points made in the memorandum: <sup>86</sup>

Question. *What is the authority for using U.S. combat forces in the Tonkin Gulf action?*

Answer. The constitutional authority of the President as Commander-in-Chief.

Question. *Does the President have authority to use the forces of the U.S. now in Viet-Nam for combat action?*

Answer. (1) Yes. The use of U.S. forces for combat duty in Viet-Nam rests on the Constitutional powers of the President as Commander-in-Chief and as Chief Executive, and on his power to conduct foreign affairs.

(2) Presidents have ordered the armed forces to take combatant action abroad, without Congressional authorization and in the absence of a Declaration of War, on a large number of occasions.

Question. *How does the Joint Resolution affect the authority of the President to use force in Viet-Nam?*

Answer. The Resolution does not detract from or enlarge the constitutional authority of the President as Commander-in-Chief and Chief Executive.

Question. *Then why seek a Congressional Resolution?*

Answer. The Resolution would constitute a declaration of the common purpose of the U.S. in this situation. It would record the approval and support of the Congress for the actions of the President.

Question. *Does the Joint Resolution constitute an anticipatory declaration of war; that is, does it constitute a delegation of Congress' constitutional authority to declare war?*

Answer. (1) No. The Joint Resolution in no way affects the constitutional prerogative of the Congress to declare war.

(2) A declaration of war, however, has always been thought of as implying a massive commitment of U.S. forces. That is not the case here.

<sup>85</sup>Rusk's and McNamara's statements were printed as an appendix to the report of the House Foreign Affairs Committee, H. Rept. 88-1708. The transcript of the hearing has not been made public.

<sup>86</sup>Johnson Library, NSC History File, Gulf of Tonkin Attacks.

Questions. *Does this Resolution cover the use of U.S. forces for combat in North Viet-Nam?*

Answer. (1) Sec. 2 declares that the U.S. is prepared "to take all necessary steps, including the use of armed force, to assist any Protocol or Member State of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

(2) Under Sec. 2, such steps would have to be "consonant with the Constitution and Charter of the United Nations and in accordance with [the] obligations [of the U.S.] under the Southeast Asia Collective Defense Treaty."

(3) If, in a particular situation, the use of U.S. combat troops in North Viet-Nam would meet all of the required conditions, and if the President determined that it was necessary, such use would be within the Resolution.

Immediately after its hearing, the House Foreign Affairs Committee voted 29-0 to approve the resolution. Two members voted "present." They were H. R. Gross (R/Iowa), who said that he wanted the words "United States of America" added after the word "Constitution" in the resolution (this was done by the Senate), and Edward J. Derwinski (R/Ill.), who said that he voted present to protest the fact that Congress was never informed by the President and his advisers "until they get in a jam."<sup>87</sup>

In its report,<sup>88</sup> the Foreign Affairs Committee stated:

As it had during earlier action on resolutions relating to Formosa and to the Middle East, the committee considered the relation of the authority contained in the resolution and the powers assigned to the President by the Constitution. While the resolution makes it clear that the people of the United States stand behind the President, it was concluded that the resolution does not enter the field of controversy as to the respective limitations of power in the executive and the legislative branches. As stated in the committee report on the Formosa resolution:

Acting together, there can be no doubt that all the constitutional powers necessary to meet the situation are present.

According to the report, the committee also considered the question of the duration of the resolution, but decided not to make any changes. "Given the persistent Communist pressures in southeast Asia, the committee did not consider it advisable to insert a specific time limitation on the resolution. . . . In any case the resolution specifically reserves to Congress the right to terminate the force of the resolution by concurrent resolution."

The mood in the Foreign Affairs Committee and in the House as a whole was one of action, in which the "facts" may not have been that important, according to Dante B. Fascell (D/Fla.), a member (and later chairman) of the committee:<sup>89</sup>

My own impression of what happened at that time was that most everybody said, well, the President wants this power and

<sup>87</sup>Galloway, *The Gulf of Tonkin Resolution*, p. 78.

<sup>88</sup>H. Rept. 88-1708.

<sup>89</sup>CRS Interview with Dante Fascell, Feb. 28, 1979.

he needs to have it. It had relatively little to do with the so-called incident. I don't know why so much stress has been made on whether or not there was an incident or whether or not the President was deceitful or whatever. . . . The President needed the authority. Who cared about the facts of the so-called incident that would trigger this authority? So the resolution was just hammered right on through by everybody.

Nicholas deB. Katzenbach (then Deputy Attorney General, and later Under Secretary of State), has taken a similar position with respect to the reaction of both Congress and the Executive:<sup>90</sup>

. . . the Tonkin Gulf incident itself was an absolute nothing. Sure, the facts of that were exploited by President Johnson and by the executive branch, but I don't think it made any difference what the facts were. All they were looking for was a vehicle for the resolution. Then they chose this incident in the Tonkin Gulf to do it. If that hadn't come around, they would have found something else. I don't think it made one iota of difference in any congressman's or senator's vote as to what happened or didn't happen in the Tonkin Gulf.

Katzenbach said that the 1964 Presidential election was a key factor in congressional action on the resolution, adding, "And there is no question in my mind that that is what motivated Bill Fulbright and other good Democrats to go along with it and vote for it." He also explains how this affected the role of Congress thereafter: "They created a situation there that Congress was tied up in its underwear the whole rest of the time. You couldn't have gotten anything through that was like the Tonkin Gulf Resolution; you couldn't have gotten anything through that was going to take it away. Having done it, they were just absolutely tied."

On Friday, August 7, acting under a suspension of the rules (a parliamentary device for limiting debate and amendments), the House of Representatives passed the Gulf of Tonkin Resolution 416-0, after considering it for only 40 minutes. No Member spoke against the resolution.<sup>91</sup> On the vote to pass the resolution, Representative Adam Clayton Powell (D/N.Y.), saying that he was a "pacifist," voted "present." Representative Eugene Siler of Kentucky (who had voted against SEATO, and had made the statement in June 1964 about running for President in order to serve one day) refrained from voting, saying that such resolutions were "unnecessary," and were used "to seal the lips of Congress against future criticism."<sup>92</sup>

During the brief discussion of the resolution, House Democratic and Republican leaders gave it their strong endorsement. Democratic Majority Leader Carl Albert (D/Okla.) referring to previous actions by Congress supporting the President, said:

The United States is presently facing in southeast Asia a challenge similar to the ones we have faced in the past in Turkey, Berlin, Lebanon, the Straits of Taiwan, and Cuba. The President has asked us as representatives of the American

<sup>90</sup>CRS Interview with Nicholas deB. Katzenbach, Nov. 7, 1978.

<sup>91</sup>The proceedings are in *CR*, vol. 110, pp. 18539-18555.

<sup>92</sup>*Washington Post*, Aug. 8, 1964. In the *Congressional Record*, Representative Siler was listed as being paired against the resolution, making him the only Member of the House to have been recorded in the negative.

people for our support. It is now time for all of us to join together as a nation firmly united behind our Commander in Chief and to express our complete confidence in him and in his leadership.

House Republican Leader Charles Halleck said he supported the resolution "as a clear indication on the part of the Congress of our determination to be a united people in the face of any threats to our liberty." He pointed out, however, that "orders for retaliatory action against the forces of North Vietnam had been issued prior to the meeting [of congressional leaders with the President on August 4] and that the apparent purpose of the meeting was to inform us that such decisions had been made."

Other leading Republicans questioned the Johnson administration's policy on the war. Representative Melvin Laird said he agreed with the President's action and with the resolution, but that ". . . the land war remains. And we still have a policy to develop. We still must decide whether to follow the Gaullist proposal of withdrawal by neutralization or whether to stiffen our commitment by resolving to take whatever steps are necessary to win the war in that beleaguered area within a reasonable period of time."

Representative Gerald Ford said that he supported the resolution, but that "The military results raise the legitimate question—similar U.S. military action affecting our own ground forces on prior occasions in Vietnam might have turned the tide our way much sooner. The United States in Vietnam is not winning now and has not been in the past months. I hope and trust what appears to be a new administration policy will bring victory for the people of Vietnam and the United States."

Representative Paul Findley (R/Ill.), was concerned about the broad language of the resolution, and asked Ford whether he could be allocated some time to speak during the debate. According to Findley, Ford said there was no time available, and that ". . . I shouldn't be concerned. This was a symbolic gesture of support to the President at a critical time, when our ships were under attack. We wanted to show solidarity behind the President, but it didn't have any far-reaching implications. And, on that assurance, I voted for it and, of course, regretted it thereafter."<sup>93</sup>

Chairman Morgan of the Foreign Affairs Committee told the House that the resolution would not adversely affect Congress' constitutional role: "This is definitely not an advance declaration of war. The committee has been assured by the Secretary of State that the constitutional prerogative of the Congress in the respect will continue to be scrupulously observed." These assurances were echoed by Representative E. Ross Adair of Indiana, the second-ranking Republican on the committee, who said:

Secondly, the question has been raised as to whether by voting for this resolution we say in effect that we are approving all of the U.S. policies in southeast Asia in the past and are giving approval, in advance, for such actions as the President may see fit to take in the future. Here again the answer is in the negative. By voting for this resolution it is my under-

<sup>93</sup>CRS Interview with Paul Findley, Feb. 2, 1979.

standing that we are meeting a specific situation. The American flag has been fired on. We are saying we will not and cannot tolerate such things. We will stand in defense of our flag and our freedoms solidly behind the President. This we are saying by this resolution.

Representative John B. Anderson (R/Ill.) who became a national figure during his campaign for President in 1980, took a similar position when he noted statements to the effect that the resolution did not give the President "carte blanche authority to launch an all-out war or even limited war in any part of the southeast Asia theater of operations. We are merely expressing our determination to stand firm and resolute as a nation in the face of enemy attack, and to repel any aggressions." But Anderson called on the administration to make clear that any attack on North Vietnam or elsewhere in Southeast Asia would be based on the principle of "joint action" with U.S. allies.

Representative Bruce Alger (R/Tex.) was the only Member of the House to express doubts about the resolution during the debate, but even he voted for it "for reasons of unity." ". . . I have grave reservations," he said, "involving congressional abdication of responsibility in declaring war. . . . This resolution does not assure us that the President will come back to Congress, as the gentleman from Indiana [Mr. Adair] assured us, before involving this Nation further. I agree to the resolution, therefore, only assuming that Congress will not be bypassed later."

#### *Senate Hearings on the Resolution*

The joint hearing of the Senate Foreign Relations and Armed Services Committees were also held on the morning of August 6, with McNamara and Rusk as the witnesses. Before the hearing began, according to Pat Holt, McNamara, who had arrived early, talked informally in the back room of the committee's suite in the Capitol with several Senators who were already on hand, including Fulbright and Russell. He told them that if the question came up as to why the administration was so sure of what had happened to U.S. ships in the Gulf of Tonkin, and Morse was in the room, he (McNamara) would not answer.<sup>94</sup> McNamara was apparently concerned about protecting the fact that radio intercepts had been used, even though this information appears to have been imparted, at least to some extent, in the informal meeting on August 3 which Morse attended. (Morse, as it turned out, hinted during Senate debate on the resolution that there was secret intelligence data, but he refused to be drawn into a discussion on that point.)<sup>95</sup>

At the joint executive session of the two Senate committees Rusk and McNamara again testified that the *Maddox* was on a "routine patrol in international waters." Rusk also made this important statement with respect to future consultation:<sup>96</sup>

. . . this resolution, and this consultation which the executive and legislative branches are now having in the course of

<sup>94</sup>CRS Interview with Pat Holt, Dec. 13, 1978.

<sup>95</sup>See p. 287.

<sup>96</sup>See *Southeast Asia Resolution* (cited above), from which the quotations that follow have been taken.

today, will in no sense be the last contact between the executive and the legislative branches on these problems in southeast Asia. There will continue to be regular consultations not only with committees but between the President and the congressional leaders, and on a bipartisan basis. That has been the practice of Presidents in this postwar period. Therefore, as the southeast Asia situation develops, and if it develops, in ways which we cannot now anticipate, of course there will be close and continuous consultation between the President and the leaders of the Congress.

All of the senior Democrats and Republicans on the two committees supported the resolution. Senator Russell Long, then a member of the Foreign Relations Committee, commented, "As much as I would like to be consulted with on this kind of thing the less time you spend on consulting and the quicker you shoot back the better off you are."

Senator Strom Thurmond (R/S.C.), a member of the Armed Services Committee, was in favor of the resolution and of the retaliatory action, but felt that ". . . we ought to make up our minds that we are going to have a victory in the war in Vietnam or get out." He was concerned about having another "stalemate"—"another Korea."

Senator Clifford P. Case, a liberal Republican from New Jersey, who had just joined the Foreign Relations Committee, approved the President's actions saying, "I think it would be unfortunate if we did not support immediate action in response to aggression and on the spot because this is where the decisions are made and anything we do afterward will be affected favorably or adversely by our failure to take action on whatever action we take." (Case's support of the President and of the war made his later opposition to the war, which he announced in mid-1967, all the more galling to the administration.)

The only member of either Senate committee who attempted to raise any serious objections to the administration's case in the August 6 hearing was Senator Morse. He said he was ". . . unalterably opposed to this course of action which, in my judgment, is an aggressive course of action on the part of the United States [deleted].<sup>97</sup> I think what happened is that Khanh got us to backstop him in open aggression against the territorial integrity of North Vietnam. I have listened to briefing after briefing and there isn't a scintilla of evidence in any briefing yet that North Vietnam engaged in any military aggression against South Vietnam either with its ground troops or its navy."

Rusk and McNamara took issue with Morse's statement, and argued at some length that there was no basis for his allegations.

In questions that were deleted from the printed hearing by the executive branch, Morse asked, as he had asked in his speech in the Senate on August 5, about the relationship between the DE SOTO patrols and the 84-A operations. McNamara's response was also deleted in part.<sup>98</sup> Some of the deleted portions were subse-

<sup>97</sup>This deletion in the transcript of the hearing was made by the executive branch.

<sup>98</sup>Morse denounced the deletions. See the *Washington Post*, Nov. 24, 1968.

quently provided, however, by Goulden.<sup>99</sup> This was that section of McNamara's response, with the deleted material in brackets:

Secretary McNamara. First [our Navy played absolutely no part in, was not associated with, was not aware of any South Vietnamese actions, if there were any. I want to make that very clear to you.] The *Maddox* was operating in international waters, was carrying out a routine patrol of the type we carry out all over the world at all times. [It was not informed of, was not aware of, had no evidence of, and so far as I know today had no knowledge of, any South Vietnamese actions in connection with the two islands, as Senator Morse referred to.]

I think it is extremely important that you understand this. If there is any misunderstanding on that we should discuss the point at some length.

Senator Morse. I think we should.

Secretary McNamara. I say this flatly. This is the fact.

About a month later (September 10), the Foreign Relations Committee met in executive session with Maxwell Taylor, U.S. Ambassador to South Vietnam. Morse returned to the Gulf of Tonkin incidents, and asked Taylor about his knowledge of 34-A operations, especially the attacks on North Vietnamese islands at the end of July. As frequently happens in situations of this kind, the Member of Congress asking the question did not know enough about the subject to word the question precisely, and the executive branch witness, wanting to avoid discussing the subject, answered in such a way as to take advantage of the questioner's lack of knowledge. Thus, Morse, apparently accepting the administration's cover story that the 34-A operations were conducted by the Vietnamese, asked Taylor whether he had been consulted by General Khanh, Prime Minister of South Vietnam, prior to the July 30 raids on the islands, and Taylor's reply was that these operations were going on constantly, and that "Any specific action of that sort I would not be counselled about." He did not answer the question directly. To do so would have required that he admit that Khanh did not consult him, and this might have given Morse an opening to explore further the question of consultation, and how such decisions were made. The fact was that 34-A operations were planned and controlled by the U.S., even though South Vietnamese military personnel were involved, and there would have been no reason for General Khanh to consult Taylor.

Morse tried again. He said that in conjunction with the Gulf of Tonkin testimony it had been mentioned that South Vietnamese boats attacked the islands. He had asked McNamara whether U.S. officials knew of these attacks, and McNamara had replied that U.S. officials in Saigon may have known, but the commander of the *Maddox* did not. The possibility that U.S. officials in Saigon knew about the raids, Morse added, raised the question as to whether the raids might involve the U.S., in terms of creating the impression in the minds of the North Vietnamese that the U.S. was involved. Again Taylor replied that he knew of these naval activities, but that what happened day to day were not his business.

<sup>99</sup>See *The Gulf of Tonkin, The 1964 Incidents*, p. 29, and *Truth is the First Casualty*, p. 59.

Morse then asked how long the 34-A naval raids had been going on. Taylor, who knew that they had been started the previous February, again evaded by saying that he imagined they had been going on for some months, but he "really couldn't tell." Morse asked whether the raids have resulted in escalating the war into North Vietnam. Taylor, who was fully informed of the provocation involved, said he did not think so; that the raids were merely counteraction against North Vietnamese infiltration. Taylor said he did not know where the ships were that were engaged in countering this infiltration, and that although he thought it as a very sound program, he was not in charge of it.

The August 6 joint hearing of the two committees on the Gulf of Tonkin Resolution lasted 1 hour and 40 minutes. Fulbright asked no questions, nor did Russell or Mansfield. "Imagine," Fulbright was reported to have said later, "we spent all of an hour and 40 minutes on that resolution. A disaster; a tragic mistake. We should have held hearings. [sic] The resolution would have passed anyway, but not in its present form. At the time, I was not in a suspicious frame of mind. I was afraid of Goldwater."<sup>100</sup>

Besides being "afraid of Goldwater," Fulbright was still very close to Johnson. Several days earlier he and Mrs. Fulbright had given a dinner party at their home for President and Mrs. Johnson, which was also attended by Secretary of the Treasury Douglas Dillon and Mrs. Dillon, Senator Russell, and Mr. and Mrs. James Reston (noted columnist of the *New York Times*). A few weeks later (September 3), the Fulbrights and Russell were guests of the Johnsons at a private dinner at the White House.<sup>101</sup>

After concluding the August 6 hearing, the Foreign Relations and Armed Services Committees voted 31-1, with Morse in the minority, to report the Gulf of Tonkin resolution favorably to the Senate. In its report, the joint committee, calling the attacks "unprovoked," stated:<sup>102</sup>

The basic purpose of this resolution is to make it clear that the Congress approves the actions taken by the President to meet the attack on U.S. forces in southeast Asia by the Communist regime in North Vietnam. Full support by the Congress also is declared for the resolute policy enunciated by the President in order to prevent further aggression, or to retaliate with suitable measures should such aggression take place.

Without even mentioning the possible constitutional questions posed by the resolution, or its impact on the role of Congress in decisions involving the use of the armed forces, the joint committee concluded:

On the basis of testimony submitted by the Secretaries of State and Defense and the Chairman of the Joint Chiefs of Staff, the committee was satisfied that the decision of the President to retaliate against the North Vietnamese gunboat attacks was both soundly conceived and skillfully executed. In

<sup>100</sup>John Galloway, "The Tonkin Affair," *Commonweal*, Mar. 8, 1968, p. 684.

<sup>101</sup>University of Georgia, Russell Papers, Intra-office Communication Series, Memoranda File, Sept. 3, 1964.

<sup>102</sup>S. Rept. 88-1329.

the circumstances, the United States could not have done less and should not have done more.

Several years later, in a memorandum to Chairman Fulbright to help him prepare for a CBS television interview, Carl Marcy, chief of staff of the Foreign Relations Committee, discussed the question of the committee's quick approval of the resolution:<sup>103</sup>

You will probably be asked why the joint Committees on Armed Services and Foreign Relations approved the Tonkin Resolution so quickly.

A possible answer is to recall that the Administration did not tell all at that time. For example, it was only after the Committee investigated the incident in late 1967 and at the hearing with McNamara on February 20, 1968, that members learned that Commander Herrick, about four hours after the August 4 attack allegedly occurred, sent a message to Washington reading as follows:

"Review of action makes many recorded contacts and torpedoes fired appear doubtful. Freak weather effects and overeager sonarman may have accounted for many reports. No actual visual sightings by Maddox. Suggest complete evaluation before any further action." That message was sent on August 4 at 1:30 p.m. Eastern Daylight Time. That was ten hours before President Johnson went on the air (11:38 p.m.) to announce our military response.

The Committee was not informed in 1964 that the Maddox was on an intelligence mission. Secretary McNamara had described the attack as being on the "high seas" while the Maddox was on a "routine patrol."

The Committee didn't know that after the first attack, the commander of the Carrier Task Force in the Pacific had told the Maddox and the Turner Joy that North Vietnam had "thrown down the gauntlet and now considers itself at war with the United States . . . and . . . they will be treated as belligerents from the first detection. . . ."

In short, this was a case in which if the facts *as they were then known to the Administration* had been given to the Committee, there might have been more deliberation than was the case when the Administration snowed the Congress and the American people.

Pat Holt has suggested that the political situation was also determinative:<sup>104</sup>

This was early August. Goldwater had been nominated as the Republican candidate for President in July. Goldwater was taking a very hard line about Vietnam, in comparison to which Johnson looked like a model of restraint and moderation. The Democrats on the two committees felt much constrained to support a moderate Democratic President, or what looked like a moderate Democratic President, against the onslaughts of this bomb-them-out, shoot-them-up Republican. The Republicans on the committees could scarcely refuse to support even

this much, and there it was. And the politics of it also were such that the Democrats almost had to support the thing, not only for the reason that I mentioned, but because if they didn't, then they would be in the position of opening themselves to the charge of knuckling under to this little two-bit communist power in Southeast Asia and that sort of thing.

Holt's explanation may shed some light on the puzzling question of why Wayne Morse did not make more of an issue of the information he had received, and why he refrained from asking for further hearings. According to Fulbright, ". . . I didn't at the time have any suspicion that it hadn't happened like we were told it had happened, and Morse didn't undertake a very determined effort to reveal it or to say that he had information. . . . he didn't ask the committee to hear his informant or do anything like that, that I know of. . . . If he had any information he was relying on, why he didn't prolong it [the debate] and demand that we have hearings and require these people to come forward and examine the reasons for the thing. Why didn't he? Because he certainly wasn't a very timid man. . . . My guess is that he had a kind of feeling about it but he wasn't certain about it."<sup>105</sup>

Asked for his explanation, Joseph Goulden, who interviewed Morse while writing his book, replied that Morse could have done more, but that for some reason he did not. Goulden was asked why. "Well, you also have a juxtaposition of events . . . where the Democratic Convention is opening in the next week, and maybe Lyndon made a phone call to him."<sup>106</sup>

Whether or not it is coincidence, or their conversation involved some other subject, the President's appointment calendar shows that there was, indeed, a phone call to Morse from the President on August 3, and it is quite possible that in that conversation Johnson asked for Morse's help in protecting him, the Democratic Party, and the country, from the possibility of Goldwater's election by not pushing the Gulf of Tonkin matter too hard. (Although this phone call was made before the second attack was said to have taken place on August 4, the secret meeting on August 3 between Rusk and McNamara and members of the Foreign Relations and Armed Services Committees, in which the possibility of another attack was apparently considered, was about to occur, and Johnson may have wanted to make his case with Morse beforehand.)

A similar instance of this kind of politician-to-politician collaboration between Morse and the President may well have occurred a few weeks earlier in conjunction with Senate confirmation of Johnson's appointment of Maxwell Taylor as U.S. Ambassador to Vietnam. Morse opposed the appointment, but he was not on the Senate floor on July 1 when the nomination was considered and approved by voice vote with no debate or opposition. Later that afternoon, Morse made a statement in the Senate giving his reasons for opposing the appointment, and explaining that when the nomination had been brought up for approval he was "downstairs in the Committee on Foreign Relations presenting an argument against a shocking waste of taxpayer funds in a foreign aid pro-

<sup>103</sup>Memorandum, Jan. 27, 1971, University of Arkansas, Fulbright Papers, series 48, box 46. (emphasis in original)

<sup>104</sup>CRS Interview with Pat Holt, Dec. 13, 1978.

<sup>105</sup>CRS Interview with J. William Fulbright, Feb. 18, 1988.

<sup>106</sup>CRS Interview with Joseph Goulden, Dec. 10, 1978.

gram that is in need of drastic revision. I was not aware that the Taylor nomination was to be brought up at that time."<sup>107</sup> Given the way the Senate operates, including the standard practice of notifying a Senator when a matter in which he or she has expressed strong interest is about to be called up for action on the floor, Morse's explanation suggests that he had decided not to debate or delay the nomination, and thus made his appearance after it was approved.

### *The Senate Debates the Resolution*

On August 6-7, 1964, the Senate acted on the Gulf of Tonkin Resolution.<sup>108</sup> Majority Leader Mansfield began by praising Johnson: "The President . . . has acted with a cool head and a steady hand in a most critical situation. He has acted as the leader of a great free nation, fully aware of a great nation's responsibilities to itself, to freedom, and to the peace of the world."

Chairman Fulbright then discussed the resolution. He said that North Vietnam had acted "without provocation," and that the second attack "was without any doubt a calculated act of military aggression." He, too, praised Johnson's "limited and measured" reaction, saying that "The single, most notable fact about the American action was its great restraint as an act of retaliation taken by a great power in response to the provocation of a small power." Had the attacks not been part of a pattern of North Vietnamese aggression, he added, "it might have been appropriate to respond by a lesser act of force than that employed, or even by measures short of force." But the North Vietnamese regime "has made an international career of aggression almost since its inception in 1954." Therefore, ". . . it was incumbent upon the United States to act, as it did, in a manner proportionate to the provocation. Viewed in the context of the immediate provocation, the retaliatory measures taken by the United States were necessary and justified. Viewed in the context of a decade of reckless and irresponsible behavior on the part of the North Vietnamese regime, the action taken by the United States was the minimum consistent with its own vital interests and with its obligations to its allies and partners in Southeast Asia." It should be made clear to the Communists, Fulbright said, ". . . that their aggressive and expansionist ambitions, wherever advanced will meet precisely that degree of American opposition which is necessary to frustrate them. The resolution now before the Senate is designed to shatter whatever illusions our adversaries may harbor about the determination of the United States to act promptly and vigorously against aggression."

Fulbright inserted in the *Congressional Record* editorials from the August 6 issues of several leading newspapers. One of them was from the *Washington Post*, which said, "President Johnson has earned the gratitude of the free world as well as of the Nation for his careful and effective handling of the Vietnam crisis." The *Post* went on to suggest that as a result of the attacks, the U.S. was now in a position to become more involved in the war:

<sup>107</sup>CR, vol. 110, p. 15765.

<sup>108</sup>The debate is in *ibid.*, pp. 18399-18471.

Whatever restraint had previously been exercised through lack of precedent or provocation has been removed by the events in the Tonkin Gulf. No one can tell at this point the precise form which the Vietnam war will take, but it is bound to be a new form, and the newness would seem inevitably to be on the side of more direct American participation and more direct action against the North.

The *New York Times* also praised the President, but warned that the situation was now more uncertain and dangerous. The U.S. had become a direct combatant in the war, and "The sword, once drawn in anger, will tend to be unsheathed more easily in the future."

Commenting on the resolution, the *Times* approved of its open-ended wording, saying that the President "has rightly asked" Congress to approve language providing that "all necessary measures" shall be taken.

Other Senators from both parties joined Mansfield and Fulbright in commending the President and in endorsing the resolution. Minority Leader Dirksen praised the President for consulting Members of Congress. "The President," he said, "could have taken this action [retaliatory strikes] in his own right as the Commander in Chief. . . . What is involved is a demonstration that the executive and legislative branches of the Government stand together in an hour of need and threat. . . ."

Senator Javits, a liberal Republican from New York (who, it will be recalled, was an active participant in discussions of Indochina policy in the early 1950s while serving on the House Foreign Affairs Committee), said, "I shall support the resolution, because I think we must defend freedom in that area, or else see the balance of a large segment of the population of the world tipped against freedom. The degree of our resistance under the action that may be taken in southeast Asia, under the resolution, will determine not only future events in Vietnam, but also the freedom of Malaya, India, Pakistan, and Indonesia, and perhaps even Australia and New Zealand." Javits added, "we who support the joint resolution do so with full knowledge of its seriousness and with the understanding that we are voting a resolution which means life or the loss of it for who knows how many hundreds or thousands? Who knows what destruction and despair this action may bring in the name of freedom?"

Asked later whether he thought Congress had been misled on the facts of the Gulf of Tonkin attacks, Javits said:<sup>109</sup>

There is a doctrine in the law which says that on some occasions there is a duty to tell, and I believe that this was such an occasion. Congress, in my judgment, was not misled by anything that was actually said or represented. But I believe there was a duty on the part of the administration, which alone had this information--after all, we don't man naval ships at sea. The administration made certain representations as to what had occurred. The representations were clearly an armed attack on the American naval vessels, without any question of identification as to the sources of that attack. That was clearly

<sup>109</sup>CR interview with Jacob Javits, Apr. 25, 1970. See also Javits' comments in his book, *Who Makes War* (New York: William Morrow, 1970), pp. 222-223.

delineated. Under those circumstances, I believe there was a duty on the part of the administration to state the facts, which, when they later came out, cast very considerable doubt on whether this was clearly attributable to the North Vietnamese.

Senator Hugh Scott (R/Pa.), an influential Republican, said that one of the reasons he supported the resolution was that it did not limit the President's right to repel attacks or prevent further aggression in Southeast Asia.

Armed Services Committee Chairman Russell said that while he had had "grave doubts" about U.S. involvement in Indochina in 1954, that was not the issue before the Senate. He referred to previous resolutions (Formosa, Middle East, Cuba), which he said had helped to prevent more serious military action, and said he hoped this would be the case in this instance. ". . . there is much more danger in ignoring aggressive acts," he concluded, "than there is in pursuing a course of calculated retaliation that shows we are prepared to defend our rights."

Senator Leverett Saltonstall of Massachusetts, the ranking Republican on the Armed Services Committee, and Senator Bourke Hickenlooper of Iowa, the ranking Republican on the Foreign Relations Committee (who had suggested during a hearing in June 1964 that a resolution would be advisable), also expressed their strong support for the resolution.

Senator John Stennis, of Mississippi, second-ranking Democrat on the Armed Services Committee, who had been very active in 1954 in trying to prevent U.S. involvement in Indochina, said, "None of us are happy about the situation in Vietnam and about our position there. But that bridge has long since been crossed. We are already there. We dare not run away, certainly not while we are under attack."

Senator John Sherman Cooper a highly respected moderate Republican from Kentucky, said he would vote for it "because it expresses the unity of one purpose to defend our country."

Senator Humphrey, liberal Democrat from Minnesota, Senate Democratic whip and a member of the Foreign Relations Committee, who was about to be named by Johnson as his running mate in the 1964 election, said that the resolution was patterned after previous resolutions, and that, in his opinion, ". . . the President has the authority under the Constitution to order the Armed Forces of the United States to protect the vital interests of this country whenever those interests are threatened."

Senator Church of Idaho, a Democratic member of the Foreign Relations Committee, (who, it will be recalled, had offered the amendment in September 1963 to condition aid to Vietnam on reforms), said that the situation called for action rather than debate: "There is a time to question the route of the flag, and there is a time to rally around it, lest it be routed. This is the time for the latter course, and in our pursuit of it, a time for all of us to unify." Humphrey agreed. The function of the Senate was to debate policy, he said, "But there comes a time when the aggressor may feel that because of our discussions, we are disunited, and he then could launch an attack."

Church said that while he still had doubts about U.S. policy in Southeast Asia and in Vietnam, the U.S. Government, including Congress, was responsible for the consequences of that policy:

... who can say that these events are not the natural consequence of the hazards we have assumed by the policy we have adopted in this part of the world?

We had every reason to expect that some such incident might occur. It is a risk we assumed, necessarily, when we chose to intervene, following the defeat of the French, in that great peninsula which was once French Indochina—when we assumed an American responsibility for the future of this remote region of the world.

I have entertained and continue to entertain, serious misgivings about the correctness of American policy in southeast Asia. It seems to me that this policy is more the product of our own addiction to an ideological view of world affairs—an affliction which affects us as well as the Communists—rather than a policy based upon a detached and pragmatic view of our real national interests.

However, my dissent, to the extent that I hold it, and to the degree that I have been able to define it, is not appropriate for this occasion. This is not a time to decry the policy. A country must live with the policy it adopts, whether it be wise or foolish.

We have adopted the policy. It was initiated under the Eisenhower administration, when the original decision was made for the United States to intervene actively in South Vietnam. It has been inherited and upheld by the Kennedy administration, and by the Johnson administration, in the years which have followed.

Congress shares its responsibility for that policy. If we have not formulated it, we have funded it, from year to year, with our votes. Who is there to say that we have not acquiesced in it down through the years?

No, we must accept the consequences of our own actions. We must now face the fact that the difficulties in which we find ourselves are our responsibility, in having chosen to pursue a course of action which exposed us to such hazards.

It is in this spirit that I approach the pending joint resolution. Under the circumstances, we must unite behind the President.

Senator Bartlett, Democrat of Alaska, who had previously urged that serious attention be given to negotiations, said that negotiations required a position of strength, and that while he regretted U.S. involvement in Vietnam, "Our honor, our integrity, our vital interests are assuredly now at issue. We can do but one thing as I see it: unite behind the President."

Senator Aiken of Vermont, a Republican member of the Foreign Relations Committee, said that he continued to be opposed to expanding the war, and was still "apprehensive" about the outcome of Johnson's decision to retaliate, but that after the decision had been made ". . . I feel that I, as an American citizen, can do no less than support the President in his capacity as leader of our Nation."

Senator Albert Gore of Tennessee, a Democratic member of the Foreign Relations Committee, who had opposed U.S. involvement in Vietnam in 1954, and had frequently questioned U.S. policy toward Vietnam since that time, said, "Now, however, when U.S. forces have been attacked repeatedly upon the high seas, . . . whatever doubts one may have entertained are water over the dam. Freedom of the seas must be preserved. Aggression against our forces must be repulsed."

Senator Frank Carlson of Kansas, a Republican member of the Foreign Relations Committee, who had co-sponsored Church's reform amendment in 1963, said he had been concerned about the increasing involvement of the United States in Vietnam, and wanted to prevent further escalation of the war. But the time for questioning U.S. policy in Vietnam, he said, had passed. "We have reached a place where we have not only to support the President, because he has the responsibility, but we have a duty and a privilege today [to vote on the resolution], and we should exercise it."

During debate on the resolution, Senator Morse continued to hammer away at what he called the provocative acts of the United States. The attacks on U.S. ships was not justified, he said, but "As in criminal law, crimes are committed, but they are sometimes committed under provocation." He added:

My point is, if we are to talk about provocation, that the United States was a provocateur by having any ships anywhere within striking distance or bombing distance; and the South Vietnamese boats did bomb those islands. We should have been completely out of the scene.

If Senators want my opinion, a "snow-job" is being done on us by the Pentagon and the State Department in regard to that bombardment. Not only had we full knowledge of it, but it was being done with our tacit approval. If we did not want to escalate the war into North Vietnam, that was the time for the United States to stop escalating.

. . . when the United States became aware of the fact that South Vietnamese planned to bomb the two islands, the United States should have moved in and done everything it could to prevent an escalation of the war.

In my judgment, that act constituted a major escalation of this war.

After the second attack, Morse said, the U.S. should have taken the matter to the U.N., rather than striking back at North Vietnam. U.S. air raids against the north, he said, were "not necessary for self-defense," and "At that point the United States was guilty of an act of aggression."

Morse also discussed at some length the constitutionality of the resolution, and how Congress could check the President ". . . if the President should commit an unconstitutional act under the joint resolution, or if the joint resolution in effect . . . is an attempt to give to the President an unconstitutional power. . . ." Under the Constitution, Morse argued, the President had the inherent power to respond to an attack on U.S. forces and then to come to Congress for a declaration of war. "We should require those steps," he said, "rather than give the President blanket authority under the joint resolution to proceed to wage war without a declaration of

war." After the resolution was passed, what action could Congress take to check the President if he proceeded to make war? It would be difficult, although not impossible, he said, to bring the President before the Supreme Court, and impeachment would be "unthinkable" in view of the fact that the President would be exercising his powers to protect the interests of the U.S. If neither of these checks was usable, Congress would be forced to rely on its power over appropriations. Repeal of the resolution by concurrent resolution of Congress, Morse added, was not an adequate remedy. It would create a "havoc of disunity" in the country.

Morse also criticized the use of U.S. forces to defend countries like Vietnam:

Have we reached the point in American foreign policy where we are going to permit the President to send American boys to their death in the defense of military dictatorships, monarchies, and fascist regimes around the world with which we have entered into treaty obligations involving mutual security, no matter what the provocation and no matter what wrongs they may have committed that cause an attack upon them? Are we going to do that without a check of Congress by way of a declaration of war? What are we thinking of? What time factor would justify such precipitate action?

The Gulf of Tonkin Resolution, Morse said, "would put the United States in the middle of the Vietnam civil war," and he added:

We could never win such a war. We might win military victory after military victory. If we did not stop the escalation, we would kill millions of people, because the escalation, step by step, would lead to all-out bombing of North Vietnam and Red Chinese cities. When we were through, we should have killed millions, and won military victory after military victory, but we should still have lost the war.

The United States can never dominate and control Asia, with 800 million people in China alone. That kind of war would create a hatred for the United States and for the white man generally that would persist for centuries. Dominating Asia, after destroying her cities and killing her millions by bombings—that is the danger that we are walking into—would not make the white man supreme in Asia, but only hated.

We know what the floods of human history do. Eventually the white man will be engulfed in that Asiatic flood and drowned. . . .

I say most respectfully and sadly that in my judgment, in this resolution, we are planting seeds not of peace, but of war. Those who will follow us in the years to come will cry out in anguish and despair in criticism over the mistake that was made in 1964 when the joint resolution was passed.

During the two days in which the resolution was considered by the Senate there was very little discussion of its substance. Democratic and Republican leaders in the Senate and on the Foreign Relations and Armed Services Committees, acting at the request of the President, as well as in response to what they, too, viewed as a situation requiring prompt action, were determined to pass the resolution quickly and without change. As Fulbright later said,

“ . . . there was a great sense of urgency and we were asked to pass it immediately. . . . I was told that it would be most unfortunate if there were any amendments allowed or any delay, because this would evidence a lack of confidence and unity within the Congress with our President. So we were requested not to accept amendments.”<sup>110</sup>

One explanation of the lack of discussion and of the Senate's ready acceptance of the resolution was given later by Senator Charles Mathias of Maryland, a thoughtful, moderate Republican:<sup>111</sup>

What we were familiar with was a pattern or practice that had existed since the end of World War II, whereby the United States, by merely passing a resolution of the Congress, could bring about certain dramatic events in the world. . . . So I think we were, to some extent, the victims of success, in dealing with the Tonkin Gulf Resolution. It had worked so well in those previous situations that, speaking for myself, I think I was over-confident that it would work again, and that merely by enacting a resolution which seemed, at least, to show a high degree of national unity, that we could in some way dissipate the forces which we at that moment, saw as a threat. And as a result of that, I feel personally culpable that I didn't pursue questions. I didn't raise issues which, in a different climate and a different atmosphere, I certainly would have.

. . . in the context of what had gone before, we were saying, “Well, we'll sign this blank check, but we don't have any expectation that it will ever have to be used. All you'll have to do is wave it in front of your creditors and they'll all go away.”

In response to the few substantive questions that were raised during debate in the Senate, Fulbright took the position that the facts about the Tonkin Gulf incidents were as they had been presented by the administration, that the resolution was needed for national unity, and that the President, who had acted so wisely and prudently, could be trusted to continue doing so. Senator Ellender asked whether U.S. naval forces “could have done anything which might have provoked these attacks.” Fulbright replied, “Nothing that they were not entitled to. . . . whatever provocation there may have been arose, if it did arise, from the activity of the North Vietnamese ships.”

Senator Daniel B. Brewster (D/Md.) asked if the resolution contained any language “which would authorize or recommend or approve the landing of large American armies in Vietnam or in China.” Fulbright replied:

There is nothing in the resolution, as I read it, that contemplates it. I agree with the Senator that that is the last thing we would want to do. However, the language of the resolution would not prevent it. It would authorize whatever the Commander in Chief feels is necessary. It does not restrain the Executive from doing it. Whether or not that should ever be done

is a matter of wisdom under the circumstances that exist at the particular time it is contemplated. This kind of question should more properly be addressed to the chairman of the Armed Services Committee. Speaking for my own committee, everyone I have heard has said that the last thing we want to do is to become involved in a land war in Asia; that our power is sea and air, and that this is what we hope will deter the Chinese Communists and the North Vietnamese from spreading the war. That is what is contemplated. The resolution does not prohibit that, or any other kind of activity.

Senator Thruston B. Morton, an influential Republican moderate from Kentucky, who was involved in Vietnam policymaking in the 1950s as Assistant Secretary of State for Congressional Relations under Dulles (and who became an opponent of the war in 1967), made a similar point.

Mr. Morton. I believe the action taken by the President helps to avoid any miscalculation on the part of either the North Vietnamese or the Chinese Communists. I believe the joint resolution gives that policy further strength. In my opinion, the three major wars in which we have been involved in this century have come about by miscalculation on the part of the aggressor.

I believe Congress should speak loud and clear and make it plain to any would-be aggressor that we intend to stand here. If we make that clear, we will avoid war, and not have to land vast land armies on the shores of Asia. In that connection I share the apprehension of my friend the Senator from Maryland [Mr. Brewster].

Mr. Fulbright. The Senator has put it very clearly. I interpret the joint resolution in the same way. This action is limited, but very sharp. It is the best action that I can think of to deter an escalation or enlargement of the war. If we did not take such action, it might spread further. If we went further, and ruthlessly bombed Hanoi and other places, we would be guilty of bad judgment, both on humanitarian grounds and on policy grounds, because then we would certainly inspire further retaliation.

This situation has been handled in the best way possible under the circumstances, so as to calm the situation, and not escalate it into a major war.

Senator Gaylord Nelson (D/Wis.) was troubled, however, by the broad language of the resolution, and he asked Fulbright:

Am I to understand that it is the sense of Congress that we are saying to the executive branch: “If it becomes necessary to prevent further aggression, we agree now, in advance, that you may land as many divisions as deemed necessary, and engage in a direct military assault on North Vietnam if it becomes the judgment of the Executive, the Commander in Chief, that this is the only way to prevent further aggression”?

Fulbright replied:

If the situation should deteriorate to such an extent that the only way to save it from going completely under to the Communists would be action such as the Senator suggests, then that would be a grave decision on the part of our country as to

<sup>110</sup>U.S. Congress, Senate, Committee on Foreign Relations, *U.S. Commitments to Foreign Powers*, Hearings, 90th Cong., 1st sess. (Washington, D.C.: U.S. Govt. Print. Off., 1967), p. 139.

<sup>111</sup>CRS Interview with Charles Mathias, Jan. 25, 1979. In 1970, Mathias introduced a resolution to repeal four of the foreign policy area resolutions which had been passed by Congress, beginning with the Formosa Resolution, and including the Gulf of Tonkin Resolution.

whether we should confine our activities to very limited personnel on land and the extensive use of naval and air power, or whether we should go further and use more manpower.

I personally feel it would be very unwise under any circumstances to put a large land army on the Asian Continent.

It has been a sort of article of faith ever since I have been in the Senate, that we should never be bogged down. We particularly stated that after Korea. We are mobile, we are powerful on the land and on the sea. But when we try to confine ourselves and say that this resolution either prohibits or authorizes such action by the Commander in Chief in defense of this country, I believe that is carrying it a little further than I would care to go.

I do not know what the limits are. I do not think this resolution can be determinative of that fact. I think it would indicate that he would take reasonable means first to prevent any further aggression, or repel further aggression against our own forces, and that he will live up to our obligations under the SEATO treaty and with regard to the protocol states.

I do not know how to answer the Senator's question and give him an absolute assurance that large numbers of troops would not be put ashore. I would deplore it. And I hope the conditions do not justify it now.

Mr. Nelson. We may very well not be able to nor attempt to control the discretion that is vested in the Commander in Chief. But the joint resolution is before the Senate, sent to us, I assume, at the request of the executive branch.

Mr. Fulbright. The Senator is correct.

Mr. Nelson. It was sent to the Congress in order to ascertain the sense of the Congress on the question. I intend to support the joint resolution. I do not think, however, that Congress should leave the impression that it consents to a radical change in our mission or objective in South Vietnam. That mission there for 10 years, as I have understood it, has been to aid in the establishment of a viable, independent regime which can manage its own affairs, so that ultimately we can withdraw from South Vietnam. . . .

Mr. Fulbright. . . . it seems to me that the joint resolution would be consistent with what we have been doing. We have been assisting the countries in southeast Asia in pursuance of the [SEATO] treaty. But in all frankness I cannot say to the Senator that I think the joint resolution would in any way be a deterrent, a prohibition, a limitation, or an expansion on the President's power to use the Armed Forces in a different way or more extensively than he is now using them. In a broad sense, the joint resolution states that we approve of the action taken with regard to the attack on our own ships, and that we also approve of our country's effort to maintain the independence of South Vietnam.

The Senator from Wisconsin prompts me to make a remark which perhaps I should not make. He has said that we might be mistaken in our action. If any mistake has been made—and I do not assert that it has been—the only questionable area is whether or not we should ever have become involved. That

question goes back to the beginning of action in this area, and I do not believe it is particularly pertinent or proper to the debate, because in fact we have become involved. However, the Senator has mentioned it. As an academic matter, the question might be raised. But having gone as far as we have in 10 years, it seems to me that the question now is, How are we to control the situation in the best interest of our own security and that of our allies? I believe that what we did was appropriate. The joint resolution is appropriate, because it would fortify the strength of the Executive and the Government. It would put the Congress on record—and we are the most representative body that we have under our system—as supporting the action. If anything will deter aggression on the part of the North Vietnamese and the Chinese, I believe it would be the action taken together with the joint resolution supporting the action. That is the best I can do about justification of the resolution. In frankness, I do not believe the joint resolution would substantially alter the President's power to use whatever means seemed appropriate under the circumstances. Our recourse in Congress would be that if the action were too inappropriate, we could terminate the joint resolution, by a concurrent resolution, and that would precipitate a great controversy between the Executive and the Congress. As a practical question, that could be done.

Senator Cooper raised similar points:

Mr. Cooper. . . . are we now giving the President advance authority to take whatever action he may deem necessary respecting South Vietnam and its defense, or with respect to the defense of any other country included in the [SEATO] treaty?

Mr. Fulbright. I think that is correct.

Mr. Cooper. Then, looking ahead, if the President decided that it was necessary to use such force as could lead into war, we will give that authority by this resolution?

Mr. Fulbright. That is the way I would interpret it. If a situation later developed in which we thought the approval should be withdrawn, it could be withdrawn by concurrent resolution. That is the reason for the third section. . . .

Mr. Fulbright. One of the reasons for the procedure provided in this joint resolution, and also in the Formosa and Middle East instances, is in response, let us say, to the new developments in the field of warfare. In the old days, when war usually resulted from a formal declaration of war—and that is what the Founding Fathers contemplated when they included that provision in the Constitution—there was time in which to act. Things moved slowly, and things could be seen developing. Congress could participate in that way.

Under modern conditions of warfare—and I have tried to describe them, including the way the Second World War developed—it is necessary to anticipate what may occur. Things move so rapidly that this is the way in which we must respond to the new developments. That is why this provision is necessary or important. Does the Senator agree with me that this is so?

Mr. Cooper: Yes, warfare today is different. Time is of the essence. But the power provided the President in section 2 is great.

Mr. Fulbright: This provision is intended to give clearance to the President to use his discretion. We all hope and believe that the President will not use this discretion arbitrarily or irresponsibly. We know that he is accustomed to consulting with the Joint Chiefs of Staff and with congressional leaders. But he does not have to do that.

Mr. Cooper: I understand, and believe that the President will use this vast power with judgment.

Mr. Fulbright: He intends to do it, and he has done it. . . . I have no doubt that the President will consult with Congress in case a major change in present policy becomes necessary.

Mr. Cooper: . . . I know it is understood and agreed that in the defense of our own ships and forces any action we might take to repel attacks could lead to war, if the Vietnamese or the Chinese Communists continued to engage in attacks against our forces. I hope they will be deterred by the prompt action of the President.

We accept this first duty of security and honor. But I would feel untrue to my own convictions if I did not say that a different situation obtains with respect to South Vietnam. I know that a progression of events for 10 years has carried us to this crisis. Ten years have passed and perhaps the events are inevitable now, no one can tell. But as long as there is hope and the possibility of avoiding with honor a war in southeast Asia—a conflagration which, I must say, could lead into war with Communist China, and perhaps to a third world war with consequences one can scarcely contemplate today. I hope the President will use this power wisely with respect to our commitments in South Vietnam, and that he will use all other honorable means which may be available, such as consultations in the United Nations, and even with the Geneva powers.

We have confidence in the President and in his good judgment. But I believe we have the obligation of understanding fully that there is a distinction between defending our own forces, and taking offensive measures in South Vietnam which could lead progressively to a third world war.

Senator Cooper said later that he considered offering an amendment to split the resolution into two parts, the first part to consist of section 1, which he said was "perfectly constitutional, that is, we have the right to protect the troops." The second part would consist of section 2, which dealt with the question of authorizing or approving the use of force prospectively. He said he did not offer the amendment in part because he believed there had been an attack, and retaliation therefore was permitted by the "rules of war."<sup>113</sup>

Senator McGovern was also concerned about the resolution, "despite private assurances," he said later in his autobiography, "that it was primarily a ploy to defuse the Vietnam issue during the

presidential campaign."<sup>113</sup> He, too, asked Fulbright about the relationship between the U.S. ships and the 34-A operations, and was assured by Fulbright that the U.S. patrols were "entirely unconnected or unassociated with any coastal forays the South Vietnamese themselves may have conducted."

On August 7, the second and final day of Senate debate on the resolution, Senator Nelson decided to offer an amendment stating the concern of Congress about escalating the war. After section 1 of the resolution (which read, "That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression") he wanted to add this provision:

(b) The Congress also approves and supports the efforts of the President to bring the problem of peace in southeast Asia to the Security Council of the United Nations, and the President's declaration that the United States, seeking no extension of the present military conflict, will respond to provocation in a manner that is "limited and fitting." Our continuing policy is to limit our role to the provision of aid, training assistance, and military advice, and it is the sense of Congress that, except when provoked to a greater response, we should continue to attempt to avoid a direct military involvement in the southeast Asian conflict.

According to Senator McGovern, Nelson showed him the amendment, and the two of them went to see Fulbright. This is McGovern's later account of that meeting:<sup>114</sup>

Fulbright reiterated the plea that we had to help Johnson against Goldwater. We were just backing the President on his Tonkin response, not giving him a blank check for war. The resolution was "harmless," Fulbright insisted. It would have to go to [a Senate-House] conference if there was an amendment and that would frustrate Johnson's purpose—"to pull the rug out from under Goldwater." Nelson agreed to withdraw his amendment in return for a colloquy on the floor in which Fulbright emphasized the resolution's limiting effect.

<sup>113</sup>George S. McGovern, *Grassroots* (New York: Random House, 1977), p. 103. In a Senate speech on Aug. 8, the day after passage of the Gulf of Tonkin Resolution, McGovern said he voted for the resolution "because our leaders assured us that the military evidence was such that it constituted a military challenge which had to be met with a military response." He said he continued to be opposed, however, to further U.S. military involvement, and he proposed that there be an international conference, as suggested by de Gaulle, to negotiate a political settlement in southeast Asia. "In my judgment," he added, "an indefinite continuance of the military conflict in South Vietnam is a hopeless course that will lead in the end either to defeat or entanglement in the kind of major war which we are ill-prepared to fight in Asia." Morse said he found McGovern's speech "very interesting, and very belated. . . . Although conversion is always welcome, in my judgment, if Senators who have held the views of the Senator from South Dakota—and many of them have held them privately for these many months—had joined the Senator from Alaska [Gruening] and the Senator from Oregon 5 or 6 months ago in urging an economic, political, and diplomatic settlement of the Asiatic strife under the rules of international law, we might have been able to change the war making course of our Government in Asia. . . . one of the saddest things is that during all those months the talk of many Senators in the cloakroom has been noticeably different from their silence on the floor of the Senate." *CR*, vol. 110, pp. 18668-18669. Nelson made a brief statement in which he supported McGovern's call for a conference. *Ibid.*, p. 18672.

<sup>114</sup>McGovern, *Grassroots*, p. 103.

In keeping with this agreement, Nelson asked Fulbright during the debate whether he would accept the amendment (which Nelson had not formally offered). Fulbright replied:

The Senator has put into his amendment a statement of policy that is unobjectionable. However, I cannot accept the amendment under the circumstances. I do not believe it is contrary to the joint resolution, but it is an enlargement. I am informed that the House is now voting on this resolution. The House joint resolution is about to be presented to us. I cannot accept the amendment and go to conference with it, and thus take responsibility for delaying matters.

I do not object to it as a statement of policy. I believe it is an accurate reflection of what I believe is the President's policy, judging from his own statements. That does not mean that as a practical matter I can accept the amendment. It would delay matters to do so. It would cause confusion and require a conference, and present us with all the other difficulties that are involved in this kind of legislative action. I regret that I cannot do it, even though I do not at all disagree with the amendment as a general statement of policy.<sup>115</sup>

Nelson's proposal was the only amendment to the Gulf of Tonkin Resolution to be suggested in either the Senate or the House.

Shortly after Fulbright declined Nelson's amendment, debate on the resolution ended. Fulbright told the Senate that he was very pleased with the action of the House in passing the resolution unanimously, and that he hoped the Senate "will approach that unanimity, if possible." He added:

I realize that we all have our apprehensions about what may happen in South Vietnam or elsewhere. But fundamentally, under our system, it is the President, as our representative in these activities, who must necessarily have the dominant role, however jealous we may be of our own privileges—and we rightly should be in many areas. But in dealing with the Nation's security or with threatened warfare, we must rely to a great extent on the decisions of the Executive. We always have a reserve power, when we see that the President has made a mistake. We can always later impeach him, if we like, if we believe that he has so far departed from the sense of duty that he has betrayed the interests of our country.

But essentially the joint resolution is an exhibition of solidarity in regard to the will and determination of this country as a whole, as represented in Congress, to support the broad

policies that have been well announced and well described in the words of the President, both recently and in past months. We are exhibiting a desire to support those policies. That will have a strong psychological effect upon our adversaries wherever they may be.

I believe the joint resolution is calculated to prevent the spread of the war, rather than to spread it, as has been alleged by some critics of the resolution. I have considered every possible alternative, both those that have been suggested on the floor of the Senate and elsewhere, and I still have come back to my own conclusion that the action that was taken; the resistance that was made in the Gulf of Tonkin; the joint resolution adopted in committee; and all our actions in this connection, are best designed to contribute to the deterrence of the spread of war.

No one knows, in this uncertain world, whether the war will spread. It could easily spread because of the determination of our adversaries, in spite of anything we might do. But I sincerely believe that this action, taken with such general support by both Houses of Congress, will result in deterring any ambitions or reckless adventuresome spirit on the part of the North Vietnamese or the Communist Chinese. So I ask and hope that Members of this body will support the joint resolution.

Morse was the last to speak. He said that passage of the Gulf of Tonkin Resolution would be a "historic mistake":

I believe that history will record that we have made a great mistake in subverting and circumventing the Constitution of the United States, article I, section 8, [declaration of war by Congress] thereof by means of this resolution.

As I argued earlier today at some length, we are in effect giving the President of the United States warmaking powers in the absence of a declaration of war.

I believe that to be a historic mistake, I believe that within the next century, future generations will look with dismay and great disappointment upon a Congress which is now about to make such a historic mistake.<sup>116</sup>

Ninety Senators out of one hundred were present and voting on the passage of the resolution. Eighty-eight voted aye. Morse and Gruening voted nay. The ten absentees were all recorded in the affirmative. Among those voting for the resolution were southern conservatives who had opposed U.S. involvement in the war, including Russell, Stennis, Harry F. Byrd, Jr., (D) of Virginia, Ellender, Sam J. Ervin, Sr. (D/N.C.), Robertson. Also voting for the resolution were all of the moderate and liberal Democrats and Republicans from all sections of the country. These included, besides Fulbright, all of the leaders of the antiwar movement of later years: Mansfield, Cooper, Church, Case, McGovern, Edward M. Kennedy (D/Mass.), Gore, Pell, Nelson, Eugene J. McCarthy (D/Minn.) Javits, Edmund S. Muskie (D/Maine), Aiken, Morton, Vance Hartke (D/Ind.), Clark. Others voted for it because they favored strong U.S. military action in Vietnam, including Goldwater, Dir-

<sup>115</sup>On Oct. 2, 1964, Senator Nelson wrote to the *New York Times* in response to a couple of news articles to the effect that officials in the Johnson administration were urging broader U.S. military action in Vietnam, including possible provocation of an incident which could be used to justify such an expanded program. "It appears," Nelson said, "that those within the Administration who urge a change in our policy and a larger involvement in Vietnam have mistaken the intent of Congress in approving a resolution supporting the President's response to provocation in the Gulf of Tonkin in early August. The Congressional resolution endorsed the President's specific action, but, in no way approved in advance or gave Congressional endorsement to an expansion of the war." Nelson added that in his opinion, "... as I believe most Senators feel, our basic mission in Vietnam is one of providing material support and advice. It is not to substitute our armed forces for those of the South Vietnamese government, nor to join with them in a land war, nor to fight the war for them."

Nelson sent Fulbright a copy of the letter. Fulbright replied, "I think it is an excellent presentation of the matter, and I agree with your point of view." (University of Arkansas Library, Fulbright Papers, series 48, box 88.)

<sup>116</sup>Morse continued to make frequent Senate speeches on Vietnam during the following weeks. See, for example, *CR*, vol. 110, pp. 22037-22040.

sen, Thurmond, John G. Tower (R/Tex.), McGee, Paul H. Douglas (D/Ill.) Hickenlooper, Gordon Allott (R/Colo.), Dodd, and Lausche.

#### *Executive Branch Interpretation of the Gulf of Tonkin Resolution*

Unlike the Formosa Resolution (but like the Middle East and Cuba Resolutions), the Gulf of Tonkin Resolution did not specifically *authorize* the President to use the armed forces, but such authorization was claimed to have been given, based on the language of section 1 that Congress "approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression," and especially the language of section 2, that "the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force. . . ." to defend Vietnam. Thus, the executive branch argued in a 1966 State Department legal memorandum: "Section 2 thus constitutes an authorization to the President in his discretion, to act—using armed force if he determines that is required—to assist South Viet-Nam at its request in defense of its freedom. . . . the grant of authority 'as the President determines' is unequivocal." The memorandum further asserted, however, that a resolution or even a declaration of war by Congress was not required in order for the President to wage war in Vietnam: "No declaration of war is needed to authorize American actions in Vietnam. . . . the President has ample authority to order the participation of United States armed forces in the defense of South Viet-Nam. . . . In the Korean conflict, where large-scale hostilities were conducted with an American troop participation of a quarter of a million men, no declaration of war was made by the Congress. The President acted on the basis of his constitutional responsibilities. . . . If the President can act in Korea without a declaration of war, *a fortiori*, he is empowered to do so now in Viet-Nam."<sup>117</sup>

This interpretation, which is probably the most extreme assertion of its type ever to have been made by the executive branch, was considered to be too extreme by some legal and constitutional authorities, however. One of the most respected of these, John Norton Moore, who was known as a principal exponent of the government's position, made this comment in an interview:<sup>118</sup>

Well, to be candid, that [the 1966 State Department legal memorandum] was not the finest legal document that has ever been produced. In fairness, it was, I'm sure, done under the usual time pressure of the Legal Adviser's office. . . . at the time it was written there was, indeed, congressional participation and Congress had, in fact, authorized the hostilities. I would have preferred not to place the principal authorization on the exclusive power of the Commander in Chief.

<sup>117</sup>"The Legality of United States Participation in the Defense of Viet-Nam," *Department of State Bulletin*, Mar. 28, 1966. This is sometimes referred to as the Meeker memorandum, after Leonard C. Meeker, the State Department's Legal Adviser at the time. A number of lawyers and legal scholars challenged the State Department's position as stated in this as well as an earlier memorandum in March of 1965, "Legal Basis for U.S. Actions Against North Vietnam." For an answer to the latter paper, see, for example, the memorandum of law prepared in Sept. 1965 by the Lawyers Committee on American Policy Toward Vietnam, which was reprinted in *CR*, vol. 112, p. 2868 ff.

<sup>118</sup>CRS Interview with John Norton Moore, Dec. 7, 1978.

Despite the claim of the Legal Adviser of the State Department that the "grant of authority" of the Gulf of Tonkin Resolution was "unequivocal," and similar claims by the Justice Department in the many lawsuits in which the legality of the war was an issue, some key officials in the executive branch believed that in passing the resolution Congress was not approving a large-scale war. They also believed that Congress expected to be consulted prior to any substantial changes in the U.S. military posture in Vietnam subsequent to the passage of the resolution.<sup>119</sup>

One of the most persuasive witnesses on this point is McGeorge Bundy, who said later: "They [Congress] didn't decide to put 150,000 people in Vietnam. They didn't decide to bomb the north. They decided to fire a warning shot and they passed a resolution that endorsed firing a warning shot as they saw it. But, of course, in formal language it endorsed a lot more."<sup>120</sup>

Bundy also testified on this point when Congress was holding hearings on the War Powers Resolution:<sup>121</sup>

. . . the exact trouble with the Tonkin Gulf Resolution was that it was misperceived, both by the Congress and by the executive branch. . . . The Congress surely did not believe, in 1964, that it was voting for the war that happened. And the executive branch, while I believe it was mistaken in describing the resolution as the functional equivalent of a declaration of war,<sup>122</sup> was thinking and acting in a framework of legal and traditional experience in which there was no clear middle-ground between unauthorized hostilities and . . . a formal declaration [of war].

With respect to consultation with Congress prior to engaging in a large-scale war, which Rusk, on behalf of the President, promised the Foreign Relations Committee when he testified on the Gulf of Tonkin Resolution, McGeorge Bundy, together with James Thomson of the NSC staff, confirmed Congress' expectation of consultation in a memorandum they sent to the President on June 11, 1965, in conjunction with preparations to send U.S. ground forces to Vietnam in July. This is the text of that memo:<sup>123</sup>

The following points emerge from a review of last August's Congressional debate on the Southeast Asia Resolution:

1. Neither the Resolution itself nor the Floor discussion specifically *authorizes* or *prohibits* unlimited expansion of our force levels in Vietnam or Southeast Asia.

2. Senators who spoke in support of the Resolution were generally apprehensive of direct U.S. involvement in ground warfare anywhere in Asia; the Korean War analogy was frequently cited.

<sup>119</sup>For a discussion of legal commentary and judicial opinions on the Gulf of Tonkin Resolution see the appendix to this volume.

<sup>120</sup>CRS Interview with McGeorge Bundy, Jan. 8, 1979.

<sup>121</sup>Testimony by McGeorge Bundy, U.S. Congress, Senate, Committee on Foreign Relations, *War Powers Legislation*, Hearings, 92d Cong., 1st sess. (Washington, D.C.: U.S. Govt. Print. Off., 1972), p. 421.

<sup>122</sup>This was stated in 1967 by Under Secretary of State Nicholas deB. Katzenbach in testimony before the Senate Foreign Relations Committee on *U.S. Commitments to Foreign Powers*, cited above.

<sup>123</sup>Johnson Library, James Thomson, National Security Staff, Presidential Chron File, 6/65.

3. The Resolution's Floor manager, Senator Fulbright, indicated in his replies to questioners that the Resolution should be interpreted as permitting the President "to use such force as could lead to war," if necessary.

4. Senator Fulbright noted that the Congress had the ultimate option of withdrawing its approval at a later date by a concurrent resolution that would rescind the Southeast Asia Resolution.

5. The Resolution was passed on the understanding that there would be consultation with the Congress "in case a major change in present policy becomes necessary."

In advance of the July 1965 decision, the President asked his legal advisers for opinions on whether he needed additional authority to commit large-scale forces to Vietnam, or whether the Gulf of Tonkin Resolution was sufficient. All of them replied that the President had full constitutional authority to deploy and use the armed forces, short of what Attorney General Nicholas deB. Katzenbach called an "all-out war" which might call for Congress to declare war, and therefore that the President did not even need the Gulf of Tonkin Resolution.<sup>124</sup> Katzenbach said that there was "some legislative history to indicate that Congress . . . did not intend to approve a large scale land war in Asia" when it passed the resolution, but that the number of troops to be sent (he had been given the figure of 95,000) did not represent a commitment to fight such a war. For this reason, as well as to avoid having Congress place any conditions on deployment of U.S. forces to Vietnam, Katzenbach recommended against requesting a new resolution or any other form of approval.

Leonard C. Meeker, the State Department's legal adviser, concluded that although there was no requirement to consult Congress, ". . . the record shows that the Resolution was passed on the understanding that there would be consultation with the Congress 'in case a major change in policy becomes necessary.'" Committing new forces to combat in Vietnam, Meeker said, could represent such a major change, and therefore constitute a reason for consulting Congress. "Consultation would not require new affirmative action by Congress," Meeker added, "but would afford the Congress an opportunity for review."<sup>125</sup>

In August 1967, testifying before the Senate Foreign Relations Committee on a resolution to provide that Congress should approve major U.S. national commitments—the so-called National Commitments Resolution, which passed the Senate in 1969—former Attorney General Katzenbach, then Under Secretary of State, declared that the combination of the SEATO Treaty and the Gulf of Tonkin Resolution ". . . fully fulfill the obligation of the Executive in a situation of this kind to participate with the Congress to give the Con-

<sup>124</sup>In 1970, Katzenbach, testifying before the House Foreign Affairs Committee on the war powers bill then being considered, took a somewhat different tack. He stated: "In my opinion, the constitutional authority to use our Armed Forces in Vietnam rests squarely on Tonkin and cannot otherwise be constitutionally justified." U.S. Congress, House, Subcommittee on National Security Policy and Scientific Developments of the Committee on Foreign Affairs, *Congress, The President, and the War Powers*, Hearings, 91st Cong., 2d sess. (Washington, D.C.: U.S. Govt. Print Off., 1970), p. 302.

<sup>125</sup>For a further discussion of these legal opinions see pt. III of this study, forthcoming.

gress a full and effective voice, the functional equivalent of the constitutional obligation expressed in the provision of the Constitution with respect to declaring war."<sup>126</sup> Senator Fulbright replied that the Executive had not asked for a declaration of war, and Katzenbach countered with ". . . but didn't that resolution authorize the President to use the armed forces of the United States in whatever way was necessary? Didn't it? What could a declaration of war have done that would have given the President more authority and a clearer voice of the Congress of the United States than that did?" Fulbright: "It was presented as an emergency situation; the repelling of an attack which was alleged to have been unprovoked upon our forces on the high seas. . . . It wasn't a deliberate decision by the Congress to wage war in that full-fledged sense against a foreign power." Katzenbach: "Mr. Chairman, how much debate was there on that resolution as compared with a declaration of war when President Roosevelt sent that up? How quickly did the Congress respond? If you say there was pressure, there was the urgency. Maybe people regret afterward a declaration of war or a vote for it, but that situation inherently is one of urgency, it is one of commitment." The Gulf of Tonkin Resolution, Katzenbach added, ". . . is as broad an authorization for the use of armed forces for a purpose as any declaration of war so-called could be in terms of our internal constitutional process. . . ."

When Senator Eugene J. McCarthy (D/Minn.), heard Katzenbach's remark that the Gulf of Tonkin Resolution was the functional equivalent of a declaration of war, he left the hearing room, and said in the presence of a nearby reporter that someone would have to take the issue of the war to the country, which he soon proceeded to do.<sup>127</sup>

At several other points in the 1967 hearing on the making of national commitments there were extended discussions of the Gulf of Tonkin Resolution.<sup>128</sup> It was apparent that some Members of Congress, especially in the Senate Foreign Relations Committee, were becoming increasingly convinced that "institutional problems" had developed with respect to Congress' exercise of its war power that needed to be redressed.

#### *Congressional Reconsideration of the Gulf of Tonkin Resolution*

In 1970, Congress repealed the Gulf of Tonkin Resolution. The Executive first opposed but then acquiesced in that action, saying that the resolution had not been necessary in the first place, and had not been relied upon for the actions taken by the President in fighting the war.<sup>129</sup>

Congressional dissatisfaction and regret with respect to the Gulf of Tonkin Resolution had been building for several years prior to repeal.<sup>130</sup> Many Members of Congress had felt the sting of President Johnson's frequent reminders of their vote in favor of the resolution. According to one report in early 1966, "He [Johnson] has

<sup>126</sup>U.S. *Commitments to Foreign Powers*, p. 82. Following quotes are from pp. 82-89.

<sup>127</sup>See pt. III of this study, forthcoming, for more details.

<sup>128</sup>See especially pp. 190-224 of *U.S. Commitments to Foreign Powers*.

<sup>129</sup>For details, see pt. III of this study, forthcoming.

<sup>130</sup>Events discussed here are discussed more fully in pt. III, where full citations of sources also are given.

used it [the Gulf of Tonkin Resolution] all year,' one Republican Senator said today. 'He pulls it out of his pocket and shakes it at you.' 'It was so damned frayed and dog-eared the last time I talked to him,' a Democratic Senator said, 'that I wanted to give him a fresh copy.'<sup>131</sup>

Johnson was particularly critical of Fulbright after Fulbright began to oppose the war. "It was a shame somebody didn't think of calling it the Fulbright Resolution, like the Fulbright Scholars thing," Johnson said in an interview shortly after leaving office, "because Senator Fulbright introduced it with his approval, his consent. . . . Don't tell me a Rhodes scholar didn't understand everything in that resolution, because we said to him at the White House that the President . . . is not about to commit forces . . . unless and until the American people through their Congress sign on to go in."

In the same interview, Johnson said he did not want to ask for a declaration of war because of the administration's concern that the North Vietnamese had secret mutual defense treaties with China and Russia which might be activated by such a formal action by the U.S. But he added that the resolution provided all the support he needed. Referring to Morse's position that the resolution was a pre-dated declaration of war, Johnson said Morse ". . . could read the language and understand it. . . . Congress gave us this authority to do 'whatever may be necessary'—that's pretty far-reaching; that's 'the sky's the limit'. . . ."<sup>132</sup>

For his part, Fulbright has continued to take the position that Congress not only was misled, but that in passing the resolution Congress was not intending to approve a large-scale war.<sup>133</sup>

In Vietnam we fought a long, costly and ultimately futile war with no more cover of constitutional sanction than the dubious and later discredited Gulf of Tonkin Resolution. To my lasting regret I played a major role in securing the enactment of that Resolution, which I surely did not anticipate would be invoked as legal sanction for a full-scale war. If the Gulf of Tonkin Resolution was, as claimed, the "functional equivalent" of a declaration of war, it must stand as the only instance in the nation's history in which Congress authorized war *without knowing* that it was doing so—indeed, in the belief, as the legislative history shows, that it was acting to prevent war.

According to George E. Reedy, Jr., one of Johnson's top aides for many years, who was White House Press Secretary at the time of the Gulf of Tonkin incidents, Fulbright "got a terribly raw deal" as a result of Johnson's action in interpreting the Gulf of Tonkin Resolution as approval by Congress of the large-scale war that ensued.<sup>134</sup>

He [Fulbright] had very definite assurances from Johnson that the Tonkin Gulf Resolution was not going to be used for anything other than the Tonkin Gulf incident itself. And, as you know, Johnson later turned the Gulf Resolution virtually

into a declaration of war. I myself think that, psychologically, Johnson was quite capable of telling himself that he had never given Fulbright any such assurances, that conditions had developed to a point where logically going into Vietnam was an extension of the Tonkin Gulf Resolution. . . . I think Johnson could convince himself of that, and he did convince himself of that. But I'll be damned if he could convince Fulbright. And I don't blame Fulbright. I wouldn't be convinced either, because Fulbright had really laid himself on the line for it.

Asked later what the Foreign Relations Committee should have done when presented with the Gulf of Tonkin Resolution, Fulbright said, "Well, immediately, of course, what should have been done is to have long hearings and to stall it and demand they bring in the commander of the *Maddox*, and so on, to get it right then. But we were overwhelmed by this argument that we should show a united front and get this passed quickly and show support of the President's action. . . ." "What should have been done is that the resolution should have been denied and the President told to go chase himself; we're not interested in going forward. . . . But, obviously, under those circumstances, that's just a fantasy in the light of hindsight."<sup>135</sup>

Although the Gulf of Tonkin Resolution was not repealed until 1970, pressure for its reconsideration, which had been growing during 1965, after the President had cited the resolution as adequate authority for expanding the war, increased during 1966. On February 1966, Morse offered an amendment to repeal the resolution. This was tabled by a vote of 92-5, with Gruening, Eugene McCarthy, and Stephen Young voting with Morse.

In August 1967, as the increasingly costly war continued without apparent progress, there was renewed consideration of the Gulf of Tonkin Resolution. For example, a group of about 25 Republicans in the House of Representatives, led by Paul Findley, then a member of the Foreign Affairs Committee, introduced a resolution calling for the committee to hold hearings on whether the Gulf of Tonkin Resolution should be modified or replaced.

At about the same time, the Senate Foreign Relations Committee held its national commitment hearings, following which it made this statement in its report.<sup>136</sup>

The Gulf of Tonkin resolution represents the extreme point in the process of constitutional erosion that began in the first years of this century. Couched in broad terms, the resolution constitutes an acknowledgment of virtually unlimited Presidential control of the Armed Forces. It is of more than historical importance that the Congress now ask itself why it was prepared to acquiesce in the transfer to the executive of a power which, beyond any doubt, was intended by the Constitution to be exercised by Congress.

Several answers suggest themselves:

First, in the case of each of the resolutions discussed, Congress was confronted with a situation that seemed to be urgent

<sup>131</sup>New York Times, Jan. 30, 1966.

<sup>132</sup>From CBS-TV interview with Walter Cronkite, Feb. 6, 1970.

<sup>133</sup>J. William Fulbright, "The Legislator as Educator," cited above, p. 725. (emphasis in original)

<sup>134</sup>CRS interview with George Reedy, Mar. 29, 1979.

<sup>135</sup>CRS interview with J. William Fulbright, Feb. 18, 1983.

<sup>136</sup>S. Rept. 90-797, pp. 21-22. The National Commitments Resolution was passed by the Senate in 1969.

and, lacking firm historical guidelines for the discharge of its foreign policy responsibilities in a real or seeming emergency, it acquiesced in an expedient which seemed to meet the needs of the moment, the foremost of which at the time of each of the resolutions seemed to be an expression of national unity. In the case of the Gulf of Tonkin resolution, the Senate responded to the administration's contention that the effect of the resolution would be lost if it were not enacted quickly. The desired effect was a resounding expression of national unity and support for the President at a moment when it was felt that the country had been attacked. In order, therefore, to avoid the delay that would arise from a careful analysis of the language of the resolution and the further delay that would arise if the resolution had to go to a Senate-House conference to reconcile differing versions, the Foreign Relations Committee and the entire Senate speedily approved the resolution in the language in which it had already been adopted by the House of Representatives. The prevailing attitude was not so much that Congress was granting or acknowledging the executive's authority to take certain actions but that it was expressing unity and support for the President in a moment of national crisis and, therefore, that the exact words in which it expressed those sentiments were not of primary importance.

Second, in the course of two decades of cold war the country and its leaders became so preoccupied with questions of national security as to have relatively little time or thought for constitutional matters. Insofar as the question of authority to commit the country to war was thought of at all, the general attitude was one of acceptance of the power of the President, in his capacity as Commander in Chief, to commit the Armed Forces to at least limited war. At the same time Congress showed a marked reluctance to attempt to define the constitutional division of authority between the President and Congress in matters of war and peace. More important, however, than what was thought about the war power was the paucity of thought about it.

Third, in the case of the Gulf of Tonkin resolution, there was a discrepancy between the language of the resolution and the intent of Congress. Although the language of the resolution lends itself to the interpretation that Congress was consenting in advance to a full-scale war in Asia should the President think it necessary, that was not the expectation of Congress at the time. In adopting the resolution Congress was closer to believing that it was helping to prevent a large-scale war by taking a firm stand than that it was laying the legal basis for the conduct of such a war.

The committee concluded that in adopting a resolution with such sweeping language . . . Congress committed the error of making a personal judgment as to how President Johnson would implement the resolution when it had a responsibility to make an institutional judgment, first, as to what any President would do with so great an acknowledgment of power, and, second, as to whether, under the Constitution, Congress had the right to grant or concede the authority in question." (emphasis in original)

Finally, on February 20, 1968, the Foreign Relations Committee, after receiving confidential information from at least one authoritative source, held a one-day hearing on the 1964 Gulf of Tonkin incidents.<sup>137</sup> In preparation for the hearing, a new committee staff member, William Bader, who had been an officer in the Navy and knew how to interpret ships' logs and communications, reexamined the evidence for the 1964 incidents and concluded that the administration had not proven that the second attack had taken place. In one of a series of memoranda, Bader stated:<sup>138</sup>

In staff judgment, a wide variety of circumstances made it seem to Administration officials at high levels, and to operating officers in Vietnam, that some firm act was required by the U.S. The Vietnamese Government was falling, Senator Goldwater was demanding escalation, Congress was about to adjourn, and there was a feeling attributed to Mr. [Bill] Moyers that we might "bluff" the other side into desisting.

It must be recalled that the first incident had occurred and the U.S. had decided not to retaliate but to warn. There was, therefore, a need to show the flag, a need to show the U.S. Navy could not be shoved around—a need to put the chip on the shoulder and to bloody someone's nose. Communications traffic reflects this air of tension and preconception.

In our judgment circumstances were ripe—so ripe indeed that a flight of birds, a fish stake (both mentioned by naval officers), a balky sonar, or a falling star, would trigger a response out of proportion to the stimulus.

So the U.S. reacted—from the lookout to the Commander-in-Chief and, once embarked in this framework, the movement toward retaliation became almost irresistible. Frantic communications asking for confirmation encountered delayed replies. Communications suggesting the early reports of 30 or more torpedo firings were erroneous, were brushed aside. By then aircraft on the *Ticonderoga* were fueled and armed for retaliation; the President was scheduled to go on television; Congressional leaders had been alerted. Retaliation was on the road.

In another memorandum Bader commented on the administration's handling of the questions raised by Commander Herrick as to whether there had been an attack:<sup>139</sup>

Secretary McNamara misled the Committee by not telling the Committee how increasingly ambiguous the reports on the second incident became as the hours move on. What he described in such positive terms was actually a highly confused event. On the basis of the evidence from the communications

<sup>137</sup>*The Gulf of Tonkin, The 1964 Incidents*, cited above. The principal informant was Navy Commander Jack Cowles, who had been in the Flag Plot, the Navy's war room in the Pentagon, on Aug. 4, 1964, and, based on the messages he saw, had decided that evidence of the attack was very dubious if not nonexistent. In Sept. 1967, after he had read a press report of Fulbright's regrets about his role in the passage of the Gulf of Tonkin Resolution, Cowles approached Fulbright's staff with information on the subject. See Austin, pp. 165-168. Correspondence from Commander Cowles, as well as several other informants, is in the papers of the Senate Foreign Relations Committee at the National Archives, RG 46, and one of his letters is reprinted in *The Gulf of Tonkin, The 1964 Incidents*, pp. 84-85.

<sup>138</sup>"Tentative Staff Conclusions," Jan. 18, 1968, Records of the Senate Foreign Relations Committee, National Archives, RG 46.

<sup>139</sup>"Examples of Misinformation Given to SFRC and Armed Services at Time of Incident," Jan. 30, 1968, same location.

traffic it would seem that the facts increasingly demanded caution—but the operational requirements of the retaliatory raid and the bureaucratic and press momentum that developed after the first reports came in were just too strong.

Prior to the February 1968 hearing, the committee staff gathered detailed information on the August 4 incident, including a number of cables as well as information from the ships' logs. The staff also attempted to get access to the NSA intercepts, and finally the executive branch decided that it would be desirable to let the chairman see them. A meeting was arranged in the office of Senator Russell, in order for the matter to be handled under the auspices of the Armed Services Committee to which the Pentagon was responsible, where Deputy Secretary of Defense Paul H. Nitze showed the intercepts to Fulbright and Russell. Nitze and the administration hoped that Fulbright could be persuaded not to hold new hearings on the Gulf of Tonkin incidents. After looking at the intercepts and expressing some doubt that they were conclusive evidence, Fulbright asked Nitze for additional messages and logs. Russell told Nitze that the Foreign Relations Committee was entitled to have the information.<sup>140</sup>

The February 20, 1968 hearing of the committee, held in executive session, opened with a statement by McNamara in which he reviewed the events of August 2 and 4, 1964. He examined four questions: "Was the patrol in fact for legitimate purposes. Were the attacks unprovoked? Was there indeed a second attack? If there was a second attack, was there sufficient evidence available at the time on our response to support this conclusion?" His answers were that the patrol was legitimate, that the attacks were not provoked, and that there was a second attack supported by adequate evidence to justify the U.S. response. He said that in addition to all of the other forms of confirming evidence, ". . . Intelligence reports received from a highly classified and unimpeachable source [radio intercepts] reported that North Vietnam was making preparations to attack our destroyers with two Swatow boats and with one PT boat if the PT could be made ready in time." "No one within the Department of Defense has reviewed all of this information," he added, "without arriving at the unqualified conclusion that a determined attack was made on the *Maddox* and *Turner Joy* in the Tonkin Gulf on the night of August 4, 1964." Moreover, at the time the order was given, "allegations that the U.S. . . . induced the incident on August 4 with the intent of providing an excuse to take the retaliatory action which we in fact took. I can only characterize such insinuations as monstrous." U.S. warnings after the first attack, and assertions of the right of free passage, as well as the order for the ships to remain 11 rather than 8 miles off the coast after resuming the patrol were, he said, "hardly indicative of an intent to induce another attack." "But beyond that," McNamara said, "I find it inconceivable that anyone

even remotely familiar with our society and system of Government could suspect the existence of a conspiracy which would include almost, if not all, the entire chain of military command in the Pacific, the Chairman of the Joint Chiefs of Staff, the Joint Chiefs, the Secretary of Defense, and his chief civilian assistants, the Secretary of State, and the President of the United States."<sup>141</sup>

Fulbright denied that there was any thought of a conspiracy, and explained his own views for holding the inquiry:

. . . I don't think anyone, I don't believe anyone, certainly myself, entertained the idea this was a plot or a conspiracy.

The point really is, and I think there is evidence sufficiently to justify an inquiry as to whether or not the decisionmaking process, with all these conflicting reports coming in, is sufficiently accurate and reliable to justify taking such a decision to declare war on another country, which was the immediate outgrowth of this particular series of events. . . .

I think this committee, and certainly as chairman of the committee I think it was very unfair to ask us to vote upon a resolution when the state of the evidence was as uncertain as I think it now is, even if your intercepts are correct. Of course, none of those intercepts were mentioned to us, I don't believe in the testimony on August 6. Your statement and General Wheeler's was without any doubt, any equivocation that there was an all-out attack.

I submit that even if you give the most favorable interpretations to these reports that it was far less than positive and unequivocal as your statement before the committee indicates.

This has been very serious to me and all members of this committee and the Senate.

We have taken what is called the functional equivalent of a declaration of war upon evidence of this kind, and action as precipitate as this was. Even the commander, that is one of the crucial cablegrams from the commander of the task force, recommended that nothing be done until the evidence was further evaluated. I read it this morning, I won't read it again.

But that alone almost, if I had known of that one telegram, [Herrick's 1:27 p.m. message suggesting further evaluation] if that had been put before me on the 6th of August, I certainly don't believe I would have rushed into action.

We met, if you will recall for 1 hour and 40 minutes, in a joint meeting of the Armed Services and this committee and we accepted your statement completely without doubt. I went on the floor to urge passage of the resolution. You quoted me, as saying these things on the floor. Of course all my statements were based upon your testimony. I had no independent evidence, and now I think I did a great disservice to the Senate. I feel very guilty for not having enough sense at that time to have raised these questions and asked for evidence. I regret it.

I have publicly apologized to my constituents and the country for the unwise action I took, without at least inquiring into

<sup>140</sup>See the account in Austin, pp. 168-178.

<sup>141</sup>These quotations are from *The Gulf of Tonkin, The 1964 Incidents*, cited above, pp. 17-19. *Ibid.*, pp. 79-81.

the basis. It never occurred to me that there was the slightest doubt, certainly on the part of Commander Herrick who was in charge of the task force that this attack took place. He obviously had doubts, his own cablegram so states. That is the reason for it. I feel a very deep responsibility, and I regret it more than anything I have ever done in my life, that I was the vehicle which took that resolution to the floor and defended it in complete reliance upon information which, to say the very least, is somewhat dubious at this time. . . .

If I had had enough sense to require complete evaluation I never would have made the mistake I did. If I had had notice of that particular cable in 1964 I think I would have had enough sense at least to raise a warning sign, and normally this committee does have hearings and questions. I don't know why, what possessed me, the background was such that I went along, of course I wasn't the only one. Both committees, except for the Senator from Oregon, unanimously accepted your testimony then as the whole story, and I must say this raises very serious questions about how you make decisions to go to war.

I mean, this is not a small matter that we are in, in Vietnam, and I think for the future, the least I can do and the committee can do, is to alert future committees and future Senates that these matters are not to be dealt with in this casual manner.

I felt very badly about it, about the matter. I must say that I don't blame you personally for this. These communications were very conflicting, and I don't think—I never meant to leave the impression that I thought you were deliberately trying to deceive us, but I must confess I think the evidence is very conflicting and warrants what Mr. Herrick suggested—time to evaluate what the evidence was—which we didn't do.

The hearing consisted largely of a recapitulation of the events of August 4, with frequent reference to the various messages sent that day, especially that suggesting further evaluation, and those which followed. A number of questions were asked about the relationship between the DE SOTO patrol and the 34-A operations, why the patrol was not suspended after the first attack, and, of course, whether there had been a second attack. McNamara reminded the members of the committee that he had told them about the July 31 34-A operations, as well as the intercepts, at the meeting on August 3. As a part of his response to the question of evidence of the second attack, McNamara, after the hearing room was cleared of all but McNamara and his aides and the Senators themselves, showed the Senators the intercepts. (How many and which ones is not known, except for McNamara's comment that he was going to show them the intercept ordering the PT boats to attack. All of the intercepts are still classified as of this writing, 20 years later.)

The committee was obviously divided, and reluctant to express its judgment on the 1964 incidents. Except for Cooper, none of the Republican members questioned McNamara at any length. Among the Democrats, most of the questions were from Fulbright, and to a lesser extent Morse and Gore, and Lausche, who defended the administration.

Morse said that the hearing had not changed anything he had said in the Senate in August 1964, and had verified all of the information he had received at that time from his secret informant in the Pentagon. He said that the United States had engaged in "constructive aggression" in the Tonkin Gulf, and that the North Vietnamese were justified in thinking that the presence of the destroyers was related to the 34-A operations, and in striking back as they did.<sup>142</sup>

Gore said that in 1964 he had been misled into believing that the U.S. ships were on a routine patrol, while in fact they were on provocative intelligence missions. His tentative conclusion, he said, was "that the administration was hasty, acted precipitately, inadvisedly, unwisely, out of proportion to the provocation in launching 64 bombing attacks on North Vietnam out of a confused, uncertain situation on a murky night, which one of the sailors described as one dark as the knob of hell; and, particularly, 5 hours after the task force commander had cabled that he doubted that there were any attacks, and recommended that no further action be taken until it was thoroughly canvassed and reviewed."<sup>143</sup>

Pell said he did not question McNamara's integrity, but he thought that the reaction of the U.S. was "excessive to the offense." Aiken expressed more of an interest in the years ahead than in looking back three years. Mansfield and Symington said that they thought McNamara had been candid and honest in 1964, and again in the 1968 hearing. As Symington stated: ". . . if there was a mistake, and you [McNamara] do not believe there was a mistake, it was an unintentional mistake; and there was no conspiracy, no effort to formulate something to mislead the American people so as to justify going into a more active state of belligerency with North Vietnam. Does that sum it up?" McNamara replied that it did.<sup>144</sup>

Mansfield said, ". . . three and a half years ago is a long time, and you [McNamara] were under pressure, we were under pressure. Maybe we did some things we wouldn't do if we would be more careful. . . ."<sup>145</sup>

The Foreign Relations Committee did not issue a report on its 1968 hearing on the Gulf of Tonkin incidents of 1964—Fulbright said he could not get a consensus—but the case against the administration, which was based on the committee's staff reports, was made by Morse in three speeches in the Senate following the hearings.<sup>146</sup>

In 1970, as was mentioned above, the Gulf of Tonkin Resolution was repealed. There the matter rests, except that it does not rest. Those who were involved in the debate over the Gulf of Tonkin incidents have continued to argue their respective points of view. And although some additional evidence has become available, the radio intercepts are still classified, as are many of the cables between Washington and the field during the period in question, the

<sup>142</sup>*Ibid.*, pp. 82-87.

<sup>143</sup>*Ibid.*, p. 102.

<sup>144</sup>*Ibid.*, p. 106.

<sup>145</sup>*Ibid.*, p. 82.

<sup>146</sup>CRS Interview with J. William Fulbright, Feb. 18, 1983, and *CR*, vol. 114, pp. 3813-3817, 4578-4581, 4691-4697.

report of the President's Intelligence Advisory Board, and the command and control study.

There is, however, no gainsaying the fact that the 1964 Gulf of Tonkin incidents achieved the purposes for which they were used. They were used as the occasion on which to secure congressional approval of an open-ended resolution sanctioning if not authorizing Presidential use of force in the Vietnam war. They also served a political purpose in the 1964 U.S. Presidential election campaign. President Johnson, as well as Democrats running for Congress, could answer Republican claims of weakness and inaction by this demonstration that the U.S. was determined to prevent aggression, while using its strength sparingly and for purposes of deterrence.

In addition, the U.S. response to the incidents in the Gulf served an important political purpose in South Vietnam, where the Khanh government was at least temporarily boosted, and the pressure to "go north" was assuaged.

Most importantly, the incidents provided an opportunity to demonstrate to the North Vietnamese, as well as to the Chinese and the Russians, that the U.S. would defend its forces. In addition, the limited and selective nature of the "crime" permitted a limited and selective "punishment," whereby the U.S. could seek to convey to North Vietnam and its allies that American interests and goals were limited and specific, and that force would be used sparingly. Thus, in his public statement announcing that the U.S. was retaliating against North Vietnam, President Johnson said, ". . . our response, for the present, will be limited and fitting. . . . We still seek no wider war."<sup>147</sup>

<sup>147</sup>These few words expressed what the airstrikes were supposed to demonstrate: that the U.S. was acting in accordance with the policy or doctrine of "coercive diplomacy," an essential ingredient of which is "reprisal"—using force to compel an opposing nation to change its behavior, rather than achieving a military victory in the traditional sense. See William R. Simons, "The Vietnam Intervention, 1964-65," in Alexander L. George, David K. Hall, and William E. Simons, *The Limits of Coercive Diplomacy: Laos, Cuba, and Vietnam* (Boston: Little, Brown, 1971); *Theis, When Governments Collide*; Gordon A. Craig and Alexander L. George, *Diplomatic Problems of Our Time* (New York: Oxford University Press, 1983).

One of the leading proponents of this approach to the study and use of the "diplomacy of violence" has been Thomas C. Schelling of Harvard University. Thomas C. Schelling, *Arms and Influence* (New Haven: Yale University Press, 1966). The references here are to p. vii and ch. 4. Schelling said he approved of U.S. reprisal after the Gulf of Tonkin incidents. It was, he said, "fitting" and "appropriate." "What made it seem fitting was not its success as a military threat. It was as an act of reprisal—as a riposte, a warning, a demonstration—that the enterprise appealed so widely as appropriate." Airstrikes against the torpedo boat bases and supporting facilities made it an act directly connected with the act committed against the U.S. "Equivalent damage on other military sources might have made as much sense militarily, but the symbolism would have been different." Moreover, "Had the United States returned to the attack day after day, shooting at naval installations, port facilities, and warehouses, the entire operation would have lost neatness; the sensation of 'justice' would have been diluted; and the 'incident' would have been less well-defined; and it would have been harder to tell what was reprisal for the destroyer attack and what was opportunistic military action."

The Gulf of Tonkin reprisal, Schelling added, was, as a reprisal should be, "a reciprocal action, some punishment for a breach in the rules." "Nominally, at least," he said, "the reprisal is related to the isolated breach of conduct, not the underlying continuing dispute. The motivation and intent can of course be more ambitious than that; the object can be a display of determination or impetuosity, not just to dissuade repetition but to communicate a much broader threat. One can even hope for an excuse to conduct the reprisal, as a means of communicating a more persuasive threat."

## CHAPTER 6

### TALKING PEACE AND PLANNING WAR

Immediately after the U.S. reprisal against North Vietnam on August 5, 1964, the U.S. resumed the DE SOTO patrols in the Gulf of Tonkin. At about 1:30 a.m. on August 5 (Vietnam time), prior to the retaliatory raids later that night, the order was given by CINCPAC for the patrol to resume at daylight. The *Maddox* and the *Turner Joy* did so, but later that day they were ordered to stop for rest and replenishment.<sup>1</sup> It is not clear when or whether they resumed their patrol, but a short time later CINCPAC requested authority to conduct still another patrol on August 12-17. This was deferred. The next patrol was made in mid-September.<sup>2</sup>

Ambassador Taylor favored resumption of the DE SOTO patrols, together with continuing U.S. air sweeps over the Gulf of Tonkin "with authority to engage DRV boats and aircraft. . . ." In a cable to Washington on August 9, in which he said that 34-A operations would be suspended while Washington reviewed the situation, Taylor also advocated U.S. armed reconnaissance mission over the Ho Chi Minh Trail area of Laos, with authority to conduct airstrikes. "Any public statement regarding flights," he said, "would stress the need to protect our reconnaissance operations in Laos and avoid any other comment on operations."<sup>3</sup>

Taylor also proposed that on about January 1, 1965, the U.S. should begin implementing OPLAN 37-64 (the graduated pressure plan) by launching airstrikes against North Vietnam.

At an NSC meeting on August 10, Rusk recommended that further DE SOTO patrols, as well as any additional military activities, should be held up "at least until we see what the other side does." As McGeorge Bundy's notes of the meeting state, "He [Rusk] emphasized, as he has repeatedly before and since, the importance from his point of view of keeping the responsibility for escalation on the other side."<sup>4</sup>

The notes further state:

The President expressed his basic satisfaction with what had been accomplished in the last week. He said the reaction from Congress was good, and also from the people, judging by the polls. He said this response was quite a tribute to the Secretaries of State and Defense. He warned, however, that if we

<sup>1</sup>"Chronology of Events, Tuesday August 4 and Wednesday August 5, 1964, Tonkin Gulf Strike," cited above, pp. 20, 47-48.

<sup>2</sup>Information about these subsequent patrols is contained in "Chronology of Events Relating to DE SOTO Patrol Incidents in the Gulf of Tonkin on 2 and 4 August 1964," cited above. Information concerning the response of Washington to the CINCPAC request for a patrol on Aug. 12-17 has been deleted, however.

<sup>3</sup>Johnson Library, NSC History File, Gulf of Tonkin Attacks, Saigon to Washington 364, Aug. 9, 1964.

<sup>4</sup>Johnson Library, NSF Aides File, McGeorge Bundy Memos to the President.

should fail in the second challenge, or if we should do nothing further, we could find ourselves even worse off than before this last set of events. The President did not wish to escalate just because the public liked what happened last week. We would have to pick our own ground, nonetheless, instead of letting the other side have the ball, we should be prepared to take it. He asked for prompt study and recommendations as to ways this might be done with maximum results and minimum danger. He did not believe that the existing situation would last very long.

#### *Plans for Increasing the Pressure on North Vietnam*

In the aftermath of the U.S. airstrikes and passage of the Gulf of Tonkin Resolution, U.S. policymakers, as the President had directed, continued planning for further action against the Communists. This included steps to increase U.S. readiness, one of which was to leave, rather than to withdraw, most of the military reinforcements, primarily air, that had been moved to the Pacific and to Vietnam and Thailand during the Gulf of Tonkin episode.<sup>5</sup>

The *Pentagon Papers* suggests that the use of airstrikes in the reprisal raids had the effect, however, of "denying options which had been considered useful alternatives to strikes against the North."<sup>6</sup> One of these was negotiation. In June, de Gaulle had again called for neutralization of Indochina and the withdrawal of all foreign forces. In July, he had advocated reconvening the 1954 Geneva Conference to deal with Vietnam. Then, on August 5, U.N. Secretary-General U Thant called for a Geneva Conference on the Gulf of Tonkin incidents, and on August 6 he told Rusk and Adlai Stevenson, U.S. Ambassador to the U.N., that the U.S. and North Vietnam should meet to discuss ending the war.<sup>7</sup> The French, the Chinese, and the North Vietnamese supported such a move, but wanted the Conference to address the entire problem of Vietnam, as it had in 1954.

There was strong opposition to these suggestions among U.S. policymakers, partly because of distrust of Communist diplomacy, and partly because such moves would undercut the gains made in response to the Gulf of Tonkin incidents. There seems to have been a new resolve that the U.S. should not allow itself to be "negotiated out" of the war, and should not negotiate until it could negotiate from strength.<sup>8</sup>

<sup>5</sup>PP, DOD ed., IV, C. 2. (b), p. 13.

<sup>6</sup>*Ibid.*, p. 15.

<sup>7</sup>For the outcome of this see Walter Johnson, "The U Thant-Stevenson Peace Initiatives in Vietnam, 1964-1965," *Diplomatic History*, 1 (Summer 1977), pp. 285-290, and Thies, *When Governments Collide*, pp. 48-49. In addition, as well as for Stevenson's own position on Vietnam during this time, see John Bartlow Martin, *Adlai Stevenson and the World* (Garden City, N.Y.: Doubleday, 1977), pp. 793 ff.

<sup>8</sup>Saigon to Washington 363, Aug. 9, 1964, the full text of which is in PP, Gravel ed., vol. III, pp. 522-524. In response to demands for negotiation on Laos, the State Department suggested a countermove, namely, dropping the previous demand that Communist forces withdraw from the Plaine des Jarres. Lao Government gains in Western Laos, it was argued, permitted this concession to be made safely. The suggestion produced a sharp reaction from various officials, however, including Ambassador Taylor, who argued that it would have a "potentially disastrous effect. Morale and will to fight particularly willingness to push ahead with arduous pacification task . . . would be undermined by what would look like evidence that U.S. seeking to take advantage of any slight improvement in non-communist position as excuse for extricating itself from Indo-

Continued

To reemphasize U.S. determination, and to warn of possible additional actions, as well as to continue to hold out the carrot of "economic and other benefits," Canadian diplomat Seaborn again conferred with the North Vietnamese on August 10, 1964, at the request of the U.S. The U.S. position reportedly angered North Vietnamese Premier Pham Van Dong, but there was also said to be some indication that the North Vietnamese might be receptive to negotiations.<sup>9</sup>

By mid-August, policymakers in Washington were beginning to discuss the next phase in U.S. policy, while the President turned his attention to the Democratic National Convention and the nomination of Hubert Humphrey for the Vice Presidency. W. W. Rostow circulated a memorandum proposing a program of "limited, graduated military actions," which the *Pentagon Papers* summarized as follows:<sup>10</sup>

By applying limited, graduated military actions reinforced by political and economic pressures on a nation providing external support for insurgency, we should be able to cause that nation to decide to reduce greatly or eliminate altogether support for the insurgency. The objective of these pressures is not necessarily to attack his ability to provide support, although economic and certain military actions would in fact do just that. Rather, the objective is to affect his calculation of interests. Therefore, the threat that is implicit in initial U.S. actions would be more important than the military effect of the actions themselves.

Rostow's proposal was sent to all of the relevant offices of the government, and a critique was prepared for the JCS by Henry Rowen in the Office of International Security Affairs in the Department of Defense, with contributions from Rostow's own Policy Planning Staff in State.<sup>11</sup> The effectiveness of Rostow's proposal in influencing the North Vietnamese, the Rowen paper said, would depend upon three factors:<sup>12</sup>

The opponents would have to be persuaded that: (1) the United States was "taking limited actions to achieve limited objectives"; (2) "the commitment of the military power of the United States to the limited objective is a total commitment—as total as our commitment to get the missiles out of Cuba in October 1962"; (3) the United States has "established a sufficient consensus to see through this course of action both at home and on the world scene." Further, unless such an opponent were so persuaded, "the approach might well fail to be effective short of a larger U.S. military involvement."

China via conf route." He said that a "rush to conference table would serve to confirm to CHICOMS that US retaliation for destroyer attacks was transient phenomenon and that firm CHICOM response in form of commitment to defend NVN has given the US 'Paper Tiger' second thoughts." "Under circumstances," he concluded, "we see very little hope that results of such a conference would be advantageous to us. Moreover, prospects of limiting it to consideration of any Laotian problem appear at this time juncture to be dimmer than ever. . . ."

<sup>9</sup>See Thies, *When Governments Collide*, pp. 47-48, and Allan E. Goodman, *The Lost Peace: America's Search for a Negotiated Settlement of the Vietnam War* (Stanford: Hoover Institution Press, 1978), pp. 19-20.

<sup>10</sup>PP, Gravel ed., vol. V, p. 336.

<sup>11</sup>See *ibid.*, vol. III, pp. 201-202.

<sup>12</sup>*Ibid.*, with passages in quotes from the Aug. 21 Rowen memorandum.

The critique pointed out, further, that there might not be the necessary domestic consensus. "Given present attitudes, application of the Rostow approach risks domestic and international opposition ranging from anxiety and protest to condemnation, efforts to dissociate from U.S. policies or alliances, or even strong countermeasures. . . ." This problem, Rowen said, would be compounded by the fact that in order to make the Rostow proposal an explicit, declared policy of the United States, the U.S. would be required to make it public before applying it, and that in turn would necessitate a public commitment. Debate on such a commitment might produce the kind of negative reaction which would prevent a firm, positive consensus from being formed, and thus prevent the plan from being carried out.

Almost obscured by the esoteric language of this critique is the very plain suggestion that for these reasons such a U.S. plan of military action against the north should begin when there was an "occasion"—an "emergency situation"—for doing so:

. . . the controlled, limited military actions implied in the Rostow approach would be far more acceptable to the extent that they were seen to follow from Presidential conviction of vital national *necessity* in a specific context, and even more to the extent that this conviction were shared by Congress and the U.S. public. An attempt to legitimize such actions in general terms, and in advance of an emergency situation, would not only be likely to fail, but might well evoke public expression of domestic and allied opposition and denunciation . . . from opponents that would make it much *more* difficult for the President to contemplate this approach when an occasion actually arose. . . .

On August 11 the State Department circulated a memorandum drafted by William Bundy, "Next Course of Action in Southeast Asia," a slightly different version of which was sent on August 14 to Saigon, Vientiane and CINCPAC for comment.<sup>13</sup> Bundy said that as a result of the Gulf of Tonkin reprisal the North Vietnamese and the Chinese were convinced only "that we will act strongly where U.S. force units are directly involved." The ". . . solution in both South Viet-Nam and Laos will require a combination of military pressure and some form of communication under which Hanoi (and Peiping) eventually accept the idea of getting out. . . . After, *but only after*, we have established a clear pattern of pressure, we could accept a conference broadened to include the Viet-Nam issue." (emphasis in original) Bundy proposed a three-phase series of action:

Phase One—Military Silence (through August)

Phase Two—Limited Pressure (September through December)

Phase Three—More Serious Pressures (January 1965 and following)

Phase One he described as a "short holding phase, in which we would avoid actions that would in any way take the onus off the

<sup>13</sup>For the complete text of the memo of Aug. 11, see *ibid.*, pp. 524-529. The Aug. 14 cable is on pp. 533-537.

Communist side for escalation." The DE SOTO patrols and most 34-A operations would be suspended.

In Phase Two, most 34-A operations would be resumed, as would joint U.S.-Vietnamese military planning. Training of Vietnamese pilots would expand, and cross-border operations would be conducted against the corridor in Laos. Specific "tit-for-tat" actions, or "actions of opportunity," would be conducted in response to Communist attacks.

Phase Two also would include the resumption of DE SOTO patrols, but "Both for present purposes and to maintain the credibility of our account of the events of last week, they *must* be clearly dissociated from 34A operations both in fact and in physical appearance."

Phase Three, for which Bundy suggested adopting Taylor's planning date of January 1, 1965, would include "action against infiltration routes and facilities," and "action in the DRV against selected military-related targets," including the bombing of bridges, railroads, and petroleum facilities, as well as the mining of Haiphong harbor. "*Beyond these points*," Bundy added, "it is probably not useful to think at the present time."<sup>14</sup> (emphasis in original)

There was general agreement from the field with the plan proposed by Bundy.<sup>15</sup> CINCPAC said that it was important not to lose the "momentum" from the U.S. reaction to the Gulf of Tonkin attacks, and that ". . . pressures against the other side once instituted should not be relaxed. . . ." He urged that, in addition to the steps recommended in the Bundy memo, the U.S. consider establishing a base in South Vietnam, preferably at Danang, that would facilitate U.S. operations and symbolize America's determination to stay the course.

The U.S. mission in Saigon emphasized in its reply the need to strengthen Khanh's government. Until the viability of that government could be demonstrated, Taylor said, the U.S. should proceed with caution: "Since any of the courses of action considered in this cable carry a considerable measure of risk to the US, we should be slow to get too deeply involved in them until we have a better feel of the quality of our ally." In addition, Taylor said that it was important for the Khanh government and the South Vietnamese military to be strong enough to defend the country against possible Communist ground attacks which might result from U.S. air attacks on the north, thereby relieving the U.S. of the need to make a major ground force commitment.

The Joint Chiefs of Staff also approved generally of the Bundy plan, but said, ". . . accelerated and forceful action with respect to North Vietnam is essential to prevent a complete collapse of the

<sup>14</sup>The memorandum concluded with comments on the handling of Laos negotiations. "We would wish to slow down any progress toward a conference," Bundy wrote, "and to hold Souvanna to the firmest possible position." The conference should be put off until at least January 1965. "If, despite our best efforts, Souvanna on his own, or in response to third country pressures, started to move rapidly toward a conference, we would have a very difficult problem. If the timing of the Laos conference, in relation to the degree of pressures we had then set in motion against the DRV, was such that our attending or accepting the conference would have major morale drawbacks in South Viet-Nam, we might well have to refuse to attend ourselves and to accept the disadvantages of having no direct participation. In the last analysis, GVN morale would have to be the deciding factor."

<sup>15</sup>See the texts of the cables from Vientiane, Saigon, and CINCPAC in *PP*, Gravel ed., vol. III, pp. 541-548.

US position in Southeast Asia."<sup>16</sup> They also took issue with Taylor's "go-slow" approach, saying that they did not agree ". . . that we should be slow to get deeply involved until we have a better feel for the quality of our ally. The United States is already deeply involved . . . only significantly stronger military pressures on the DRV are likely to provide the relief and psychological boost necessary for attainment of the requisite governmental stability and viability." The JCS reiterated their previous position that "The military course of action which offers the best chance of success remains the destruction of the DRV will and capabilities as necessary to compel the DRV to cease providing support to the insurgencies in South Vietnam and Laos." There were at least two mid-August meetings of the President and his advisers to discuss these ideas, but notes of those sessions are not yet available.

By early September 1964, after considerable political turmoil in South Vietnam during the latter part of August, "a general consensus had developed among high-level Administration officials," according to the *Pentagon Papers*, "that some form of additional and continuous pressure should be exerted against North Vietnam."<sup>17</sup> In addition to the State (Bundy) proposal, McNaughton prepared for McNamara a "Plan of Action for South Vietnam," that presaged the decisions ultimately made by the administration in 1965. (Ironically, the memorandum reportedly was drafted by Daniel Ellsberg, one of McNaughton's assistants, who later released the *Pentagon Papers* to the press, and was very active in the antiwar movement.)<sup>18</sup> "U.S. policy," said McNaughton, "has been to pacify South Vietnam by aid and advice and actions within the borders of South Vietnam. This policy will not work without a strong government in Saigon. It has become apparent that there is no likelihood that a government sufficiently strong to administer a successful pacification program will develop. It follows that our current U.S. policy . . . will not succeed." In order to "reverse the present downward trend," and to prevent "a succession of government changes ending in a demand for a negotiated settlement," the memo said, the U.S. had to "inject some major new elements" into the situation, both inside and outside South Vietnam. Inside—and here the memo anticipated the major decisions of 1965—it was proposed that the U.S. establish a naval base, perhaps at Danang, and (then under study, the memo said) enlarge the U.S. role "e.g., large numbers of US special forces, divisions of regular combat troops, US air, etc., to 'interlard' with or to take over functions or geographical areas from the South Vietnamese armed forces."

Outside the borders of South Vietnam, the McNaughton memo proposed a program beginning around October 1, but postponing to November or December any major escalation, designed to "put increasing pressure on North Vietnam," but also to "create as little risk as possible of the kind of military action which would be difficult to justify to the American public and to preserve where possible the option to have no US military action at all." Three specific

actions, similar to those suggested by William Bundy, were recommended by McNaughton: "(1) *South Vietnamese air attacks on the Laotian infiltration routes.*" These, the memo said, could provoke reactions from the Communists that would justify U.S. bombing of targets in North Vietnam as well as air combat with North Vietnamese MIG fighter planes. "(2) *South Vietnamese sea attacks on North Vietnamese junks and shore facilities by bombardment and landings.*" North Vietnamese reaction could justify U.S. sea or air protection, as well as mining of North Vietnamese harbors. "(3) *DE SOTO patrols.*" North Vietnamese reaction could justify U.S. "limited retaliation" airstrikes against the North, or, "especially if a US ship were sunk, to commence a full-fledged squeeze on North Vietnam." The memo said that the patrols should be dissociated from 34-A operations, and operated "far out in international waters of the Gulf of Tonkin," but it also noted, "It is unlikely that the DRV will attack our ships if they are outside the '12-mile limit.'" (emphases in original)

In addition to these actions, the memo stated that there would be other "actions of opportunity" that might justify U.S. retaliation.

The concept underlying these proposals, the memorandum stated, ". . . in essence is: by doing legitimate things to provoke a DRV response and to be in a good position to seize on that response, or upon an unprovoked DRV action, to commence a crescendo of GVN-US military actions against the DRV." But care would have to be exercised during the election: "During the next two months, because of the lack of 'rebuttal time' before election to justify particular actions which may be distorted to the US public, we must act with special care—signaling to the DRV that initiatives are being taken, to the GVN that we are behaving energetically despite the restraints of our political season, and to the US public that we are behaving with good purpose and restraint."

"In hindsight," William Bundy commented later,<sup>19</sup> "the McNaughton paper reads like a *reductio ad absurdum* of the planner's art, combining *realpolitik* with the hyper-rationalist belief in control of the most refined American 'think-tank.' The Tonkin Gulf events had been unplanned but had turned out favorably; this paper can be read as an attempt to devise more Tonkin Gulfs to order. In the whole experience of the Vietnam War, the proposal was perhaps the most extreme attempt to plan systematically."

McGeorge Bundy also favored consideration of stronger military actions, including ground troops. In a memorandum to the President on August 31, in which he said that there was some question as to Khanh's ability to control the situation, he said:<sup>20</sup>

The larger question is whether there is any course of action that can improve the chances in this weakening situation. A number of contingency plans for limited escalation are in preparation. They involve three kinds of activities—naval harassments, air interdiction in the Laos panhandle, and possible U.S. fleet movements resuming a presence on the high seas in the Gulf of Tonkin. The object of any of these would be more to heighten morale and to show our strength of purpose than to

<sup>16</sup>*Ibid.*, pp. 550-552.

<sup>17</sup>*Ibid.*, p. 192. For political developments in South Vietnam, see Shaplen, *The Lost Revolution*.

<sup>18</sup>See the text in *PP*, Gravel ed., vol. III, pp. 556-559.

<sup>19</sup>Bundy MS., ch. 15, pp. 8-9.

<sup>20</sup>Johnson Library, NSF Aides File, McGeorge Bundy Memos to the President.

accomplish anything very specific in a military sense—unless and until we move toward a naval quarantine.

One other possibility which we are discussing is the increase of a U.S. military presence in South Vietnam, perhaps by a naval base, or perhaps by landing a limited number of Marines to guard specific installations. Bob McNamara is very strongly against the latter course, for reasons that are not clear to me, and you may wish to question him on it if we have a luncheon meeting tomorrow.

A still more drastic possibility which no one is discussing is the use of substantial U.S. armed forces in operations against the Viet Cong. I myself believe that before we let this country go we should have a hard look at this grim alternative, and I do not at all think that it is a repetition of Korea. It seems to me at least possible that a couple of brigade-size units put in to do specific jobs about six weeks from now might be good medicine everywhere.

#### *Johnson Approves Some Additional Pressure*

On September 9, 1964, the President held a meeting to discuss U.S. policy toward Vietnam, especially the question of additional military pressures on North Vietnam. It was attended by all of the top policymakers, including Taylor, Rusk, McNamara, General Wheeler, McCone, William Bundy, McNaughton, and McGeorge Bundy. On September 6, before leaving for Washington, Taylor had cabled Rusk concerning the situation in South Vietnam.<sup>21</sup> Recent events, he said, had caused him to conclude, contrary to his earlier position on the Bundy memorandum of August 11, that the U.S. had no choice but to resort to increased pressure on North Vietnam, which he again suggested should begin around December 1, 1964. “. . . after this recent experience . . . we must accept the fact that an effective government, much beyond the capacity of that which has existed over the past several months, is unlikely to survive. We now have a better feel for the quality of our ally. . . . Only the emergence of an exceptional leader could improve the situation and no George Washington is in sight.” Taylor stressed the importance of Vietnam in relation to “total world responsibilities” of the United States, and said, “If we leave Vietnam with our tail between our legs, the consequences of this defeat in the rest of Asia, Africa, and Latin America would be disastrous.”

Prior to the September 9 meeting, William Bundy and Michael Forrestal drafted a paper, “Courses of Action for South Vietnam,” (September 8, 1964), in which they summarized the consensus reached by Rusk, McNamara, Taylor, and General Wheeler. This was its text:<sup>22</sup>

#### **COURSES OF ACTION FOR SOUTH VIETNAM**

This memorandum records the consensus reached in discussions between Ambassador Taylor and Secretary Rusk, Secretary McNamara, and General Wheeler, for review and decision by the President.

#### *The Situation*

1. Khanh will probably stay in control and may make some headway in the next 2-3 months in strengthening the government (GVN). The best we can expect is that he and the GVN will be able to maintain order, keep the pacification program ticking over (but not progressing markedly), and give the appearance of a valid government.

2. Khanh and the GVN leaders are temporarily too exhausted to be thinking much about moves against the North. However, they do need to be reassured that the US continues to mean business, and as Khanh goes along in his government efforts, he will probably want more US effort visible, and some GVN role in external actions.

3. The GVN over the next 2-3 months will be too weak for us to take any major deliberate risks of escalation that would involve a major role for, or threat to, South Vietnam. However, escalation arising from and directed against US action would tend to lift GVN morale at least temporarily.

4. The Communist side will probably avoid provocative action against the US, and it is uncertain how much they will step up VC activity. They do need to be shown that we and the GVN are not simply sitting back after the Gulf of Tonkin.

#### *Courses of Action*

We recommend in any event:

1. US naval patrols in the Gulf of Tonkin should be resumed immediately (about September 12). They should operate initially beyond the 12-mile limit and be clearly dissociated from 34A maritime operations. The patrols would comprise 2-3 destroyers and would have air cover from carriers; the destroyers would have their own ASW [Anti-Submarine Warfare] capability.

2. 34A operations by the GVN should be resumed immediately thereafter (next week). The maritime operations are by far the most important. North Vietnam is likely to publicize them, and at this point we should have the GVN ready to admit that they are taking place and to justify and legitimize them on the basis of the facts on VC infiltration by sea. 34A air drop and leaflet operations should also be resumed but are secondary in importance. We should not consider air strikes under 34A for the present.

3. Limited GVN air and ground operations into the corridor areas of Laos should be undertaken in the near future, together with Lao air strikes as soon as we can get Souvanna's permission. These operations will have only limited effect, however.

4. We should be *prepared* to respond on a tit-for-tat basis against the DRV in the event of any attack on US units or any *special* DRV/VC action against SVN. The response for an attack on US units should be along the lines of the Gulf of Tonkin attacks, against specific and related targets. The response to special action against SVN should likewise be aimed at specific and comparable targets.

<sup>21</sup>PP, Gravel ed., vol. II, pp. 336-337, from Saigon to Washington 768, Sept. 6, 1964.

<sup>22</sup>Johnson Library, NSF Meetings File. An earlier and slightly different draft of this paper was printed in PP, Gravel ed., vol. III, pp. 561-562. (emphases in original)

The main further question is the extent to which we should add elements to the above actions that would tend deliberately to provoke a DRV reaction, and consequent retaliation by us. Examples of actions to be considered would be running US naval patrols increasingly close to the North Vietnamese coast and/or associating them with 34A operations. We believe such deliberately provocative elements should not be added in the immediate future while the GVN is still struggling to its feet. By early October, however, we may recommend such actions depending on GVN progress and Communist reaction in the meantime, especially to US naval patrols.

The JCS agreed with the four recommendations in Bundy's draft, but the Chiefs were split on the question of provocation.<sup>23</sup> The Chairman of the JCS, General Wheeler, the Chief of Staff of the Army, Gen. Harold K. Johnson, and the Chief of Naval Operations, Adm. David L. McDonald, "consider that, based upon Ambassador Taylor's recommendations, we should not purposely embark upon a program to create an incident immediately but that . . . we must respond appropriately against the DRV in the event of an attack on U.S. units." The Chief of Staff of the Air Force, Gen. John P. McConnell, and the Commandant of the Marine Corps, Gen. Wallace M. Greene, Jr., however, "believe that time is against us and military action against the DRV should be taken now."

The Chiefs also agreed that the war was not being won, and that U.S. forces would have to be used in order to win.

At the meeting on September 9, the President asked if anyone disagreed with the four recommendations in Bundy's Paper. "No differing view was expressed," according to McGeorge Bundy's notes of the meeting.<sup>24</sup> "Secretary McNamara said we could try other things later on. Secretary Rusk concurred. General Wheeler said that of course a clear-cut incident might require appropriate action at any time, and there was general agreement with this thought."

The President asked each of the principal officials who were present to comment on the four proposals. Taylor said that the Khanh government "was in a more uncertain condition than before," and that for this reason the U.S. should postpone major military actions against North Vietnam. But he also emphasized that in the long run such moves would be necessary.

McCone agreed that a sustained air attack on the north would be dangerous in view of the political fragility of the south.

When asked for his opinion, "Mr. Rusk said that a major decision to go North could be taken at any time—at 5-minutes' notice.' He did not recommend such decision now. He thought we should take the four recommended actions and play for the breaks."

Rusk added that a split might be developing in the "Communist Bloc," and if this happened the Chinese and the North Vietnamese might become more inhibited in Southeast Asia.

Johnson asked Taylor what would happen if the Khanh government grew weaker, despite U.S. help. "Ambassador Taylor replied that as long as the armed forces are solid, the real power is

secure." There was some discussion of who would assume power if Khanh "went out." Johnson also asked Taylor ". . . to compare Khanh and Diem in the people's affections. The Ambassador replied the people did not care for either one."

"The President asked if anyone doubted whether it was worth all this effort. Ambassador Taylor replied that we could not afford to let Hanoi win, in terms of our overall position in the area and in the world. General Wheeler supported him most forcefully, reporting the unanimous view of the Joint Chiefs that if we should lose in South Vietnam, we would lose Southeast Asia. Country after country on the periphery would give way and look toward Communist China as the rising power of the area. Mr. McCone expressed his concurrence and so did the Secretary of State, with considerable force."

For his part, the President, who concluded the meeting by approving the four recommended actions, said, ". . . the reason for waiting, then, must be simply that with a weak and wobbly situation it would be unwise to attack until we could stabilize our base." He told General Wheeler to explain to his military colleagues in the JCS that ". . . we would be ready to do more, when we had a base. . . . [He] did not wish to enter the patient in a 10-round bout, when he was in no shape to hold out for one round. We should get him ready to face 3 or 4 rounds at least."

The President's decisions were promulgated by NSAM 314, September 10, 1964,<sup>25</sup> which directed that additional pressures be exerted on North Vietnam in the four categories agreed upon, but that "the first order of business at present is to take actions which will help to strengthen the fabric of the Government of South Vietnam," and that "to the extent that the situation permits, such action should precede larger decisions." However, "If such larger decisions are required at any time by a change in the situation, they will be made."

In passing, it is of interest to note that on September 10-15, 1964, a "war game" was run on the effects of bombing North Vietnam. Called Sigma II, the game was conducted by the Joint War Games Agency, Cold War Division, Joint Chiefs of Staff, and had as participants some of the government's top Vietnam policymakers, including General LeMay, General Wheeler, McGeorge Bundy, William Bundy, and John McNaughton. The results were startling, to say the least. What the game revealed, according to George Ball, was that "exhausting the 1964 target list presently proposed for airstrikes would not cripple Hanoi's capability for increasing its support of the Viet Cong, much less force suspension of present support levels on purely logistical grounds."<sup>26</sup> David Halberstam, who provides some of the details of the game, said that it demonstrated "not how vulnerable the North was to U.S. bombing, but rather how invulnerable it was. . . ."<sup>27</sup>

<sup>23</sup>For the text, see *PP*, Gravel ed., vol. III, pp. 565-566. For a detailed discussion of the position of the various parties and interests involved with respect to the actions discussed at the Sept. 9 meeting see pp. 202-206.

<sup>26</sup>George Ball, "Top Secret: The Prophecy the President Rejected," *Atlantic* (July 1972), p. 39.

<sup>27</sup>*The Best and the Brightest*, p. 462.

<sup>23</sup>Johnson Library, NSF Country File, Vietnam, JCS Memorandum CM-124-64, Sept. 9, 1964.

<sup>24</sup>Johnson Library, NSF Meeting Notes File.

William Bundy has said that Sigma II had very little effect on those who participated in the game. This is his explanation:<sup>28</sup>

Essentially we must have thought that the men who ran the game (civilians from outside government . . .) were too harsh in their judgments of how the two Vietnams would respond. . . . I suppose the effect may have been greatest among those who had the time to immerse themselves in it; yet I cannot recall that any of the relevant staff members ever invoked the outcome in later discussions. Perhaps this reflects one of the most basic elements in this whole story—how much of planning and policy review came in the middle of days already full, and without the chance to stop and reflect.

Some problems developed in implementing NSAM 314. In order for the U.S. to carry out military operations in Laos, it was necessary to avoid a cease-fire and to continue to delay the holding of another international conference on Laos. Working closely with Souvanna Phouma, the U.S. was able to prevent both the cease-fire and the conference, while laying plans for conducting cross-border operations in Laos in October 1964. The President refused to allow either U.S. airstrikes or any cross-border ground actions in Laos during September-October, probably because of the pending U.S. election, but in a cable to Vientiane on October 2<sup>29</sup> Rusk told the U.S. Ambassador to urge the Laotians to begin airstrikes on the corridor areas. These, he said, would be supported at a later time by U.S. airstrikes, which were "part of the over-all concept," but were not authorized at that time. On October 14, T-28s of the Royal Laotian Air Force (some with Thai pilots), under the direction of U.S. advisers, conducted bombing raids on the corridor areas, with the combat air patrol support of U.S. planes. The U.S. air support role, however, was not acknowledged, partly to avoid publicly embarrassing Souvanna Phouma, who had accepted the plan. It was also not acknowledged that the T-28 program was directed by the United States.

There were also delays in implementing other aspects of NSAM 314. The DE SOTO patrols were resumed on September 12, but were suspended by the President on September 18, (and not resumed until February 1965), after an incident on September 17 in which U.S. destroyers fired at and reportedly hit several boats, presumed to be North Vietnamese torpedo boats, despite the lack of torpedo sightings or gunfire from the other vessels. (As a result, 34-A maritime operations were not resumed until October 4, and then only with very explicit advance approval each month by the 303 Committee of the NSC.)<sup>30</sup>

The conclusions of Sigma I, conducted in the spring of 1964, were also contrary to many of the assumptions being made by U.S. policymakers. Rather than being deterred by U.S. (Blue Team) bombing, the North Vietnamese (Red Team) took steps to defend themselves, while continuing their support of Communists in the south. For each U.S. move, the North Vietnamese made an apparently effective countermove. General LeMay finally told McGeorge Bundy at one of the intermissions that the U.S. should make full use of its air power, and, if necessary, should "bomb them into the Stone Age." Halberstam, p. 462. According to William Sullivan (CRS Interview with William Sullivan, July 31, 1980), by the end of Sigma I, (1970 in the time frame of the game), the U.S. had 500,000 troops in Vietnam but was still faced with a stalemate and with draft riots at home. For more details see Sullivan, *Obbligato, 1939-1979: Notes on a Foreign Service Career* (New York: W. W. Norton, 1984), pp. 178-181.

<sup>28</sup>Bundy MS., ch. 15, appendix 1, p. 3.

<sup>29</sup>The text is in *PP*, Gravel ed., vol. III, pp. 576-577.

<sup>30</sup>See the directive for these procedures, *ibid.*, p. 571.

In contrast to the August 4 incident, the President questioned whether there had been an attack, and seemed reluctant to act without better evidence. Conceivably, he may have wanted to avoid a further display of U.S. military power at that point in his campaign, particularly since he had already done so in August, and, having the Gulf of Tonkin Resolution, did not feel the same need for congressional approval. He may also have doubted the value, either in the war or in the campaign, of another retaliatory strike at that time against North Vietnam, especially when the South Vietnamese Government was so unstable. In a meeting on September 18 to discuss the report of an attack he said he was "not interested in rapid escalation on so frail evidence and with a very fragile government in South Vietnam," and at a meeting on September 19 he "pointed out that nothing would be more useful in the next six weeks than a real success on the ground [by South Vietnamese forces], for both domestic and international reasons."<sup>31</sup>

Moreover, even though the reports of the August 4 and September 18 incidents were similar, there were basic differences in the circumstances surrounding the two events. For one thing, there was only one ship involved in the September 18 incident, and although McNamara said that there were eyewitness reports of an attack, and one intercept that "appeared to indicate," that North Vietnamese ships were under attack, the reporting was said to be much "thinner," and the evidence of actual hostile attack "thin to non-existent." The August 4 incident had also been preceded by a confirmed attack on August 2, thus creating the expectation that another attack might occur at any time, and a receptivity to believing that a second attack had occurred when it was so reported. There was also the need, strongly felt on August 4, to respond to a second attack after not responding to the first.

It is also likely that the President was more cautious after the August 4 incident. He was reported, in fact, to have commented several days later, "Hell, those dumb stupid sailors were just shooting at flying fish."

Thus, in the meeting at 2:30 p.m. on September 18, after the report of an air attack was received at 9:15 a.m., President Johnson "proved very skeptical about the evidence to date, and he was deeply annoyed that leaks apparently from the Pentagon were producing pressure for a public statement before we knew what we wanted to say." Although he authorized preparations for retaliation against targets in the southern part of North Vietnam (the JCS proposed attacking oil supplies in the Hanoi/Haiphong area, preceded by attacks on North Vietnamese MIG fighter planes, but Rusk preferred a smaller scale strike, and the Chiefs were told by McNamara to plan for attacks on targets in the southern part of North Vietnam which were not defended by MIGs), additional reports during the afternoon raised further doubts that an attack had occurred, and the preparatory order was cancelled. A daylight

<sup>31</sup>These and other quotes are from McGeorge Bundy's Memorandum for the Record of Sept. 20, 1964, Johnson Library, NSF Aides File, McGeorge Bundy Memos to the President, "The Gulf of Tonkin Incident, September 18." The President's remark about "flying fish" is from Karnow, *Vietnam*, p. 374, and Ball's comment is from *The Past Has Another Pattern*, pp. 379-380.

search was ordered of the area in which the attack was said to have occurred.

By the next morning (September 19), "it was clear that the search had proven negative. Summary reports from CINCPAC and others had somewhat hardened the evidence that [North Vietnamese] vessels had been in the area, but the general conclusion was that these vessels had not attempted an aggressive attack." In a meeting at 11 a.m. with top officials, the President "continued to make clear his very grave doubt that there had been any hostile vessels, let alone an intent to attack." The President "found only the intercept persuasive." (Even the intercept was subsequently discounted.) He asked Gen. Marshall S. Carter of the CIA for his opinion, and Carter replied that there probably had been North Vietnamese vessels in the area. Rusk said this was 99 percent probable, and stressed the importance of "not seeming to doubt our naval officers on the spot. The President replied somewhat sharply that he was not planning to make a radio broadcast on the matter but that he did think it important to find out exactly what happened. He also repeated his irritation at having his hand forced by an AP [Associated Press] report obtained from some junior military officer."

McNamara suggested that the DE SOTO patrols be renewed, but George Ball questioned whether this would be wise, and the President is said to have found "considerable force" in Ball's argument. This is Ball's rendition:

... Secretary McNamara proposed a further DE SOTO Patrol to show the flag and prove to Hanoi and the world that we were not intimidated. The project was briefly discussed; there was general agreement around the table; the President indicated his approval to go forward. I had said little during the discussion, but I now spoke up, "Mr. President, I urge you not to make that decision. Suppose one of those destroyers is sunk with several hundred men aboard. Inevitably, there'll be a Congressional investigation. What would your defense be? Everyone knows that the DE SOTO Patrols have no intelligence mission that couldn't be accomplished just as well by planes or small boats at far less risk. The evidence will strongly suggest that you sent those ships up the Gulf only to provoke attack so we could retaliate. Just think what Congress and the press would do with that! They'd say you deliberately used American boys as decoy ducks and that you threw away lives just so you'd have an excuse to bomb. Mr. President, you couldn't live with that.

No one spoke for a long moment. The President seemed disconcerted and confused. Then he turned to McNamara: "We won't go ahead with it, Bob. Let's put it on the shelf."

According to the notes of the meeting, after Ball's comment the President asked General Wheeler to explain the military value of the patrols. Wheeler did so, adding that more important than the intelligence-gathering functions of the patrols was the "general proposition that we should not allow ourselves to be denied free movement on the high seas." Rusk "supported this argument strongly by saying that the 'bandits' in North Vietnam finally needed to know that we were in the area and had no intention of

being driven out." The President said he accepted these arguments, and was prepared to continue the patrols if there was adequate justification. He asked McNamara and Wheeler to prepare such a justification, and for Ball to "serve as critic" of their argument.

### *The Vietnam Issue in the Presidential Campaign*

During the Presidential election campaign then in progress, President Johnson stressed his combination of firmness and restraint in dealing with matters of war and peace, as exemplified by his response to the Gulf of Tonkin attacks. This is one reporter's description of the way in which Johnson used the peace-war issue:<sup>32</sup>

... having shown his strength, [Gulf of Tonkin] having diminished Goldwater's ability to charge him with a "no-win" policy and with soft-headedness toward Communism, having established his own "restraint," Johnson seemed free to do what came so naturally to so political a creature. With every rattle of the Goldwater sword, every reference to the use of nuclear weapons by the Air Force general [Goldwater, who was a general in the Air Force Reserve] on the Republican ticket, every provocative remark about bombing the North from the avid jet pilot [Goldwater] who was his opponent, Johnson was lured by politics into the profitably contrasting position of deploring—even forbidding—war, escalation, and nuclear brinkmanship.

As one part of his strategy of contrasting his restraint with the alleged lack of restraint of his opponent, Johnson made a very pointed issue of his policy toward Vietnam, especially with respect to the possible use of U.S. combat forces. The most frequently quoted of his statements was the one in Akron, Ohio, on October 21, 1964, where he said, "Sometimes our folks get a little impatient. Sometimes they rattle their rockets some, and they bluff about their bombs. But we are not about to send American boys 9 or 10,000 miles away from home to do what Asian boys ought to be doing for themselves."<sup>33</sup> This theme was repeated in many other speeches given by Johnson during the campaign.

Johnson said in his memoirs<sup>34</sup> that those who decided that he was the "peace candidate" . . . were not willing to hear anything they did not want to hear." He said he wanted peace, but not at "any price." "They knew Lyndon Johnson was not going to pull up stakes and run. . . . They knew too that I was not going to wipe out Hanoi or use atom bombs to defoliate the Vietnamese jungles." A review of the themes of his campaign speeches in the *Public Papers of the Presidents* confirms that he made the keeping of peace the central issue in the campaign. In a speech in Atlanta, Georgia, on October 26, 1964, he said as much: "There is only one real issue in this campaign, and it is a very important issue, and it is probably the most important issue that you will ever decide in your lifetime. That issue is peace or war." He went on to contrast

<sup>32</sup>Tom Wicker, "The Wrong Rubicon," *Atlantic Monthly* (May 1968), p. 75. See also Kearns, *Lyndon Johnson and the American Dream*, pp. 198-199.

<sup>33</sup>*Public Papers of the Presidents*, Lyndon B. Johnson, 1963-1964, pp. 1390-1391.

<sup>34</sup>*The Vantage Point*, p. 68.

his qualifications for keeping the peace with those of Goldwater, without mentioning names, and added, "There are parents in this crowd that took their son down to the depot to say goodbye to him in World War I and World War II, and I pray they will never have to do that again."<sup>35</sup>

One of Johnson's strongest supporters during the 1964 campaign was Senator Fulbright. He was convinced that Goldwater was dangerous, and that Johnson, as Fulbright said of him in a seconding speech at the Democratic National Convention, was "a man of understanding with the wisdom to use the great power of our nation in the cause of peace."<sup>36</sup> In another speech Fulbright said:<sup>37</sup>

The foreign policy issue in this campaign is as profound as any that has ever arisen between the two great American political parties. The Goldwater Republicans propose a radical new policy of relentless ideological conflict aimed at the elimination of Communism and the imposition of American concepts of freedom on the entire world. The Democrats under President Johnson propose a conservative policy of opposing and preventing Communist expansion while working for limited agreements that will reduce the danger of nuclear war.

Fulbright's fear of Goldwater and his confidence in Johnson were also, as was indicated earlier, a key factor in his strong support of the Gulf of Tonkin Resolution. As he said later:<sup>38</sup> "I did so because I was confident that President Johnson would use our endorsement with wisdom and restraint. I was also influenced by partisanship: an election campaign was in progress and I had no wish to make any difficulties for the President in his race against a Republican candidate whose election I thought would be a disaster for the country."

"A part of Fulbright's future anguish over his role in the resolution," according to two of his biographers,<sup>39</sup> "concerned what he felt was his own blindness at the time. Fulbright was so deeply involved in the Goldwater-Johnson campaign that he lost his critical detachment. He was so opposed to Goldwater, so certain Goldwater was rash and improvident, that he could not believe Johnson capable of aggressive military actions. As he would say in private later, . . . 'It just seemed sort of really treasonable to question that damn Tonkin Gulf resolution at that time. But looking back on it now, there's just no excuse for it. I mean, in the first place, it's obviously questionable on its face as to whether it was provoked or not. I mean, from what I know now and what I knew then—it would look to me that the whole damn thing was provoked, that it was planned that way.' He would add: 'This sort of leaves you very, very doubtful.'"

Many other prominent Americans appear to have been persuaded to support Johnson, in part, at least, because of the restraint he seemed to be demonstrating in Vietnam, as well as in the use of force as an instrument of national policy. This seems to have been

an important factor, for example, in the decision of some leading businessmen, primarily Republicans, to endorse and work for Johnson through an "independent" committee set up in late August 1964 by Henry H. Fowler, then Deputy Secretary of the Treasury, and chaired by John T. Connor, a Democrat and President of Merck & Company, and John I. Loeb, a registered Republican and senior partner in a Wall Street brokerage firm. One member of this group was Marriner Eccles, a financier and former chairman of the Federal Reserve System, who had strong connections with Democratic politicians. Eccles said that Johnson's announced opposition to sending American boys to fight in Asia was the principal reason for his decision to join the group.

Sixteen other prominent figures became members of a bipartisan group which became known as the "Wise Men," officially called the Advisory Panel on Foreign Affairs. It was announced on September 9, 1964 in connection with the Presidential campaign, and an internal White House memorandum on September 17, reporting on the assistance being given by the NSC staff to the campaign, stated: "We have had our little triumphs. The timely announcement of the Presidential Peace Consultants was one." On September 22, McGeorge Bundy recommended to the President that he meet with the group and release the text of his statement to them. "The object would be to get a headline on Johnson, bipartisanship, and peace, together with a picture of you meeting with these men. It is not a big story, but it is a good one."<sup>40</sup> It should be noted, however, that although the group was organized in connection with the campaign, it subsequently played a role of some importance in supporting Johnson's decision to go to war in July 1965, and in persuading him in March 1968 that the U.S. should seek a negotiated settlement.

### *Ball's Dissent*

While Lyndon Johnson was campaigning on keeping American boys out of Vietnam, his advisers were worrying about what they considered to be the increasing fragility of South Vietnam. A special intelligence estimate on October 1, 1964 concluded that the political situation was continuing to deteriorate, and that there were no prospects that the Khanh government would be able to reverse the trend.<sup>41</sup>

In a memorandum to Johnson on October 1, giving him some pointers for a press interview, McGeorge Bundy suggested he "give a hint of firmness." Bundy added:<sup>42</sup>

It is a better than even chance that we will be undertaking some air and land action in the Laotian corridor and even in

<sup>35</sup>For the announcement of the group, see the *New York Times*, Sept. 10, 1964. The memo of Sept. 17, from Chester Cooper to McGeorge Bundy, is in the Johnson Library, NSF Name File, Cooper Memos, and the Sept. 22 Bundy memo is in NSF Aides File, McGeorge Bundy Memos to the President, where there is additional material in a folder labelled "President's Consultants on Foreign Affairs (Peace Plan)." Members of the group were: Dean Acheson, Eugene R. Black, Gen. Omar N. Bradley, John Cowles, Arthur H. Dean, Allen W. Dulles, Roswell L. Gilpatric, Paul G. Hoffman, George B. Kistiakowsky, Arthur Larson, Morris I. Liebman, Robert A. Lovett, John J. McCloy, Teodoro Moscoso, James Perkins, and James J. Wadsworth.

<sup>41</sup>SNIE 53-2-64, summarized in *PP*, Gravel ed., vol. III, p. 133. For the South Vietnamese political situation see Shaplen, *The Lost Revolution*.

<sup>42</sup>NSF Aides Files, McGeorge Bundy Memos to the President.

<sup>35</sup>*Public Papers of the Presidents*, Lyndon B. Johnson, 1963-1964, pp. 1452-1453.

<sup>36</sup>From the text of the speech, University of Arkansas Library, Fulbright Papers, series 72, box 24.

<sup>37</sup>*CR*, vol. 110, p. 21677.

<sup>38</sup>J. William Fulbright, *The Arrogance of Power* (New York: Random House, 1966), pp. 51-52.

<sup>39</sup>Johnson and Gwertzman, *Fulbright the Dissenter*, p. 198.

North Vietnam within the next two months, and we do not want the record to suggest even remotely that we campaigned on peace in order to start a war in November. The middle course we are on could well require pressure against those who are making war against South Vietnam, but the timing and techniques of such pressure are a very delicate business, as you have said several times before.

On October 2, James Reston of the *New York Times* reported that some of Johnson's advisers were talking openly about expanding the war, ". . . and not only advocating but almost lobbying for such a course of action. It is even possible now to hear officials of this Government talking casually about how easy it would be to 'provoke an incident' in the Gulf of Tonkin that would justify an attack on North Vietnam. . . ." <sup>43</sup>

On October 3, the President returned to Washington for a meeting with his advisers. They discussed the situation and U.S. options, especially the systematic bombing of North Vietnam, which McNamara said was the only alternative being considered by those making contingency plans. Under Secretary of State George Ball attended the meeting, and expressed his opposition to increased U.S. military involvement, and to the bombing of North Vietnam.

On October 5, Ball completed a long (67 pages, single-spaced) memorandum for Rusk, McNamara and McGeorge Bundy in which he articulated these views. <sup>44</sup> Because of the deteriorating political situation in South Vietnam, Ball said, the U.S. faced a "major decision of national policy." There were four options: <sup>45</sup>

(1) We could continue along current lines, recognizing that at some point we should either be thrown out by a neutralist coup in Saigon or be forced to a deeper involvement "by the manifest hopelessness of the present course of action."

(2) We could take over the war by injecting substantial United States ground forces, but in that event "our situation would, in the world's eyes, approach that of France in the 1950s."

(3) We could mount an offensive against the North to improve our bargaining position for negotiation. But though preferable to a ground force commitment, that would lead to the same result by provoking the North Vietnamese to send ground forces to the South that could be effectively countered only by United States ground forces.

(4) Finally, we might try to bring back a political settlement without direct US military involvement that would check, or at least delay, the extension of Communist power into South Vietnam.

In his discussion of these options Ball said, "The maintenance of a non-Communist South Vietnam is of considerable strategic value to the United States . . . [but] our primary motive . . . is unquestionably political. It is to make clear to the whole Free World that we will assist any nation that asks for our help in defending itself

<sup>43</sup>*New York Times*, Oct. 2, 1964.

<sup>44</sup>For the text see the *Atlantic* (July 1972), cited above. See also Ball's, *The Past Has Another Pattern*, and Halberstam, *The Best and the Brightest*, pp. 491-499.

<sup>45</sup>The summary of these options is from Ball, *The Past Has Another Pattern*, pp. 380-381.

against Communist aggression." U.S. policy, he said, was "defended on the proposition that America cannot afford to promote a settlement in South Viet-Nam without first demonstrating the superiority of its own military power—or, in other words, giving the North Vietnamese a bloody nose. To do otherwise would enormously diminish American prestige around the world and cause others to lose faith in the tenacity of our purpose and the integrity of our promises." This policy, he said, needed to be reexamined "before we commit military forces to a line of action that could put events in the saddle and destroy our freedom to choose the policies that are at once the most effective and the most prudent."

Ball questioned the efficacy of military action against North Vietnam, particularly in view of the instability of the Government of South Vietnam. "If the political situation in Saigon should continue to crumble," he said, "air action against North Viet-Nam could at best bring a Pyrrhic victory. Even with diminished North Vietnamese support for the Viet Cong, a disorganized South Vietnamese Government would be unable to eliminate the insurgency." Moreover, North Vietnam believed victory was near, and as long as it did it would "probably be willing to accept very substantial costs from United States air action."

If there were a large increase in infiltration from the north, or the direct use of North Vietnamese forces, U.S. ground troops would be required, Ball said, and this would have a number of adverse consequences. The U.S. would have to take charge of the war, and thus would tend to be put in the earlier position of the French. It would also create problems at home, and "The frustrations and anxieties that marked the latter phases of the Korean struggle would be recalled and revived—and multiplied in intensity."

Once military action was undertaken against the north, it would be difficult to prevent or control escalation: "Once on the tiger's back we cannot be sure of picking the place to dismount." If ground fighting were prolonged, and especially if the Chinese entered the war, there would be pressure to use nuclear weapons. This, in turn, could affect the "fragile balance of terror on which much of the world has come to depend for the maintenance of peace," as well as creating "discouragement and a profound sense of disquiet" in the U.S.

Ball summed up his analysis as follows:

1. Unless the political base in Saigon can be made secure, the mounting of military pressure against the North would involve unacceptable risks.

2. To persuade the North Vietnamese Government to leave South Viet-Nam alone, military pressure against Hanoi would have to be substantial and sustained.

3. Even with substantial and sustained military pressure it is improbable that Hanoi would permanently abandon its aggressive tendencies against South Viet-Nam so long as the governmental structure in South Viet-Nam remained weak and incapable of rallying the full support of the South Vietnamese people.

4. The United States cannot substitute its own presence for an effective South Vietnamese Government and maintain a free South Viet-Nam over a sustained period of time.

5. We must be clear as to the profound consequences of a United States move to apply sustained and substantial military pressure against North Viet-Nam. The response to that move—or even the deployments required by prudence in anticipation of a response—would radically change the character of the war and the United States's relation to the war. The war would become a direct conflict between the United States and the Asian Communists (North Viet-Nam cum Red China).

6. Once the United States had actively committed itself to direct conflict with the North Vietnamese and Hanoi had responded, we could not be certain of controlling the scope and extent of escalation. We cannot ignore the danger—slight though some believe it to be—that we might set in train a series of events leading, at the end of the road, to the direct intervention of China and nuclear war.

7. Finally, it remains to be proved that in terms of U.S. prestige and our world position, we would risk less or gain more through enlarging the war than through searching for an immediate political solution that would avoid deeper U.S. involvement.

With respect to a political settlement, Ball concluded that better results could be obtained if negotiations were conducted before rather than after an air offensive. After weighing the various factors and alternatives he said he thought a large-scale conference along the lines of the 1962 Conference on Laos would be the most propitious, but he also saw some hope in working through the U.N. This is Ball's description of the response to his memorandum:<sup>46</sup>

When I completed the memorandum, I sent it to Secretary McNamara, Mac Bundy, and Secretary Rusk. Bob McNamara in particular seemed shocked that anyone would challenge the verities in such an abrupt and unvarnished manner and implied that I had been imprudent in putting such doubts on paper. My colleagues seemed somewhat more concerned with a possible leak than with the cogency of what I had written. We agreed, however, to meet and discuss the specific points in the memorandum, reserving two Saturdays for that purpose. But it required only one meeting, which took place on Saturday, November 7, 1964, to convince me that there was no point in carrying the argument further. My colleagues were dead set against the views I presented and uninterested in the point-by-point discussion I had hoped to provoke. They regarded me with benign tolerance; to them, my memorandum seemed merely an idiosyncratic diversion from the only relevant problem: how to win the war.

For his part, McGeorge Bundy said, "My principal difficulty with George's arguments through that winter and the spring of '65 was not with his worries that things might not work, because it was perfectly clear that they might not work. . . . I never found his picture of the alternative very persuasive, or, indeed, persuasive at all."<sup>47</sup>

<sup>46</sup>*Ibid.*, pp. 383-384.

<sup>47</sup>CRS Interview, McGeorge Bundy, Jan. 8, 1979.

In mid-October 1964, Ambassador Taylor stepped up his campaign for stronger U.S. military action, warning that the political situation in South Vietnam was becoming more serious, and that with higher infiltration from the north and the end of the rainy season the Communists were more of a threat than ever. "I feel sure," he cabled Washington on October 14, "that we must soon adopt new and drastic methods to reduce and eventually end such infiltration if we are ever to succeed in South Vietnam."<sup>48</sup>

The JCS agreed. To defeat the guerrillas in South Vietnam, they said on October 21, the U.S. should attack the problem at its source—North Vietnam—by "control of the boundaries or by eliminating or cutting off the source of supply and direction."<sup>49</sup>

On October 27, the Chiefs again proposed a major military program for "applying military pressures on the . . . DRV to the extent necessary to cause the DRV to cease support and direction of the insurgency," and for accelerating the counterinsurgency program in South Vietnam. Among the actions recommended were a resumption of the DE SOTO patrols and airstrikes by Vietnamese and unidentified U.S. planes (with U.S. pilots) against targets in Laos and North Vietnam.<sup>50</sup>

#### *Agreement on a General Plan of Action*

While the JCS proposal of October 29 was being considered, the Communists staged a raid on the air base at Bien Hoa on November 1, killing five Americans, wounding 76, and destroying or damaging 27 of the 30 B-57s that, according to the *Pentagon Papers* ". . . had been deployed to South Vietnam to serve notice upon Hanoi that the United States had readily at hand the capacity to deliver a crushing air attack on the North."<sup>51</sup> Townsend Hoopes gave this description of how the decision was made to move the planes to Bien Hoa:<sup>52</sup>

Shortly after the Tonkin episode, there occurred another of those consequential inadvertencies that seem an unavoidable element of the U.S. governmental process—in which so much is asked of a few overworked men. It came to the attention of the White House staff that the Air Force was planning, within a few days, to move a squadron of B-57 bombers from the Philippines to Bien Hoa in South Vietnam. These were obsolescent aircraft being used to provide jet training for the South Vietnamese. The training was being conducted at Clark Field in the Philippines, but no decision had been taken to turn the aircraft over to South Vietnam (among other difficulties, the introduction of jet equipment would involve a violation of the 1954 Geneva Accords). The Air Force now wished however to shift the training to Vietnam.

Both Michael Forrestal . . . and William Bundy . . . thought the proposed move was a bad idea, for they feared that U.S. aircraft sitting in Vietnam would become an irresistible target for Viet Cong attack. Hastily they took the issue to Rusk in an

<sup>48</sup>PP, Gravel ed., vol. III, p. 207.

<sup>49</sup>*Ibid.*, p. 208.

<sup>50</sup>*Ibid.*

<sup>51</sup>*Ibid.*, p. 288.

<sup>52</sup>Townsend Hoopes, *The Limits of Intervention* (New York: David McKay, 1970), p. 27.

effort to head off the move, getting an appointment with him late on a September afternoon. Rusk was not particularly impressed by their argument, but agreed to pick up the phone and call McNamara. While Forrestal and Bundy stood by the edge of his desk, he talked to McNamara for perhaps five minutes. Then, putting down the phone, he said "Bob has so many issues with the JCS that he would rather finesse this one unless we are prepared to take a very strong position. I don't think we are. It seems to me a rather small matter."

The B-57s were duly moved to Bien Hoa. After sitting on that air base for about two months, six of the aircraft were demolished by Viet Cong mortars on November 1, just two days before the U.S. election; five Americans were killed and seventy-six wounded.

Taylor and the Joint Chiefs urged the President to retaliate for Bien Hoa by airstrikes on the north.<sup>53</sup> The Joint Chiefs argued that failure to retaliate would encourage the Communists to undertake additional attacks. Taylor said that if airstrikes were rejected there should be increased pressure through selective bombing and 34-A operations. The President, supported by Rusk and McNamara, decided against such a move. In his memoirs Johnson said: "Most of us were very much aware of the continuing unsteadiness of the South Vietnamese government and its military weakness. We judged the concerns of September still valid. I was worried too about possible Viet Cong retaliation against U.S. dependents in Saigon. With all of these considerations in mind, I decided against a retaliatory strike."<sup>54</sup>

The possible adverse effects on the Presidential election, then, only two days away, was another unspoken reason for the decision not to retaliate at that point. Louis Harris of the Harris Poll reported receiving a telephone call on November 1 from Bill Moyers, one of Johnson's top assistants, who said that the President, Rusk and McNamara were meeting at the White House to discuss the U.S. response to the Bien Hoa raid, and that "The president would like to know if a failure to respond to this attack immediately will be taken by the voters as a sign of weakness by the Administration." Harris' advice to the President via Moyers was, "That is the sort of thing people would expect from Barry Goldwater and probably the main reason they are voting for him."<sup>55</sup>

Although he did not agree to immediate airstrikes, the President, after meeting with his advisers on November 1, asked Taylor for his opinion on moving U.S. air and ground units into Vietnam to protect U.S. dependents and military units and bases against attack, as well as the possible withdrawal of U.S. dependents from Vietnam before beginning airstrikes. Taylor "replied quickly that, at least for the time being, we did not want U.S. ground forces for the close defense of bases unless needed as an accompaniment of a

<sup>53</sup>PP, Gravel ed., vol. III, pp. 209-210. According to Halberstam (*The Best and the Brightest*, p. 485), the attack "infuriated" Taylor, and was a decisive factor in his becoming more of an advocate of bombing the North. By contrast, Halberstam says, the CIA station chief in Saigon at the time, Peir de Silva, thought bombing would not work, and would result in increased North Vietnamese infiltration of the South.

<sup>54</sup>*The Vantage Point*, p. 121. See also PP, Gravel ed., vol. III, p. 209.

<sup>55</sup>Louis Harris, *The Anguish of Change* (New York: W. W. Norton, 1973), p. 23.

program of air pressure against North Vietnam." Taylor said later, "I was greatly surprised that the offer of ground troops was made so casually, as it seemed to me a much more difficult decision than the use of our air forces against military targets north of the seventeenth parallel."<sup>56</sup> He also noted that when Vietnam was hit by a major flood a short time later, Washington ". . . inquired if we needed American logistical troops to help in flood relief, supported by U.S. combat troops to give them local protection. This was essentially the proposal which I had made to President Kennedy in the wake of the Mekong Delta flood in 1961, and which he had not approved. This time I declined the proposal on about the same grounds as Kennedy had—the lack of clear need justifying a course of action difficult to control or to reverse."<sup>57</sup>

Another important factor in the decision not to retaliate for the Bien Hoa attack was the effect on North Vietnam. "The other side would not have believed in any response we made during the election campaign," said one man in close touch with the President's thinking at the time. "He felt he had to get Goldwaterism defeated soundly in order to make it an American response, instead of a political response."<sup>58</sup>

On November 3, 1964, the day he was elected President by an overwhelming vote, Johnson began immediately to lay plans for a broader plan of retaliation through the establishment of the so-called "NSC Working Group on SVN/SEA," an interagency group chaired by William Bundy. Other members included Marshall Green, Michael Forrestal, and Robert Johnson from the State Department; John McNaughton and Vice Adm. Lloyd Mustin from Defense; Harold Ford and George Carver from the CIA. The group was directed to study "immediately and intensively" alternative courses of action in Southeast Asia, and to report to the NSC principals group, (Rusk, McNamara, McCone, General Wheeler, Ball, McGeorge Bundy), which would then make recommendations to the President.<sup>59</sup>

According to a memorandum by Chairman William Bundy on November 5, the President was ". . . clearly thinking in terms of maximum use of a Gulf of Tonkin rationale, either for an action that would show toughness and hold the line till we can decide the big issue, or as a basis for starting a clear course of action under the broad options."<sup>60</sup> Bundy went on to suggest how relations with Congress should be handled in conjunction with such moves:

Congress must be consulted before any major action, perhaps only by notification if we do a reprisal against another Bien Hoa, but preferably by careful talks with such key leaders as Mansfield, Dirksen, the Speaker, Albert, Halleck, Fulbright, Hickenlooper, Morgan, Mrs. [Frances P.] Bolton [R/Ohio], Rus-

<sup>56</sup>*Swords and Plowshares*, pp. 324-325.

<sup>57</sup>*Ibid.*

<sup>58</sup>Philip Geyelin, *Lyndon B. Johnson and the World* (New York: Praeger, 1966), p. 200. Geyelin asserts, however, (p. 202), ". . . a strong case can be made, retrospectively, that American inaction at Bien Hoa encouraged Communist miscalculation of U.S. interests, and indeed, convinced the Communists that they could step up infiltration and engage in acts of terrorism aimed deliberately at Americans in South Vietnam with impunity."

<sup>59</sup>PP, Gravel ed., vol. III, p. 210.

<sup>60</sup>"Conditions for Action and Key Actions Surrounding Any Decision," Nov. 5, 1964, *ibid.*, pp. 599-594.

sell, Saltonstall, [L. Mendell] Rivers [D/S.C.], (Vinson?) [sic], [Leslie C.] Arends [R/Ill.], Ford, etc. He probably should wait till his mind is moving clearly in one direction before such a consultation, which would point to some time next week. Query if it should be combined with other topics (budget?) [sic] to lessen the heat.

Bundy added:

We probably do not need additional Congressional authority, even if we decide on very strong action. A session of this rump Congress might well be the scene of a messy Republican effort.

During the remainder of November there occurred one of the most intensive and important periods of planning of the entire Vietnam war. In a very real sense it was the month that the United States Government made final plans to enter the war. Although the order to begin executing the decisive second phase of these plans was not issued until February 1965, agreement was reached in November 1964 on the course of action that should be taken, and the first phase of that plan was authorized to begin. Phase two of the plan was then put into effect when the President finally decided that he had no better alternative, and thus no choice.

This is the matter-of-fact description in the *Pentagon Papers*:<sup>61</sup>

In their Southeast Asia policy discussions of August-October 1964, Administration officials had accepted the view that overt military pressures against North Vietnam probably would be required. Barring some critical developments, however, it was generally conceded that these should not begin until after the new year. Preparations for applying such pressures were made in earnest during November.

The planning process in November was action-oriented—not whether to act, but what to do. There was almost no debate over U.S. diplomatic or strategic interests in Vietnam, or whether the U.S. could succeed where the French had failed. It was generally assumed that the U.S. was already committed to stopping the Communists, and that this required the use of U.S. forces. It was also agreed that to win in the south, it would be necessary to take the war to the north.

Two points are especially worth noting. First, it was generally agreed that U.S. objectives should be limited, and that force should be used as a political/diplomatic instrument, with a negotiated settlement rather than military “victory” as the goal. Second, it was generally thought that force would prevail, and that at some point the North Vietnamese would respond affirmatively to graduated pressure from the United States—the so-called “breaking point.”<sup>62</sup>

There was also a shift of emphasis on the one “essential condition” policymakers previously had said was necessary for “winning” in Vietnam, namely, a viable government in South Vietnam. During the November debate the consensus was that the Government of South Vietnam was critically weak, and that if it “collapsed” the United States would have to withdraw or fight the war

<sup>61</sup>*Ibid.*, pp. 206-207.

<sup>62</sup>See the seminal analysis by John E. Mueller, “The Search for the ‘Breaking Point’ in Vietnam,” *International Studies Quarterly* 24 (December 1980), pp. 497-518.

unilaterally. To forestall that eventuality, it was agreed that the U.S. should, in effect, assume primary responsibility for both the pacification program in the south and the war against the north. One result of this was the virtually complete assumption by the U.S. of direct responsibility for the new pacification program in seven provinces around Saigon (the Hop Tac program) that had been proposed by Lodge, approved at the Honolulu meeting in July, and implemented by Taylor and Westmoreland. As the *Pentagon Papers* notes:<sup>63</sup> “Ironically, Hop Tac is the Vietnamese word for ‘cooperation,’ which turned out to be just what Hop Tac lacked.”

There were some uncertainties and differences of opinion among policymakers, as William Bundy has explained:<sup>64</sup>

In case of failure in Vietnam would the US appear as a more reliable guarantor elsewhere for having tried? McNamara, McNaughton and I thought so, at least to the point where the effort in Vietnam appeared plainly hopeless. Rusk and Ball thought that if we failed, we would be worse off for having tried—and in the end drew diametrically opposite conclusions. Rusk came to be convinced that if we did do more, we simply could not afford to fail; Ball never wavered that we should not try to do more, beyond the most temporary effort to get a balance.

The central point of debate was how fast and how far to use force, and in keeping with good bureaucratic procedure this was reduced to a choice among three “Broad Options.” This, says George Ball, “. . . was what we referred to as ‘the Goldilocks principle.’” “Working groups of seasoned bureaucrats deliberately control the outcome of a study assignment by recommending three choices. . . . By including with their favored choice one ‘too soft’ and one ‘too hard,’ they assure that the powers deciding the issue will almost invariably opt for the one ‘just right.’”<sup>65</sup>

These options were framed initially by Bundy in an outline for the Working Group issued on November 3,<sup>66</sup> and after lengthy debate but few basic changes they were presented to the principals.<sup>67</sup> The first option, Option A, was to be a continuation of programs and policies then in effect. Option B would be fast, heavy military pressure against the North, called “fast/full Squeeze” by McNaughton. Option C would be a continuation of existing policies but with additional military pressure, called “Progressive squeeze-and-talk” by McNaughton.<sup>68</sup> Option B was also referred to as “in cold blood,” and Option C as “hot blood.”

In their final or nearly final form the options were stated by Bundy and McNaughton as follows:<sup>69</sup>

A. Option A would be to continue present policies indefinitely: Maximum assistance within South Vietnam, limited external actions in Laos and by the GVN covertly against North

<sup>63</sup>PP, Gravel ed, vol. II, p. 521.

<sup>64</sup>Bundy MS., ch. 18, p. 13.

<sup>65</sup>*The Past Has Another Pattern*, p. 388.

<sup>66</sup>PP, Gravel ed., vol. III, pp. 588-590.

<sup>67</sup>For a good analysis of the changes that were made, and the arguments pro and con, see *ibid.*, pp. 220-222.

<sup>68</sup>For McNaughton's phraseology, see his memo of Nov. 6, *ibid.*, p. 598-601.

<sup>69</sup>“Summary—Courses of Action in Southeast Asia,” as revised on Nov. 21 and 26, 1964, *ibid.*, pp. 659-660.

Vietnam, specific individual reprisal actions not only against such incidents as the Gulf of Tonkin attack but also against any recurrence of VC "spectaculars" such as Bien Hoa. Basic to this option is the continued rejection of negotiations.

B. Option B would add to present actions a systematic program of military pressures against the north, with increasing pressure actions to be continued at a fairly rapid pace and without interruption until we achieve our present stated objectives. The actions would mesh at some point with negotiation, but we would approach any discussions or negotiations with absolutely inflexible insistence on our present objectives.

C. Option C would add to present actions an orchestration of (1) communications with Hanoi and/or Peiping, and (2) additional graduated military moves against infiltration targets, first in Laos and then in the DRV, and then against other targets in North Vietnam. The military scenario should give the impression of a steady deliberate approach, and should be designed to give the US the option at any time to proceed or not, to escalate or not, and to quicken the pace or not. These decisions would be made from time to time in view of all relevant factors. The negotiating part of this course of action would have to be played largely by ear, but in essence we would be indicating from the outset a willingness to negotiate in an affirmative sense, accepting the possibility that we might not achieve our full objective.

Among those involved in the policy debate there was no apparent support for Option A alone. A combination of Option B and C was strongly supported by most of the military. A combination of Option A and C was favored by most civilian policymakers. The final consensus of both the Working Group and the principals, however, was for a combination of Option A and C, with agreement also that certain actions should be taken immediately prior to deciding the future course of action.

There were some significant differences in the positions taken by participants in the planning process. The intelligence panel of the Working Group, with some dissent from the Defense Intelligence Agency (DIA), took the position that "The basic elements of Communist strength in South Vietnam remain indigenous," but because the "VC insurrection" was managed from the north, the Communists in the south could be controlled by the North Vietnamese if the latter were to be so persuaded. In the opinion of the panel, "US ability to compel the DRV to end or reduce the VC insurrection rests essentially upon the effect of US sanctions on the will of the DRV leadership, and to a lesser extent upon the effect of sanctions on DRV capabilities." But the intelligence assessment report added that even though U.S. military actions against North Vietnam and Laos might buy time for strengthening South Vietnam, ". . . it would almost certainly not destroy DRV capabilities to continue, although at a lessened level."<sup>70</sup>

<sup>70</sup>These quotes are from the Bundy-McNaughton "Summary" memo, *ibid* pp. 656-657, based on a paper prepared by the intelligence panel, Nov. 24, 1964, "Section 1: Intelligence Assessment: The Situation in Vietnam," which is contained in *ibid.*, pp. 651-66.

The intelligence panel of the Working Group also pointed out that one of the basic problems confronting the U.S. was the assumption of the Communists that "the difficulties facing the US are so great that US will and ability to maintain resistance in that area [South Vietnam] can be gradually eroded—without running high risks that the US would wreak heavy destruction on the DRV or Communist China." Although the North Vietnamese were concerned about possible destruction, "they would probably be willing to suffer some damage in the country in the course of a test of wills with the US over the course of events in South Vietnam."<sup>71</sup>

Vice Adm. Lloyd Mustin, the JCS representative on the Working Group, thought that the intelligence assessment was too negative, although he admitted that it was difficult to estimate the level of force that might be required to persuade the North to cease and desist. "This is the reason," he said, "for designing a program of progressively increasing squeeze," but he added that "obviously that program may have to continue through substantial levels of military, industrial, and governmental destruction in the DRV."<sup>72</sup>

Mustin also disagreed strongly with an early State Department draft of the section of the report dealing with U.S. objectives. He said that the risks of war with China were overstated, as were the difficulties of prevailing over the North Vietnamese. There was no alternative, he said, to "our holding South Vietnam," and "a resolute course of action in lieu of half measures, resolutely carried out instead of dallying and delaying, offers the best hope of minimizing risks, costs, and losses in achieving our objectives." (emphasis in original) With respect to the effect of the "loss of South Vietnam" on other countries that look to the U.S. for help, he said:<sup>73</sup> "In JCS view, near-disastrously, or worse."

In general, the Joint Chiefs of Staff took the position that force had to be used, and used decisively, against North Vietnam and in Laos. They were leery of a land war, however, and advocated primary use of the Air Force and the Navy.<sup>74</sup>

Ambassador Taylor's own view was that "'too much' in this matter of coercing Hanoi may be as bad as 'too little.' At some point, we will need a relatively cooperative leadership in Hanoi willing to wind up the VC insurgency on terms satisfactory to us and our SVN allies. What we don't want is an expanded war in SEA and an unresolved guerrilla problem in SVN."<sup>75</sup>

At the meeting of the principals on November 27, Taylor, who had come to Washington to participate in the discussions of U.S. policy, gave an extensive report on the current situation in Viet-

<sup>71</sup>*Ibid.*, pp. 654-655.

<sup>72</sup>Comments on CIA-DIA-INR Panel Draft Section I—The Situation," Enclosure to Joint Staff Memo, Nov. 10, 1964, from the text in *ibid.*, pp. 619-621.

<sup>73</sup>Comments on Draft Section II—US Objectives and Stakes in South Vietnam and Southeast Asia," no date, the text of which is in *ibid.*, pp. 622-628.

<sup>74</sup>For an analysis of the JCS position see *ibid.*, pp. 231-234. On Nov. 14 the JCS again recommended additional covert activities by the South Vietnamese (CJCS Memorandum to McNamara, "Operation Plan 34A—Additional Actions," CM 258-64, Nov. 14, 1964), as well as airstrikes against North Vietnam and Laos in retaliation for Bien Hoa and to divert the Communists from U.S. preparations for widening the war. CJCS Memorandum to McNamara, "Courses of Action in Southeast Asia," Nov. 14, 1964, JCSM 955-64, the partial text of which is in *ibid.*, pp. 628-630. See also the CJCS memo to McNamara on Nov. 18, JCSM 267-64, with the same title as JCSM 955-64, which is in *ibid.*, pp. 639-640.

<sup>75</sup>Cable, Nov. 3, 1964, the text of which is in *ibid.*, pp. 590-591.

nam.<sup>76</sup> He said that it was “. . . impossible to foresee a stable and effective government under any name in anything like the near future,” and that “Without an effective central government with which to mesh the US effort, the latter is a spinning wheel unable to transmit impulsion to the machinery of the GVN.”<sup>77</sup> The U.S., he said, needed to “establish an adequate government” in South Vietnam, adding:

. . . it is hard to visualize our being willing to make added outlays of resources and to run increasing political risks without an allied government which, at least, can speak for and to its people, can maintain law and order in the principal cities, can provide local protection for the vital military bases and installation, can raise and support Armed Forces, and can gear its efforts to those of the United States. Anything less than this would hardly be a government at all, and under such circumstances, the United States Government might do better to carry forward the war on a purely unilateral basis.

Taylor favored immediate action to increase covert operations against North Vietnam, as well as counterinfiltration attacks in Laos and reprisal bombing for incidents such as Bien Hoa, all of which he said would improve morale in South Vietnam. He also favored the Working Group's proposed plan of graduated pressure on the north. He said that before making any final decisions on expanding the war, however, the U.S. would need to have a “heart-to-heart talk” with Vietnamese leaders. “We should make every effort to get them to ask our help in expanding the war. If they decline, we shall have to rethink the whole situation. If, as is likely, they urge us with enthusiasm, we should take advantage of the opportunity to nail down certain important points such as:<sup>78</sup>

a. The GVN undertakes (1) to maintain the strength of its military and police forces; (2) to replace incompetent military commanders and province chiefs and to leave the competent ones in place for an indefinite period; (3) to suppress disorders and demonstrations; (4) to establish effective resources control; and (5) to obtain US concurrence for all military operations outside of South Vietnam.

b. The US undertakes responsibility for the air and maritime defense of South Vietnam.

c. The GVN takes responsibility for the land defense of South Vietnam to include the protection of all US nationals and installations.

d. The GVN accepts the US statement (to be prepared) of war aims and circumstances for negotiations.

In conclusion, Taylor stated, the U.S. should adhere to three principles:<sup>79</sup>

a. Do not enter into negotiations until the DRV is hurting.

b. Never let the DRV gain a victory in South Vietnam without having paid a disproportionate price.

<sup>76</sup>See the text in *ibid.*, pp. 666-673.

<sup>77</sup>Note Taylor's assumption that the “impulsion” of the Vietnamese depended upon the U.S.

<sup>78</sup>*Ibid.*, p. 670.

<sup>79</sup>*Ibid.*, p. 672.

c. Keep the GVN in the forefront of the combat and the negotiations.

Taylor's preference for air power and his desire to avoid having the U.S. in the forefront of the combat were not shared by W. W. Rostow, who took the position that the U.S. needed to deploy ground forces to Vietnam, and possibly to Laos, in order to send the North Vietnamese a sufficiently strong “signal” of U.S. intentions, as well as to have ground forces in position to strengthen the American hand in any diplomatic negotiations that might subsequently occur. He also called for the “introduction into the Pacific Theater of massive forces to deal with any escalatory response, including forces evidently aimed at China as well as North Vietnam, should the Chinese Communists enter the game.” Rather than using as a basis for reprisal the narrow concept of attacks on U.S. units or bases or single incidents in South Vietnam, he also urged that North Vietnam be told that it would be “vulnerable to retaliatory attack for continued violation of the 1952-1962 Accords.” The U.S., Rostow said, would have to demonstrate that it was committed to restoring those accords. Otherwise the Communists would not be convinced, and would not back down.<sup>80</sup>

As November drew to a close, William Bundy sent the principals a memorandum on “Issues Raised by Papers on Southeast Asia” in which he listed a number of points that they might want to discuss.<sup>81</sup> With respect to immediate courses of action, he raised a question about the existing CINCPAC order for reprisal bombing. None of the options provided by the order called for less than 175 airstrikes, he pointed out, and questioned whether this large scale of operations “could throw off all calculations based on the theory of ‘squeeze’ under Option C and even under Option B.”

In choosing among the options, Bundy said, “All concede there is some chance that the GVN would come apart under any Option.” With respect to Option A, he asked whether ground forces could or should be deployed to Vietnam (all three options provided for U.S. ground forces), a move that he said the advocates of A had recommended as a “bargaining counter.”<sup>82</sup> His comment was that “most of us think that, apart from lacking any military necessity in the absence of attacks on the DRV, it would appear as a bluff and not help any negotiations.”

With respect to Option B, Bundy asked whether ground invasion of North Vietnam was a “military necessity or advantage that outweighs the increased risks the Chicoms would then come in force?” (He said the same question applied to Option C.) Also, there was the question with respect to B: “At what stage, if ever, might nuclear weapons be required, and on what scale? What would be the implications of such use?”

With respect to Option C, one very basic question, he said, was whether it could be “carried out in practice under the klieg lights of democracy, in view of its requirement that we maintain a credi-

<sup>80</sup>See *ibid.*, pp. 632-633, and 645-647 for the two Rostow memos, “Military Dispositions and Political Signals,” Nov. 16, 1964, to McNamara; and “Some Observations As We Come to the Crunch in Southeast Asia,” Nov. 23, 1964, to Rusk. For an analysis of Rostow's position see pp. 234-236.

<sup>81</sup>For the text, see *ibid.*, pp. 648-650; the papers of the Working Group are still classified.

<sup>82</sup>On this point, see *ibid.*, p. 226.

ble threat of major action while at the same time seeking to negotiate, even if quietly?" Bundy's comment was: "The parallel to Korea in 1951-53 is forbidding. Even advocates of C concede the difficulties."

In his memo Bundy listed "Congressional consultation" among "active issues applicable to any decision," but he did not elaborate. In his earlier memo on November 5 he had said that the Executive probably did not need any additional authority from Congress, even for "very strong action," and in a memo of November 8 analyzing Option C he said that "the present Congressional Resolution provides an adequate legal basis for initiating this course of action."<sup>83</sup> One of the papers prepared by the Working Group<sup>84</sup> had taken the position, however, that Option B might pose some problems with respect to Congress. It noted that U.S. military moves against North Vietnam should be consistent with the provisions of the Gulf of Tonkin Resolution, and that, in the case of Option B, "Characterizing the use of force in the context of this alternative as a legitimate exercise of the right of individual or collective self-defense in response to an 'armed attack' from the North would be a major public relations effort." Furthermore, in view of the military measures contemplated under Option B, "the constitutional prerogatives of the Congress, for example, to declare war [would] become pertinent."<sup>85</sup>

On November 24 the NSC principals met to review the material from the Working Group and to prepare recommendations for the President. According to the *Pentagon Papers* it was the consensus of the group that "South Vietnam could be made secure, provided the Saigon government could maintain itself." There was also a "clear consensus" (defined by the *Pentagon Papers* as "no more than a single dissenting opinion") on the following points:<sup>86</sup>

(2) That the situation in South Vietnam would deteriorate further under Option A even with reprisals, but that there was a "significant chance" that the actions proposed under B or C would result in an improved GVN performance and "make possible" an improved security situation (George Ball indicated doubt).

(3) That any negotiating outcome under Option A (with or without U.S. negotiating participation) probably would be clearly worse than under Option B or C.

(4) That it was doubtful (contrary to the view expressed in the Working Group papers) that Option B would have the best chance of achieving the full U.S. objectives (General Wheeler expressed agreement with the Working Group statement).

(5) That the requirement of Option C, "that we maintain a credible threat of major action while at the same time seeking to negotiate," could be carried out despite acknowledged public pressures.

<sup>83</sup>*Ibid.*, p. 611.

<sup>84</sup>"Alternate Forms of Negotiation—Alternative B," Nov. 6, 1964.

<sup>85</sup>*Ibid.*, p. 229.

<sup>86</sup>*Ibid.*, p. 237. Item (1) is not in the *Pentagon Papers* text.

(6) That the Administration could safely assume that South Vietnam could "only come apart for morale reasons, and not in a military sense," as a result of intensified VC effort.

(7) That early military actions against North Vietnam under Option C should be determined, but low in scale (General Wheeler disagreed, stating that our losses might be higher in the long run with such an approach).

(8) That the loss of South Vietnam would be more serious than stated in Section II of the Working Group's draft papers and that the Administration's assessment should be revised at least in the direction of the JCS viewpoint (George Ball argued against this judgment).

According to the *Pentagon Papers*,<sup>87</sup> ". . . there was no clear decision as to which option was favored by the principals. It seems likely that A was favored by Ball. Wheeler clearly favored B, and he may have had support from McCone, although this was far from clear . . . it is clear that C was favored by McNamara, McNaughton, Rusk, and the Bundy brothers. However, McGeorge Bundy and McNamara apparently favored a 'firm C,' whereas the other three wanted a more restrained, incremental approach."

Several other important issues were discussed at the November 24 meeting. At the beginning of the meeting, Rusk said that the public might be concerned about making a greater commitment to Vietnam in view of that country's internal instability. The feeling of the group appeared to be that even if the North Vietnamese were to withdraw their support for the Communists fighting in the south, the struggle in the south would be protracted. Ball asked if bombing the North would benefit the south, and McNamara replied that it would not unless it reduced infiltration. McNamara and Wheeler "conceded the propriety of this concern but warned that the situation in the GVN would only get worse if additional steps were not taken to reverse present trends," and McNamara posed a question that, according to the *Pentagon Papers*, "addressed the whole rationale for contemplated U.S. courses of action." He asked whether South Vietnam could be strengthened "in time to save it" if the North Vietnamese continued to provide support.

On the question of deploying U.S. ground forces, McNamara took the position that there was no military requirement for them, and that he would prefer massive use of airpower. McCone suggested that U.S. ground forces could help to stabilize South Vietnam, but McNamara disagreed. Rusk and McGeorge Bundy said such forces might have a useful "preemptive effect" as a signal of our determination. The use of U.S. troops as a "bargaining counter" for negotiations was not discussed, however.<sup>88</sup>

With respect to the possible use of nuclear weapons, McNamara said he could not imagine a case where they would be considered, but McGeorge Bundy said that there might be considerable pressure for their use in certain situations, both from military and political circles.

<sup>87</sup>*Ibid.*, p. 239.

<sup>88</sup>This, says the *Pentagon Papers*, *ibid.*, p. 239, was "one more indication of the Principals' reluctance to deal with the issue of negotiation."

On November 27, the principals met again, and heard the above-mentioned briefing from Taylor on the situation in Vietnam. Taylor offered a "Suggested Scenario for Controlled Escalation," the actions in which, the *Pentagon Papers* states, "were quite similar to an extended Option A or a low-order Option C without declared negotiating willingness."<sup>89</sup> In a discussion of Taylor's report, the question of "neutrality" was raised, and Taylor "noted that 'neutrality' as it existed in Saigon appeared to mean throwing the internal political situation open and thus inviting Communist participation." Ball commented that "neutrality in the sense of withdrawal of external assistance" was not possible until the Communists were defeated and neutrality could be maintained.

In response to a remark by Taylor that the U.S. might have to wage war unilaterally if the Government of South Vietnam collapsed, Rusk said he "couldn't see a unilateral war," and Taylor replied that he meant only "punitive actions." McNamara agreed with Rusk, but said the U.S. would need to try Option C or A if South Vietnam continued to weaken. "The consensus was that it was hard to visualize continuing in these circumstances [if the GVN collapsed or told the U.S. to get out], but that the choice must certainly be avoided if at all possible."

The options were discussed, and McNamara said that the U.S. would be justified in taking Option C even if the political situation did not improve. Taylor and others felt that stronger actions would have a beneficial effect in South Vietnam, but might not be sufficient to improve the situation. McNamara agreed, but argued that Option C might buy time, even years. Taylor recommended that over the next two months the U.S. adopt a combination of Option A and the first stages of Option C, but added that the situation in Vietnam was so serious, and the likelihood of improvement in the government so doubtful, that the U.S. should "move into C right away."

The group asked William Bundy to draft a more precise plan for immediate actions that could be taken during a 30-day period in advance of a decision to move into the full Option C.<sup>90</sup>

On November 29, the principals met again. As requested, William Bundy suggested steps that should be taken whether or not Option C was approved. In the cover memo for this proposal, however, he said "Frankly, the Working Group inclines more and more to the view that at least a contingent decision to go on [with C] is now required."<sup>91</sup>

The principals discussed specific steps that should be recommended to the President. These included a Presidential statement supported by evidence on infiltration that would also be presented to Congress and leaders of other countries. The question of resuming DE SOTO patrols was discussed. Taylor, McNamara and McGeorge Bundy were opposed, and General Wheeler was in favor. It was agreed that they would not be resumed during the initial 30-

day period. William Bundy was then asked to draft a NSAM outlining the plan to be recommended to the President.

On November 30 the principals met to discuss Bundy's new draft NSAM.<sup>92</sup> The draft stipulated that the U.S. would join with South Vietnam and Laos in a program "to help GVN morale and to increase the costs and strain on Hanoi, foreshadowing still greater pressures to come." During the first 30 days, there would be intensified military activity, as well as covert action. After that time, the paper called for two phases of graduated military pressure on North Vietnam, the first of which would be specific, tit-for-tat reprisal, and the second would be systematic air attacks, combined with other forms of generalized pressure.

William Bundy had also drafted the text of a note for Taylor to give to the Government of South Vietnam explaining the U.S. position. Among other things, the statement emphasized the necessity of having at least minimal political stability in South Vietnam before the U.S. and South Vietnam could begin the second phase of military pressure on North Vietnam.

The note expressed the hope, however, that the necessary political stability could be achieved, and toward this end "It is hoped that this phase [I] will prove to be merely preliminary to direct military pressure on the DRV after the GVN has shown itself firmly in control."<sup>93</sup>

At the meeting of principals to discuss the draft NSAM, it was apparent that McGeorge Bundy, for one, had conferred with the President, and on his advice the group dropped the idea of a Presidential speech. The principals also decided to recommend to the President a combination of Option A and the lowest order of C, which, as the *Pentagon Papers* notes,<sup>94</sup> was a "substantial deviation" from the position of the Working Group that Option A would not be effective. All of these changes appear to have been made, as the *Pentagon Papers* suggests, to avoid public commitments by the President. The group approved, however, the two-phase program of military pressure on North Vietnam.

On December 1, the principals met with the President to present their recommendations. Ambassador Taylor and Vice-President-Elect Humphrey also attended the meeting. The Bundy draft NSAM was discussed, and the two-phase program of military pressure, which was, in effect the first two phases of OPLAN 37 prepared in May 1964 in response to NSAM 288, was approved by the President.<sup>95</sup> He authorized the beginning of the first phase,<sup>96</sup> to consist primarily of additional 34-A raids, and armed reconnaissance operations in Laos (BARREL ROLL) by which U.S. planes would conduct bombing raids in the corridor areas.<sup>97</sup>

<sup>89</sup>For the text see *ibid.*, pp. 678-683. Note that there were tabs, which are still classified.

<sup>90</sup>*Ibid.*, p. 680.

<sup>91</sup>*Ibid.*, p. 246.

<sup>92</sup>*Ibid.*, pp. 248-251, and Westmoreland, *A Soldier Reports*, p. 113.

<sup>93</sup>No NSAM was issued, however.

<sup>94</sup>At a meeting of the principals on Dec. 12 to discuss BARREL ROLL it was agreed "that there would be no public statements about armed reconnaissance operations in Laos unless a plane were lost. In such an event, . . . the Government should continue to insist that we were merely escorting reconnaissance flights as requested by the Laotian government." This was done at the insistence of Souvanna Phouma, who agreed to the new plan but did not want it publicized. *PP*, Gravel ed., vol. III, pp. 253, 254.

<sup>89</sup>*Ibid.*, p. 241. For the text of the scenario, see pp. 672-673.

<sup>90</sup>"Memorandum of Meeting on Southeast Asia," William P. Bundy, Nov. 27, 1964, the text of which is in *ibid.*, pp. 674-676.

<sup>91</sup>For the text of both the memo and the proposed plan, see *ibid.*, pp. 676-677.

According to notes of the meeting kept by John McNaughton, the only record which is currently available.<sup>98</sup> Taylor told the group that pacification was bogging down, the government was more unstable, and there was greater infiltration from the north. The President then remarked that a stable government in South Vietnam was "most essential." "They do it or else," he said. "No point hitting North if South not together. . . . Why not say 'This is it'? Not send Johnson City boy out to die if they [are] acting as they are."

The President added, "Day of reckoning coming. Want to be sure we've done everything we can. . . . Before Wheeler saddles up [and U.S. Army goes in] try everything. . . . If need be, create a new Diem, so when tell Wheeler to slap we can take slap back." But he did not appear to be optimistic. He asked McNamara if he agreed "that it's downhill in SVN no matter what we do in country." McNamara agreed. Before taking military action, however, the President said he wanted to give Taylor "one last chance," but that if the response was "more of the same, then I'll be talking to you General [Wheeler]."

As the meeting ended, the President told his advisers that they should inform a few Members of Congress. "Give good and bad; ask for suggestions." Rusk, and presumably also McNamara, was to meet with Fulbright, Hickenlooper, Russell and Saltonstall.<sup>99</sup> It should be a small meeting, the President said, to avoid any publicity. McNamara and Rusk should decide which members of the House to see. "[George] Mahon [D/Tex.] if here. [Gerald] Ford maybe." (Congress was not in session at the time.) Taylor should "touch base with the Hill" before returning to Saigon.

After the President's approval of the new plan by which to bring additional pressure on North Vietnam, culminating, if necessary, in a large-scale air war, and even an eventual ground war, the public itself was told only that according to the Gulf of Tonkin Resolution the U.S. was reaffirming its "policy of providing all possible and useful assistance," and that the President had told Taylor to "consult urgently with the South Vietnamese Government as to measures that should be taken to improve the situation in all its aspects."<sup>100</sup>

As a result of the President's suggestion that Taylor touch base with Congress, there was an executive session of the Senate Foreign Relations Committee on December 3, 1964, at which Taylor testified, which gave members of the committee the opportunity of telling him (and through him, the President and his other advisers) what they felt.<sup>101</sup> It is important to understand, however, that al-

<sup>98</sup> McNaughton's notes are in the Johnson Library, NSF Meeting Notes File. The account in the *Pentagon Papers*, Gravel ed., vol. III, pp. 248-251, appears to be based on McNaughton's notes.

<sup>99</sup> On Nov. 26, 1964, Russell commented on his return to Washington from visiting the President in Texas, "I would want to explore every avenue before extending the war. We either have to get out or take some action to help the Vietnamese. They won't help themselves. We made a big mistake in going there, but I can't figure out any way to get out without scaring the rest of the world." *New York Times*, Nov. 27, 1964. (Congress, it should be noted, had adjourned for the year in early October.)

<sup>100</sup> *New York Times*, Dec. 2, 1964.

<sup>101</sup> U.S. Congress, Senate, Committee on Foreign Relations, unpublished executive session transcript, Dec. 3, 1964.

though attentive Members of Congress knew that plans for further U.S. action were being made, except for those few, like Russell, who may have been told by the President, or contacted by Rusk or McNamara, they did not know what had been decided. Nor did members of the Foreign Relations Committee learn about these plans and decisions from Taylor, although from several of his comments they could have deduced that a plan for U.S. military pressure against North Vietnam had been developed and would be put into effect at the propitious time.

Taylor told the committee that most U.S. policymakers felt that such action against the north would have to be taken at some point. When asked whether there was any disagreement with this position, he said "I know of none in the councils I have attended." His own opinion continued to be that the U.S. had to stay and to win.

According to Taylor, such action should not be taken, however, when the South Vietnamese Government was as weak as it was at that time. Fulbright said he was willing to try working with the present government, but if it fell he would not support an attack on North Vietnam by the United States just because the South Vietnamese Government had fallen. Taylor, who was critical of "these vacillating, unpatriotic, unreliable politicians in Saigon," replied that the United States could accept a "military dictatorship" at that point, which would provide the political stability in Vietnam that the U.S. needed as a precondition for attacking the north.

Fulbright agreed that the problem was the lack of a workable, reliable government in the south which was supported by the people, and said that unless such a government existed, "What are you fighting for? We don't want the country." He, as well as Church, expressed concern over reports that the U.S. would attack the North. ". . . if you want to go to war, I don't approve of it. I don't give a damn what the provocation is. I am not going to vote to send a hundred thousand men, or it would probably be 300,000 or 400,000. The French had 500,000." Taylor replied that the U.S. could attack by air, and punish the North Vietnamese, and "let it go at that." Fulbright was skeptical. "Well, if it doesn't succeed—America never fails—once it engages in that they will just go all out."

Neither Fulbright nor the Foreign Relations Committee, however, took any further action at that point. Only Mansfield appears to have followed-up. In a memorandum to the President on December 9, 1964, he said, among other things:<sup>102</sup>

We remain on a course in Viet Nam which takes us further and further out on the sagging limb. . . .

At this point, . . . the Communists are not likely to be in the mood for a bonafide peaceful settlement, even if the where-withal for such a settlement were to exist on our side. It would appear that the government in Saigon, at this point, is not adequate even for negotiating a bonafide settlement, let alone for going ahead into North Viet Nam. . . . we are now in the

<sup>102</sup> Johnson Library, NSF Name File, Mansfield, reprinted in Gareth Porter (ed.), *Vietnam: A History in Documents*, 2 vols. (New York: New American Library, 1981), vol. II, pp. 333-335.

process of putting together makeshift regimes in much the same way that the French were compelled to operate in 1952-1954.

If developments continue in the present pattern we are sooner or later going to have to face up to the fact that the preponderant responsibility for what transpires in South Viet Nam really rests with us even as it once had with the French. We will find ourselves saddled in South Viet Nam, no matter what we will, with a situation that is a cross between the present South Korean quasi-dependency and the pre-independence Philippine colony and at the 1964 level of cost in lives and resources.

This grim prospect, moreover, presupposes no major extension of the war beyond South Viet Nam. But it would still be the best that we would have to look forward to for the next decade or more unless there is a significant improvement in the situation, an improvement which is not and has not even been in sight for a year or more.

If a significant extension of the conflict beyond South Viet Nam should occur then the prospects are appalling. Even short of nuclear war, an extension of the war may well saddle us with enormous burdens and costs in Cambodia, Laos and elsewhere in Asia, along with those in Viet Nam.

Mansfield made several suggestions for avoiding such an outcome. First, the U.S. should not undertake military action beyond the borders of South Vietnam. U.S. forces should also remain clear of the Cambodian border, and support should be given to nationalist forces in Cambodia (Sihanouk) and in Laos (Souvanna Phouma) in the effort being made to maintain the independence and stability of those countries.

He made this recommendation for dealing with the Government of Vietnam:

Begin to think and act in a political sense in South Viet Nam in terms of assisting in evolving a government which can speak with some native validity and authority for that section should the time come with negotiation of a bonafide peaceful settlement, perhaps on the basis of confederation, is possible. To be effective this late in the game, such a government, it would seem would have to begin now to speak in terms of eventual *peaceful* [emphasis in original] unification of all Viet Nam rather than in terms of either liberation of the north or establishing an isolated independence in South Viet Nam. The first is illusory without total United States involvement. The second, an independent and isolated South Viet Nam is also illusory in present circumstances since it would require such a vast United States involvement as to negate the meaning of independence.

The very stress on peaceful unification of all Viet Nam by a South Vietnamese government in Saigon may be helpful in bringing about an increase in that government's acceptance in South Viet Nam. And such an increase would have to develop before it could speak with the authority which bonafide negotiations would require.

Mansfield concluded by saying, "If some such course as the above is not practical we had better begin now to face up to the likelihood of years and years of involvement and a vast increase in the commitment, and this should be spelled out in no uncertain terms to the people of the nation."

On December 17, the President replied to Mansfield in a letter drafted by McGeorge Bundy: "I think we have the same basic view of this problem, and the same sense of its difficulties. The one suggestion in your memorandum which I myself would take direct issue with is that we are 'overcommitted' there. Given the size of the stake, it seems to me that we are doing only what we have to do."<sup>103</sup> In transmitting to Johnson the draft reply to Mansfield, McGeorge Bundy said that the letter was "designed to treat him gently. We could get into a stronger debate, but I doubt if it is worth it."<sup>104</sup>

#### *Implementing the December 1 Decision*

On December 3, Taylor met with the President, joined only by McGeorge Bundy, to go over final plans for presenting the U.S. position to the South Vietnamese, and based on the President's instructions Taylor told the Vietnamese upon his return to Saigon that the ". . . unsatisfactory progress being made in the Pacification Program was the result of two primary causes from which many secondary causes stem. The primary cause has been the governmental instability in Saigon, and the second the continued reinforcement and direction of the Viet Cong by the Government of North Vietnam."<sup>105</sup> Although both factors had to be dealt with, "First and above all, there must be a stable, effective Vietnamese Government able to conduct a successful campaign against the Viet Cong even if the aid from North Vietnam for the Viet Cong should end." This point was restated in order to emphasize the fact that an effective South Vietnamese Government was a prerequisite for U.S. help in widening the war:

Thus, since action against North Vietnam would only be contributory and not central to winning the war against the Viet Cong, it would not be prudent to incur the risks which are inherent in an expansion of hostilities until there were a government in Saigon capable of handling the serious problems inevitably involved in such an expansion, and capable of promptly and fully exploiting the favorable effects which may be anticipated if we are successful in terminating the support and direction of the Viet Cong by North Vietnam.

The Vietnamese were also told by Taylor, in a statement which again reflected the tendency to apply American values and ideas, what the U.S. expected of them:

. . . In the view of the United States, there is a certain minimum condition to be brought about in South Vietnam before new measures against North Vietnam would be either justified or practicable. At the minimum, the Government in Saigon

<sup>103</sup>Johnson Library, NSF Name File, Mansfield.

<sup>104</sup>Johnson Library, NSF Aides File, McGeorge Bundy Memos to the President.

<sup>105</sup>These quotes are from the paper, "Actions Designed to Strengthen the Government of Vietnam," which Taylor presented to the Vietnamese, *PP*, Gravel ed., vol. II, pp. 343-345.

should be able to speak for and to its people who will need special guidance and leadership throughout the coming critical period. The Government should be capable of maintaining law and order in the principal centers of population, assuring their effective execution by military and police forces completely responsive to its authority. The Government must have at its disposal means to cope promptly and effectively with enemy reactions which must be expected to result from any change in the pattern of our operations.

To bring about this condition will require a demonstration of far greater national unity against the Communist enemy at this critical time than exists at present. It is a matter of greatest difficulty for the United States Government to require great sacrifices by American citizens on behalf of South Vietnam when reports from Saigon repeatedly give evidence of heedless self-interest and shortsightedness among so many major political groups.

Better performance in the prosecution of the war against the Viet Cong needs to be accompanied by actions to convince the people of the interest of their government in their well-being. Better performance in itself is perhaps the most convincing evidence but can be supplemented by such actions as frequent visits by officials and ranking military officers to the provinces for personal orientation and "trouble shooting." The available information media offer a channel of communication with the people which could be strengthened and more efficiently employed. The physical appearance of the cities, particularly of Saigon, shows a let-down in civic pride which, if corrected, would convey a message of governmental effectiveness to their inhabitants. Similarly, in the country an expanded rural development program could carry the government's presence into every reasonably secure village and hamlet.

If governmental performance and popular appeal are significantly improved, there will be little difficulty in establishing confidence in the government. However, this confidence should be expressed, not merely implied. It is particularly important that the military leaders continue to express public confidence in the government and the firm intention to uphold it. While giving an impression of submitting to pressure, the government might explore honorable ways of conciliating its most important opponents among the minority groups. The United States Government is prepared to help by oral statements of support and by further assistance to show our faith in the future of South Vietnam.

The U.S., said Taylor, wanted improvement in eight specific areas:

1. and 2. Increasing RVNAF, paramilitary, and police to and above existing authorized strengths.
3. Better performance by civilian and military officials.
4. Speeding up budgetary procedures and spending in the provinces.
5. Strengthening the province chiefs.
6. Strengthening police powers.
7. More vigor in Hop Tac.

8. After a delay, "review cases of political prisoners from previous regimes."

For its part, the U.S., Taylor said, was willing to launch a two-phase military program against North Vietnam:

... While the Government of Vietnam is making progress toward achieving the goals set forth above, the United States Government would be willing to strike harder at infiltration routes in Laos and at sea. With respect to Laos, the United States Government is prepared, in conjunction with the Royal Laos Government, to add United States air power as needed to restrict the use of Laotian territory as a route of infiltration into South Vietnam. With respect to the sea, the United States Government would favor an intensification of those covert maritime operations which have proved their usefulness in harassing the enemy. The United States would regard the combination of these operations in Laos and at sea as constituting Phase I of a measured increase of military pressures directed toward reducing infiltration and warning the Government of North Vietnam of the risks it is running.

... If the Government of Vietnam is able to demonstrate its effectiveness and capability for achieving the minimum conditions set forth above, the United States Government is prepared to consider a program of direct military pressure on North Vietnam as Phase II. . . .

As contemplated by the United States Government, Phase II would, in general terms, constitute a series of air attacks on North Vietnam progressively mounting in scope and intensity for the purpose of convincing the leaders of North Vietnam that it is to their interest to cease aid to the Viet Cong and respect the independence and security of South Vietnam . . .

Beginning in late December 1964 and continuing until the end of February 1965, there was a period of intense political turmoil in South Vietnam. On December 20, following several days of political unrest among Buddhists and students, General Khanh, under pressure from a group of young Vietnamese generals, including Nguyen Cao Ky and Nguyen Van Thieu, each of whom was later premier, announced the formation of an Armed Forces Council as the new governing body for South Vietnam. Taylor objected strenuously to the action of the generals, and with the support of Deputy Ambassador U. Alexis Johnson he called the "Young Turks" together for a meeting. As reported to Washington by the U.S. mission, this is how the meeting opened:<sup>106</sup>

... Ambassador Taylor. Do all of you understand English? (Vietnamese officers indicated they did, although the understanding of General [Nguyen Chanh] Thi was known to be weak.) I told you all clearly at General Westmoreland's dinner we Americans were tired of coups. Apparently I wasted my words. Maybe this is because something is wrong with my French because you evidently didn't understand. I made it

<sup>106</sup>*Ibid.*, p. 346. For Taylor's version see *Swords and Plowshares*, pp. 330-331. For a detailed description of these and other political developments in South Vietnam, which have been greatly oversimplified here, see Shaplen, *The Lost Revolution*, and the extensive reporting of the *New York Times*.

clear that all the military plans which I know you would like to carry out are dependent on governmental stability. Now you have made a real mess. We cannot carry you forever if you do things like this.

On December 21, Taylor asked Khanh to resign and leave the country. On December 23, the Young Turks criticized Taylor, and asked for his recall as Ambassador. Finally, in early January the U.S. accepted some rearrangements in the Vietnamese Government, including the membership of Young Turks in the Cabinet, and the Vietnamese made their peace with the U.S. Political turmoil continued, however, and it was June of 1965 before some apparent stability was reached when Thieu and Ky assumed leadership of the government.

During December 1964, Phase I of the U.S. plan of graduated pressure on North Vietnam got underway with the opening on December 14 of U.S. armed reconnaissance bombing along infiltration routes in Laos (BARREL ROLL).<sup>107</sup> According to the *Pentagon Papers*, however,<sup>108</sup> "This and other signs of increased American commitment against North Vietnam's involvement in the South showed no results in terms of increasing GVN stability."

On December 24, 1964, a U.S. officers' billet in Saigon was bombed by the Communists. Two Americans were killed and 38 Americans and 13 Vietnamese injured. There were strong recommendations for U.S. reprisal airstrikes on North Vietnam from Taylor and Westmoreland, CINCPAC, and the JCS, but the President, joined by Rusk and McNamara, rejected the idea.<sup>109</sup> In a personal NODIS cable to Taylor on December 30, 1964, Johnson explained why:<sup>110</sup> First, he said, there was the problem of the "political turmoil" and "general confusion" in South Vietnam, which made it difficult for the U.S. to know what was happening, including who was responsible for such an attack on a U.S. position. (He also criticized the lack of adequate security at U.S. installations.) In this regard, Johnson told Taylor that he continued to be worried by the lack of progress "... in communicating sensitively and per-

<sup>107</sup>For a description of this and other activities in Phase I, see *PP*, Gravel ed., vol. III, pp. 251 ff. There were NSC meetings on Dec. 12 and 19, but there is almost no information or documentation on these in the *Pentagon Papers*, and the notes or summaries of the meetings are still classified.

<sup>108</sup>*Ibid.*, p. 92.

<sup>109</sup>*Ibid.* Rusk appears to have been particularly skeptical about bombing the north or widening the war, even though he was a strong supporter of the U.S. role in South Vietnam. This is one description of his position:

In those days, Rusk was arguing with what appeared to be great personal conviction that it would serve no useful purpose to bomb North Vietnam or to send in American fighting men. In his "bottle club" sessions, with newsmen on the eighth floor of the State Department, Rusk would say that white men should not fight an Asian nation's war; that large numbers of U.S. troops would only lead to future and serious hostility with Vietnamese. On the question of bombing, Rusk always would say "the war must be won in the South." When pressed to be more specific, he would beg the question, for, as he would remark, the President had said he was not "going North" but was undecided about what action he might take to counter specific situations.

His public appearances backed up his private remarks. On Jan. 3, 1965, for instance, when interviewed on a television program, he said that an expansion of the Vietnam war would lead to a multiplication of casualties and subject the people to devastation.

Such remarks contributed to what came to be known in Washington as a "credibility gap" between the Government and its citizens. No one spelled out the frustrating prospects of Vietnam better than Rusk himself at that time. To expand the war, he said in the same January television show, would lead down the trail "the end of which no one in any country could possibly see with assurance." Johnson and Gwertzman, *Fulbright, the Dissenter*, p. 201.

<sup>110</sup>These excerpts are from the President's cable, which is in the Johnson Library, NSC History File, Deployment of Forces.

suasively with the various groups in South Vietnam. . . . In particular, I wonder whether we are making full use of the kind of Americans who have shown a knack for this kind of communication in the past . . . even if they are not always the easiest men to handle in a country team. To put it another way, I continue to believe that we should have the most sensitive, the most persistent, and attentive Americans that we can find in touch with Vietnamese of every kind and quality, and reinforced by Englishmen, and Buddhists, and labor leaders, and agricultural experts, and other free men of every kind and type, who may have skills to contribute in a contest on all fronts." Johnson was apparently referring to Lansdale, and to Taylor's long-standing disinclination to include Lansdale on the U.S. team in Saigon.

Johnson also questioned the validity of large-scale bombing of the north, preferring instead the use of more U.S. forces in an anti-guerrilla capacity:

Everytime I get a military recommendation it seems to me that it calls for large-scale bombing: I have never felt that this war will be won from the air, and it seems to me that what is much more needed and would be more effective is a larger and stronger use of Rangers and Special Forces and Marines, or other appropriate military strength on the ground and on the scene. I am ready to look with great favor on that kind of increased American effort, directed at the guerrillas and aimed to stiffen the aggressiveness of Vietnamese military units up and down the line. Any recommendation that you or General Westmoreland make in this sense will have immediate attention from me, although I know that it may involve the acceptance of larger American sacrifices. We have been building our strength to fight this kind of war ever since 1961, and I myself am ready to substantially increase the number of Americans in Vietnam if it is necessary to provide this kind of fighting force against the Viet Cong.

"I recognized this suggestion," Taylor said in his memoirs, "as a reflection of the President's conviction, which I shared, of the importance of the ground operations in South Vietnam over anything which could be accomplished by air power in North Vietnam. However, I felt that there was an important secondary role for the air campaign in supplementing and advancing our efforts in the South."<sup>111</sup>

According to Westmoreland, Taylor was "stung by the President's implied criticism and disturbed that he saw introducing ground troops as a less serious step than bombing the North. . . ."<sup>112</sup>

#### *What is the Alternative?*

By the end of 1964, the Vietnam war was on the verge of being "Americanized." What was the alternative? Some supported neutralization, although there were few U.S. policymakers who thought it was a realistic possibility. Withdrawal was even less ac-

<sup>111</sup>*Swords and Plowshares*, p. 333.

<sup>112</sup>*A Soldier Reports*, p. 114.

ceptable. Taylor said,<sup>113</sup> “. . . it never occurred to me to recommend withdrawal.” “First, there were many untried military and other possibilities for improving the situation.” In addition, “. . . we had every reason to keep up the American will to persist in Saigon following the expression of national determination after the Tonkin Gulf affair. . . . Had not the Congress declared with only two dissenting votes that ‘The U.S. regards as vital to its national interest and to world peace the maintenance of international peace and security in Southeast Asia’? With this authoritative confirmation of the essentiality of our mission, no senior official could in conscience harbor thoughts of retreat.” The complicity of the U.S. in Diem’s demise also increased U.S. responsibility for the Vietnamese, he said.<sup>114</sup>

On the other hand, there was considerable doubt among U.S. officials about the outcome of the struggle in Vietnam, and a feeling on the part of many that it would, as Paul Kattenburg had predicted, poison anyone who touched it. No one was more aware of this than Lyndon Johnson. In December 1964, Johnson met privately for three hours with a group of three reporters, one of whom gave this account of the President’s perception of his own dilemma:<sup>115</sup>

. . . he appeared to know that Vietnam was a trap, and that he was probably doomed to failure no matter what policy he adopted. He likened his situation to standing on a copy of a newspaper in the middle of the Atlantic Ocean. “If I go this way,” he said, tilting his hand to the right, “I’ll topple over, and if I go this way”—he tilted his hand to the left—“I’ll topple over, and if I stay where I am, the paper will be soaked up and I’ll sink slowly to the bottom of the sea.” As he said this, he lowered his hand slowly toward the floor.

Amid the increasing pressure for U.S. military action, those in the executive branch, primarily in the CIA, who continued to advocate a “political” solution rather than military escalation, found little support. One of them was William Colby:<sup>116</sup>

After one of the many meetings I attended at the White House, I stopped McGeorge Bundy outside the Situation Room and told him plaintively that we must get our attention and our programs back to the real contest at the village level, and build up from there instead of endlessly debating where to bomb North Vietnam and what new projects to impose on the overloaded Saigon government. He replied that I might be right in my approach, but that he thought the structure of the American government would never permit it to be applied. And his appreciation of the role of the Pentagon’s and the rest

<sup>113</sup>*Swords and Plowshares*, pp. 327-328.

<sup>114</sup>Another opponent of both neutralization and withdrawal was David Halberstam, who wrote in late 1964 that “Neutralization would only delay the inevitable momentarily,” and that “we would dishonor ourselves and our allies by pulling out. . . .” He was skeptical about the use of U.S. troops, but at the same time he considered Vietnam to be “perhaps one of only five or six nations in the world that is truly vital to U.S. interests,” and “may be worth a larger commitment on our part. . . .” “The basic alternatives for Vietnam,” he said, “are the same now as they were in 1961; they are not different, no more palatable, no less of a nightmare.” Halberstam, *The Making of a Quagmire*, pp. 315 ff.

<sup>115</sup>Wise, *The Politics of Lying*, p. 295.

<sup>116</sup>*Honorable Men*, p. 225.

of Washington’s juggernaut staff machinery was correct at the time.

In an article on “Viet Nam: Do We Understand Revolution?” which appeared in *Foreign Affairs* for October 1964, General Lansdale discussed publicly the position he and others had been advocating.<sup>117</sup> Vietnam, he said, was a “people’s war,” the fighting of which would affect future “people’s wars” in other parts of the world. The “harsh fact,” he continued, was that “despite the use of overwhelming amounts” of U.S. aid and assistance, the Communists were stronger than ever. This had happened because “. . . the Communists have let loose a revolutionary idea in Viet Nam . . . [which] will not die by being ignored, bombed or smothered by us. Ideas do not die in such ways.” The answer, he said, was “to oppose the Communist idea with a better idea and to do so on the battleground itself, in a way that would permit the people, who are the main feature of that battleground, to make their own choice.”

This was Lansdale’s description of that “better idea”:

A political base would be established. The first step would be to state political goals, founded on principles cherished by free men, which the Vietnamese share; the second would be an aggressive commitment of organizations and resources to start the Vietnamese moving realistically toward those political goals. In essence, this is revolutionary warfare, the spirit of the British Magna Carta, the French “Liberté, Egalité, Fraternité” and our own Declaration of Independence. . . .

Lansdale referred to the counter guerrilla wars in the Philippines and Malaya, and suggested this formula for success in “people’s wars”:

When the right cause is identified and used correctly, anti-Communist fight becomes a pro-people fight, with the overwhelming majority of the people then starting to help what they recognize to be their own side, and the struggle is brought to a climax. When the pro-people fight is continued sincerely by its leaders, the Communist insurgency is destroyed.

Lansdale recognized that assisting with the internal political problems of another country required “great wisdom and sensitivity,” but his position was the U.S. had done it before and could do it again.

He then turned to the question of developing political goals with public appeal. “The great cause in Viet Nam which last united the overwhelming majority of Vietnamese, both North and South was “independence.” But Ho Chi Minh, Vietnam’s “Benedict Arnold,” had substituted Communism for nationalism. “At this point in time and experience,” he said, “perhaps the most valuable and realistic gift that Americans can give Viet Nam is to concentrate above everything else on helping the Vietnamese leadership create the conditions which will encourage the discovery and most rapid possible development of a patriotic cause so genuine that the Vietnamese willingly will pledge to it “their lives, their fortunes, their sacred honor.”

<sup>117</sup>Maj. Gen. Edward G. Lansdale, “Viet Nam: Do We Understand Revolution,” *Foreign Affairs* (October 1964), pp. 75-86.

Lansdale concluded his article with several proposals, primarily having to do with the election of a government to replace the military junta ruling the country, the reestablishment of a national legislative assembly (which the junta had abolished), and the use of U.S. economic aid to support political development at the local level, as well as to increase agricultural production (which he stressed would be very beneficial politically). He stressed that military activities should be directed at protecting and helping the people, and supporting the recommended political activities.

On November 25, Rufus Phillips, one of Lansdale's 1954 team, who had returned to Vietnam in 1962 as Assistant Director of the Rural Development Office, restated his and Lansdale's position in a paper that was circulated among some of the policymakers involved in the November discussions of U.S. policy. This was his summary:<sup>118</sup>

The United States must soon adopt one, or a combination, of four approaches to the problem in Vietnam:

1. Punitive/Interdictory bombardment of installations and activities in North Vietnam/Laos. This would not seriously adversely affect the Viet Cong/DRV effort; it would solidify opinion against us; its failure would seriously lower morale in Vietnam and the U.S., and lead either to the commitment of ground forces or negotiated withdrawal.

2. Ground force intervention to:

- a. Establish a cordon sanitaire; using U.S., and SEATO conventional forces;

- b. Harass and throw off-balance the Viet Cong, by the employment of a limited number of international volunteers—footborne Flying Tigers; or

- c. Assault the North by surprise, employing airborne forces, principally U.S., and a major psychological—"liberation"—effort; and follow this up with sound political-economic counter-insurgency efforts. The first of these would be as futile as bombardment, and would entail an U.S. assumption of command in Vietnam, a sure way to lose that war. The second would be dramatic and useful, but would be endangered by tacit and explicit internal opposition. The third would be effective, given greater ability, understanding and determination than we have yet exhibited in our efforts in Vietnam.

3. Negotiated withdrawal: This would be recognized by our enemies and friends alike as total, ignominious, political and military defeat; a cowardly betrayal of our allies; and an abandonment of any American claim to honor or morality.

4. A positive, politically-oriented, integrated program. Essentially an expression of belief that the traditional "American way" can triumph, this would be a rejuvenat-

<sup>118</sup>Kennedy Library, Thomson Papers, from Phillips' one-page summary which accompanied his 11-page paper, "United States Policy Options in Vietnam," Nov. 25, 1964. In the same location is a similar 22-page paper by Lansdale, "Concept for Victory in Vietnam," June 8, 1964.

ed, redirected effort to establish stable, popular, effective government on a sound political and economic base. Success is assured, if the effort is guided by advisors with successful experience in such wars who are backed by the very top; failure, no worse and less costly than the other positive courses would entail, is probable if the effort does not have such guidance and backing.

5. Only the last course of action offers real hope of an outcome consonant with United State national objectives, principles, and honor.

#### *Recommendations for Stronger Action*

On January 6, 1965, Ambassador Taylor cabled a long reply (in which his deputy, U. Alexis Johnson, and Westmoreland concurred, to the President's cable of December 30.<sup>119</sup> ". . . we are presently on a losing track," Taylor said, "and must risk a change. . . . To take no positive action now is to accept defeat in the fairly near future." This was his description of the situation:

We are faced here with a seriously deteriorating situation characterized by contrived political turmoil, irresponsibility and division within the armed forces, lethargy in the pacification program, some anti-US feeling which could grow, signs of mounting terrorism by VC directly at US personnel and deepening discouragement and loss of morale throughout SVN. Unless these conditions are somehow changed and trends reversed, we are likely soon to face a number of unpleasant developments ranging from anti-American demonstrations, further civil disorders, and even political assassinations to the ultimate installation of a hostile govt which will ask us to leave while it seeks accommodations with the National Liberation Front and Hanoi.

Taylor said that there were three general causes for "this unhappy state of affairs": "lack of a stable government, inadequate security against the VC and nation-wide war-weariness." He continued:

Until the fall of Diem and the experience gained from the events of the following months, I doubt that anyone appreciated the magnitude of the centrifugal political forces which had been kept under control by his iron rule. The successive political upheavals and the accompanying turmoil which have followed Diem's demise upset all prior US calculations as to the duration and outcome of the counterinsurgency in SVN and the future remains uncertain today. There is no adequate replacement for Diem in sight.

At least we know now what are the basic factors responsible for this turmoil—chronic factionalism, civilian-military suspicions and distrust, absence of national spirit and motivation, lack of cohesion in the social structure, lack of experience in the conduct of govt. These are historical factors growing out of national characteristics and traditions, susceptible to change only over the long run. Perhaps other Americans might marginally influence them more effectively but generally speaking

<sup>119</sup>Taylor's five-part report was contained in Saigon to Washington 2052-2058, Jan. 6, 1965, Johnson Library, NSC History File, Deployment of Forces.

we Americans are not going to change them in any fundamental way in any measurable time. We can only recognize their existence and adjust our plans and expectations accordingly.

Based on this analysis, Taylor said that there were "some things we clearly cannot do—change national characteristics, create leadership where it does not exist, raise large additional GVN forces or seal porous frontiers to infiltration . . . in the time available we cannot expect anything better than marginal govt and marginal pacification progress with continued decline of national morale—unless something new is added to make up for those things we cannot control." The "something new" was "graduated air attacks directed against the will of the DRV"—Phase II. "I know that this is an old recipe with little attractiveness," Taylor said, "but no matter how we reexamine the facts, or what appear to be the facts, we can find no other answer which offers any chance of success." Air attacks, he added, would be "the most flexible weapon in our arsenal of military superiority to bring pressure on the will of the chiefs of the DRV. As practical men, they cannot wish to see the fruits of ten years of labor destroyed by slowly escalating air attacks (which they cannot prevent) without trying to find some accommodations which will excise the threat."

Taylor again objected to the use of U.S. ground forces whose ". . . military value would be more than offset by their political liability. The Vietnamese have the manpower and the basic skills to win this war. What they lack is motivation. The entire advisory effort has been devoted to giving them both skill and motivation. If that effort has not succeeded there is less reason to think that U.S. combat forces would have the desired effect. In fact, there is good reason to believe that they would have the opposite effect by causing some Vietnamese to let the U.S. carry the burden while others, probably the majority, would actively turn against us. Thus intervention with ground combat forces would at best buy time and would lead to ever increasing commitments until, like the French, we would be occupying an essentially hostile foreign country."

Included in the report was an analysis by Westmoreland of several alternative methods for using U.S. forces, which concluded that the only acceptable alternative was to use such forces in a supporting role for Vietnamese forces. Taylor and Westmoreland did not recommend that alternative, however, nor did they favor an expansion of the advisory effort. (At that time there were approximately 23,000 U.S. military personnel in Vietnam, 5,000 of whom were serving as advisers, and 18,000 in operational support.)

Taylor's recommendation was that the U.S. give the Vietnamese a "conditional commitment that if, in the U.S. judgment, the GVN reaches a certain level of performance, the USG will join in an escalating campaign against the DRV. Hopefully, by such action, we could improve the government, unify the armed forces to some degree, and thereupon move into the Phase II program without which we see little chance of breaking out of the present downward spiral." ". . . we should look for an occasion," he added, "to begin air operations just as soon as we have satisfactorily compromised the current political situation in Saigon and set up a minimal govt. . . . At the proper time, we can set the stage for action by exposing to the public our case against infiltration, and by initiat-

ing aggressive DE SOTO patrols . . . when decided to act, we can justify that decision on the basis of infiltration, of VC terrorism, of attacks on DE SOTO patrols or any combination of the three." Meanwhile, Taylor said he hoped that, regardless of the political situation in Saigon, the U.S. would conduct appropriate reprisal strikes in the event of major acts of terrorism by the Communists.

Taylor did not agree with the President's suggestion for using more Americans with skill and experience in communicating with the Vietnamese, saying that the U.S. already had extensive political contacts in Vietnam, and that, "On the whole, the quality of our personnel in Vietnam is high and I believe they meet pretty well your description of 'sensitive, persistent and attentive Americans.' We could perhaps improve on our use of them but we definitely do not need more. The Vietnamese may even be somewhat smothered now by the quantity of US contacts." But Taylor said that it would be well for Johnson to assure himself on this point, and suggested that the President send McGeorge Bundy, or someone like him, to review that particular aspect of the U.S. program.

On January 6, 1965, William Bundy sent a memorandum to Rusk in preparation for a meeting that afternoon with the President to discuss the Vietnamese situation, especially Taylor's cable. The subject of the Bundy memo was "Notes on the South Vietnamese Situation and Alternatives."<sup>120</sup> The memorandum represented, Bundy said, the consensus of his ideas and those of the State Department's other top advisers on Vietnam—Michael Forrestal (head of the Vietnam Coordinating Committee) and Leonard Unger (one of Bundy's deputies).

According to Bundy's memo, "the situation is now likely to come apart more rapidly than we had anticipated in November." This was his prognosis.<sup>121</sup>

We would still stick to the estimate that the most likely form of coming apart would be a government of key groups starting to negotiate covertly with the Liberation Front or Hanoi, perhaps not asking in the first instance that we get out, but with that necessarily following at a fairly early stage. In one sense, this would be a "Vietnam solution," with some hope that it would produce a Communist Vietnam that would assert its own degree of independence from Peiping and that would produce a pause in Communist pressure in Southeast Asia. On the other hand, it would still be virtually certain that Laos would then become untenable and that Cambodia would accommodate in some way. Most seriously, there is grave question whether the Thai in these circumstances would retain any confidence at all in our continued support. In short, the outcome would be regarded in Asia, and particularly among our friends, as just as humiliating a defeat as any other form. As events have developed, the American public would probably not be too sharply critical, but the real question would be whether Thailand and other nations were weakened and taken over thereafter.

<sup>120</sup>For the text see *PP*, Gravel ed., vol. III, pp. 684-686.

<sup>121</sup>*Ibid.*, p. 686.

Bundy recommended that the U.S. take stronger action against North Vietnam to prevent the defeat of the U.S. in Southeast Asia, but cautioned that "its stiffening effect on the Saigon political situation would not be at all sure to bring about a more effective government, nor would limited actions against the southern DRV in fact sharply reduce infiltration or, in present circumstances, be at all likely to induce Hanoi to call it off."<sup>122</sup> This was his reasoning:<sup>123</sup>

Nonetheless, on balance we believe that such action would have some faint hope of really improving the Vietnamese situation, and, above all, would put us in a much stronger position to hold the next line of defense, namely Thailand. Accepting the present situation—or any negotiation on the basis of it—would be far weaker from this latter key standpoint. If we moved into stronger actions, we should have in mind that negotiations would be likely to emerge from some quarter in any event, and that under existing circumstances, even with the additional element of pressure, we could not expect to get an outcome that would really secure an independent South Vietnam. Yet even on an outcome that produced a progressive deterioration in South Vietnam and an eventual Communist takeover, we would still have appeared to Asians to have done a lot more about it.

Bundy's memo cited three specific kinds of action that could be taken:

- a. An early occasion for reprisal action against the DRV.
- b. Possibly beginning low-level reconnaissance of the DRV at once.
- c. Concurrently with a or b, an early orderly withdrawal of our dependents.

The memo added, however, that such actions ". . . would be a grave mistake in the absence of stronger action, and if taken in isolation would tremendously increase the pace of deterioration in Saigon. If we are to clear our decks in this way—and we are more and more inclined to think we should—it simply *must* be, for this reason alone, in the context of *some* stronger action." (emphasis in original) By "stronger action" Bundy was referring to U.S. ground forces. "Introduction of limited US ground forces into the northern area of South Vietnam," he said, "still has great appeal to many of us, concurrently with the first air attack into the DRV. It would have a real stiffening effect in Saigon, and a strong signal effect to Hanoi." The memo added, "On the disadvantage side, such forces would be possible attrition targets for the Viet Cong."

McNaughton took a similar position. In a memo on January 4, 1965,<sup>124</sup> he stated, "Our stakes in South Vietnam are: (a) Buffer real estate near Thailand and Malaysia and (b) Our reputation. The latter is more important than the former. . . ." McNaughton also felt that "The best present estimate is that South Vietnam is being 'lost.'" Unlike Bundy, Forrestal, and Unger, however, he did

<sup>122</sup>Others also doubted the efficacy of bombing North Vietnam, and urged that the U.S. concentrate on improving South Vietnamese forces rather than increasing the use of U.S. forces. See, for example, Cooper, *The Lost Crusade*, pp. 258-259.

<sup>123</sup>PP, Gravel ed., vol. III, p. 685.

<sup>124</sup>For the text see *ibid.*, pp. 683-684.

not favor U.S. ground forces: "Additional U.S. soldiers are as likely to be counterproductive as productive." He did advocate a reprisal raid on North Vietnam and the removal of U.S. dependents. We should "keep slugging away," and "if we leave be sure it is a departure of the kind that would put everyone on our side, wondering how we stuck it and took it so long."<sup>125</sup>

At the January 6 meeting with Rusk, McNamara, and McGeorge Bundy, however, the President reportedly "was clearly in no mood to make new decisions," and made none.<sup>126</sup> In a cable back to Taylor on January 7, the President said that he and others in Washington generally agreed with Taylor's analysis, but he did not want to make a commitment on the "timing and scale of Phase II."<sup>127</sup> He agreed that the U.S. should begin contingency planning with the Vietnamese in anticipation of Phase II, but said that further decisions would depend on "experience in reprisal actions, on joint efforts to achieve victories within South Vietnam, and on joint efforts to achieve political stability."

Johnson also agreed with Taylor that the U.S. should have a firm policy, established jointly with the Vietnamese, of reprisal in the case of "Viet Cong atrocities," but he repeated his opinion that before such reprisals were carried out the U.S. should evacuate its dependents from Vietnam.

Taylor replied on January 11, expressing satisfaction with the President's cable of January 7.<sup>128</sup> He said he hoped he could assume from that cable that the U.S. was planning "prompt passage into Phase II operations against the DRV as soon as possible," in addition to conducting reprisals in return for specific Communist attacks. In this connection, Taylor said that "in applying the criteria for governmental performance, I am sure we will have to use much common sense and great leniency if we are ever going to take action . . . we may have to be satisfied with little more than the continued existence of a government in whose name we can act and to whose request for assistance we can respond." He recommended, therefore, that the President approve a policy statement that would include the following point: "It is the intention of the USG to initiate Phase II operations as soon as the GVN meets or shows reasonable promise of meeting the criteria being able to

<sup>125</sup>During 1964, McNaughton began discussing with Forrestal his doubts about U.S. policy toward Vietnam. According to Halberstam, *The Best and the Brightest*, p. 368, "Having finished with Forrestal, McNaughton would go back and pour out his doubts to one man, Robert S. McNamara, a man he was still in awe of. McNamara would override them, he would dampen them, it would be business as usual, and McNaughton, the secret dove, would emerge from the Secretary's office and hide his doubts, because he still wanted to be a player, and he knew there was no power at the Pentagon if he differed from McNamara at all."

Halberstam also reports the following (p. 366):

"In late 1964, he [McNaughton] assigned Daniel Ellsberg to the job of looking for ways of rationalizing the American way out of Vietnam—if everything collapsed. It was in effect to be a covering White Paper along the lines of the China White Paper. The secrecy involved in Ellsberg's assignment was paramount: Ellsberg, McNaughton made clear, was to talk to no one else about his assignment, not even his colleagues in the McNaughton shop. He was not to use a secretary on his reports but was to type them himself. In addition McNaughton wanted to make clear that this very assignment might damage Ellsberg's career, that a repeat of the McCarthy period was possible. 'You should be clear,' he repeatedly warned Ellsberg, 'that you could be signing the death warrant to your career by having anything to do with calculations and decisions like these. A lot of people were ruined for less.'"

<sup>126</sup>Bundy MS, ch. 20, p. 19.

<sup>127</sup>Johnson Library, NSC History File, Deployment of Forces, Washington to Saigon 1419, Jan. 7, 1965.

<sup>128</sup>Saigon to Washington 2116, Jan. 11, 1965, same location.

speak for and to its people; to maintain law and order in principal cities; and to make plans for the conduct of operations and to assure effective execution of such plans by military and police forces of SVN."

Taylor proposed that "If, after giving about another month's run to our effort in Laos, the Huong government [on November 1, 1964, Tran Van Huong, a civilian, had been named Premier under Khanh and the military junta] is still in business, my feeling is that we should be ready to embark on Phase II operations, if only for the pulmotor effect upon the internal situation in SVN." Almost one month after this recommendation was made, it is of interest to note, Phase II began.

On January 14, the President replied. He directed Taylor to begin the evacuation of U.S. dependents, and to recommend reprisal action in the event of a "spectacular enemy action." He still declined, however, to make a commitment with respect to when Phase II would begin.<sup>129</sup>

In later conversations with Doris Kearns, Johnson described his perception of the situation in early 1965:<sup>130</sup>

I knew from the start that I was bound to be crucified either way I moved. If I left the woman I really loved—the Great Society—in order to get involved with that bitch of a war on the other side of the world, then I would lose everything at home . . . But if I left that war and let the Communists take over South Vietnam, then I would be seen as a coward and my nation would be seen as an appeaser and we would both find it impossible to accomplish anything for anybody anywhere on the entire globe.

Oh, I could see it coming all right. History provided too many cases where the sound of the bugle put an immediate end to the hopes and dreams of the best reformers: the Spanish-American War drowned the populist spirit; World War I ended Woodrow Wilson's New Freedom; World War II brought the New Deal to a close. Once the war began, then all those conservatives in the Congress would use it as a weapon against the Great Society. You see, they'd never wanted to help the poor or the Negroes in the first place. But they were having a hard time figuring out how to make their opposition sound noble in a time of great prosperity. But the war. Oh, they'd use it to say they were against my programs, not because they were against the poor—why, they were as generous and as charitable as the best of Americans—but because the war had to come first. First, we had to beat those Godless Communists and then we could worry about the homeless Americans. And the generals. Oh, they'd love the war, too. It's hard to be a military hero without a war. Heroes need battles and bombs and bullets in order to be heroic. That's why I am suspicious of the military. They're always so narrow in their appraisal of everything. They see everything in military terms. Oh, I could see it coming. And I didn't like the smell of it. I didn't like

anything about it, but I think the situation in South Vietnam bothered me most. They never seemed able to get themselves together down there. Always fighting with one another. Bad. Bad.

Yet everything I knew about history told me that if I got out of Vietnam and let Ho Chi Minh run through the streets of Saigon, then I'd be doing exactly what Chamberlain did in World War II. I'd be giving a big fat reward to aggression. And I knew that if we let Communist aggression succeed in taking over South Vietnam, there would follow in this country an endless national debate—a mean and destructive debate—that would shatter my Presidency, kill my administration and damage our democracy. I knew that Harry Truman and Dean Acheson had lost their effectiveness from the day that the Communists took over in China. I believed that the loss of China had played a large role in the rise of Joe McCarthy. And I knew that all these problems, taken together, were chicken-shit compared with what might happen if we lost Vietnam.

For this time there would be Robert Kennedy out in front leading the fight against me, telling everyone that I had betrayed John Kennedy's commitment to South Vietnam. That I had let a democracy fall into the hands of the Communists. That I was a coward. An unmanly man. A man without a spine. Oh, I could see it coming all right. Every night when I fell asleep I would see myself tied to the ground in the middle of a long, open space. In the distance, I could hear the voices of thousands of people. They were all shouting at me and running toward me: "Coward! Traitor! Weakling!" They kept coming closer. They began throwing stones. At exactly that moment I would generally wake up . . . terribly shaken. But there was more. You see, I was as sure as any man could be that once we showed how weak we were, Moscow and Peking would move in a flash to exploit our weakness. They might move independently or they might move together. But move they would—whether through nuclear blackmail, through subversion, with regular armed forces or in some other manner. As nearly as anyone can be certain of anything, I knew they couldn't resist the opportunity to expand their control over the vacuum of power we would leave behind us. And so would begin World War III. So you see, I was bound to be crucified either way I moved.

Doubtless some of this was LBJ hyperbole and hindsight, but there can be no question that in January 1965, as he was about to be inaugurated after campaigning on a peace platform, Lyndon Johnson was loath to lead the country into war.<sup>131</sup>

<sup>131</sup>His inaugural address on Jan. 20 was general in nature, and Vietnam was not mentioned. The only related remarks were, "The American covenant called on us to help show the way for the liberation of man. And that is still our goal. . . . If American lives must end, and American treasure be spilled, in countries that we barely know, then that is the price that change has demanded of conviction and of our enduring covenant." *Public Papers of the Presidents*, Lyndon B. Johnson, 1965, p. 72.

<sup>129</sup>Washington to Saigon 1477, Jan. 14, 1965, same location.

<sup>130</sup>Kearns, *Lyndon Johnson and the American Dream*, pp. 251-252. See also *The Best and the Brightest*, p. 507.

*Growing Opposition in Congress*

Johnson also had good reason, as he learned later, to be concerned about the growing opposition in Congress to an expanded U.S. military role in Vietnam. An Associated Press poll of the Senate on January 6, 1965, showed strong support for a negotiated settlement. Of 63 Senators responding, 31 were for a negotiated settlement after improving the U.S.-South Vietnamese bargaining position, and 10 favored negotiating immediately. Three were for an immediate withdrawal. Eight favored using U.S. forces in Vietnam, while another eleven favored continuing the program of strengthening the South Vietnamese.<sup>132</sup>

Although there was considerable congressional opposition to further U.S. involvement in Vietnam, Congress, according to a report in the *New York Times* on January 11, 1965, ". . . is just as baffled and frustrated over what the U.S. should do in Vietnam as the Administration is."

Senate Republican Leader Dirksen was not among the skeptics. On January 3, 1965, he said that if the U.S. pulled out of Vietnam "the rank of the United States in the Orient would plummet. And from the standpoint of the Philippines and Guam, we would have no anchor point left." He suggested, however, that the President might want to meet with congressional leaders and arrive at a decision to fight or to withdraw. Although he believed that the President could act without congressional approval if there was a "danger to national security," he thought Johnson would want to have the support of congressional leaders, if not Congress as a whole, as was the case in earlier crises in Lebanon, Berlin, and the Formosa Straits.<sup>133</sup>

Among those Senators who questioned U.S. policy toward Vietnam, Church and McGovern, both of whom had voted reluctantly for the Gulf of Tonkin Resolution, but had supported Johnson in the 1964 Presidential election, were becoming increasingly concerned about the trend toward greater U.S. involvement and the possible extension of the war into North Vietnam. Although they were young, junior Members of the Senate, they were considered intelligent moderate-liberal Democrats, whose internationalist viewpoints contrasted rather sharply with those of their constituencies in Idaho (Church) and South Dakota (McGovern). (Church, a member of the Foreign Relations Committee, represented the same state that had been represented by Senator William Borah, chairman of the Foreign Relations Committee in the 1920s, who was thought of by those of internationalist persuasion as being an "isolationist"—a fact that Lyndon Johnson did not let Church forget as the two began to part company on the issue of Vietnam.) As a result of these factors, both Church and McGovern were viewed as being part of the moderate, centrist sector of senatorial and public opinion on Vietnam, and as representative of the kind of electoral support Johnson had received from traditionally isolationist areas in the Midwest and West.

<sup>132</sup>*New York Times*, Jan. 7, 1965.

<sup>133</sup>*Ibid.*, Jan. 3, 1965.

In the post-Gulf of Tonkin and post-1964 election period, when Johnson's political strength was so formidable, the views of Church and McGovern may not have seemed very important to the President. He doubtless knew, however, that if the war became unpopular, it would be the Churches and McGovern in Congress who, as spokesmen for those who opposed the war, especially those from the moderate-liberal Democratic center, would help to bring him down and to repudiate his policies.

For their part, Church and McGovern and others like them in Congress were well aware of Johnson's political power and prowess, and of the political and personal risk they would run if they opposed him on an important issue. By the end of 1964, however, they felt compelled to speak out. Church was the first to do so. In an interview for the *New York Times*, on December 26, 1964, he advocated the neutralization of Southeast Asia, with the U.N. as the guarantor of the settlement. Neutralization, however, should not be "camouflage for a Communist takeover." Church was also opposed to extending the war to the north. He said that the U.S. must honor its commitments, but that the war could be won only by the South Vietnamese themselves. He hoped that the U.S. would not be forced to withdraw, but said, "we must be prepared for that possibility." He added: "Unless we come to accept the fact that it is neither within the power nor the interest of the United States to preserve the status quo everywhere, our policy is doomed to failure."<sup>134</sup>

On January 15, 1965, McGovern made a major speech in the Senate in which he took a somewhat comparable position. The U.S. was not winning in Vietnam, he said, and expansion of the war would be "an act of folly designed in the end to create simply a larger, more inglorious debacle." The problem, he said, was political rather than military. "The United States can accomplish much through foreign aid and military support, but we cannot create strong, effective, and popular national leadership where that leadership either does not exist or does not exert itself." "The United States," he added, "can at most only hold a finger in the dike until the South Vietnamese find themselves." He, too, was opposed to increasing U.S. involvement or extending the war, but he said, "we cannot simply walk out and permit the Vietcong to march into Saigon." He preferred a prolonged conflict if necessary, and said he hoped "we would be prepared to wage such a conflict rather than to surrender the area to communism."

According to McGovern, "the most practical way, if we are to take further action in Vietnam, is to put pressure on North Vietnam quietly through infiltration and subversion by South Vietnamese units." The purpose of such action, he added, would be to force the North Vietnamese to negotiate, and "The most viable and practical policy for the United States in Vietnam is negotiation and a political settlement." Alluding to his speech on August 8, 1964, immediately after passage of the Gulf of Tonkin Resolution, in which he suggested that the U.S. might accept the French proposal for an international conference, he concluded by discussing possible mini-

<sup>134</sup>*Ibid.*, Dec. 27, 1964.

mal terms by which a settlement acceptable to both sides might be reached.<sup>135</sup>

The administration's own survey of the Senate and the House, which was conducted by State Department staff during January, concluded that both Congress and the public generally supported the President, and would especially do so in a "crunch," but were frustrated and confused, and needed further persuasion as to the justice and necessity of the U.S. position.<sup>136</sup>

We find largely that there is a generalized frustration with the situation in Vietnam and our involvement there. The great majority of Congressmen are neither satisfied nor dissatisfied; their thoughts are fragmented and they are genuinely perplexed. In this state, they are willing to go along with the people who have the direct responsibility, the experts, in the Executive Branch. Of the remainder, there are substantially more people who are definitely with us or think we might do slightly more in the way of demonstrating our resolve in a military sense than there are who are definitely against us and think we should really pour our efforts into withdrawing, call it what they will.

There are some differences between the House and the Senate. There are fewer individuals in the House who are willing to take any precise stand; the general instinct is to keep with the herd, watch the situation, stick it out, pester the Administration to solve the problem but go along with it in its efforts. . . . On the Senate side there are more who will take individual stands and among those more who are moving gradually, although cautiously, in the direction of negotiation-neutralization-U.N. responsibility-political settlement.

The report gave this rundown on individuals in the Senate:

. . . You now know how McGovern stands; Morse is somewhat inclined to institute a tough but limited reprisal policy as our next move.

There is a fairly definable Senate group who should be watched closely in this regard. They are the Church-McGovern-Pell-Gore-Nelson bunch, which is partially dormant, and could expand. What might be characterized as the [A. J. Mike] Monroney [D/Okla.]-Saltonstall-Scott group, much larger in size, is right with us, and feeling we conceivably might do more in the way of selective pressures on the North. Lausche is right with us; . . . Russell is obviously unhappy but staying on the reservation. Young [Milton R. Young, R/N. Dak.] has stated that he doesn't feel Vietnam is a hopeless cause and [Karl E.] Mundt [R/S. Dak.] says that neutralization has never worked before. We know about Fulbright and Mansfield; most Senators reject Morse and Gruening, as well as Thurmond and Tower; Dirksen is looking, so far unsuccessfully, for a handle; Jackson and Cooper should be watched as indicators.

<sup>135</sup>CR, vol. 110, pp. 784-786.

<sup>136</sup>Memorandum for William Bundy from his assistant, Jonathan Moore, "Congressional Attitudes on SVN," no date, but written in Jan. 1965, and located in the Kennedy Library, Thomson Papers, in a folder covering the period 1-65 to 2-65.

Thus, the report stated, referring to the overall situation in Congress:

1. We've got adequate support for the moment, largely passive but strong enough in a crunch to more than offset the opposition, and left largely alone it will stay this way.

2. There is in the Senate a group of fairly junior liberals growing in size and boldness who advocate finding a way to withdraw honorably and under the protection of international safeguards as the first order of business.

3. Without more active efforts to present and persuade on the Hill in order actually to develop and solidify support, the passage of time and unhappy developments in SEA could erode our position and enhance the persuasiveness and numbers of the opposition.

In conclusion, the report stated:

The Congressional opinion—as it should—largely mirrors what is going on throughout the country. The public opinion trend there is toward the middle even more notably. That is, there are less people who are really behind us and more whose opinions about U.S. policy in Vietnam are frustrated and fragmented. This body of citizens is not against us and will not be for the time being; in a crunch they would back us up rather strongly. But left alone they can become increasingly discontent and impatient, and gradually—particularly if helped by continually dismal reports from the area—shift to a more negative position which could become very influential. If that trend ever did really set in, it might grow tenaciously.

Johnson had his own thoughts on some of the "problem" Senators. He told Adlai Stevenson (U.S. Ambassador to the U.N.) in a private conversation at the White House on January 4, 1965, that Stevenson should talk to Morse, and that he should remind Morse that as majority leader he (Johnson) had put him on the Foreign Relations Committee on the day Morse switched from the Republican to the Democratic Party. "Stevenson replied that Morse had said so many nasty things about him that he doubted he would have much influence. Johnson observed that Morse had said nasty things about everyone except his wife." Johnson also said ". . . he was having trouble with Senator Mansfield, whom he considered 'mean and small,' who would not give Humphrey's wife a ticket to the State of the Union ceremonies, who refused to give Vice President Humphrey a suitable office in the Capitol, and who had once told Johnson that he, Mansfield, would run the Senate and that if Johnson sent Humphrey to run it Mansfield would oppose him."<sup>137</sup>

With respect to Russell's position, it is likely that during the period around Christmas 1964, Johnson, who was at his ranch in Texas, discussed the Vietnam situation with Russell, as well as others, by telephone. Although the necessary documentation as to what Russell recommended is not available (if, in fact, it exists), according to William Bundy, ". . . at least one Senior Senator who

<sup>137</sup>Martin, *Adlai Stevenson and the World*, pp. 823-824. Morse resumed his Senate speeches on Jan. 6, 1965. See CR, vol. 111, pp. 331-341. For a good statement of his position see his article in the *New York Times Magazine*, Jan. 17, 1965, "We Must Leave Vietnam." In the same issue is a contrary view by Henry Cabot Lodge, "We Can Win in Vietnam."

enjoyed the President's total confidence and high respect had advised him bluntly that now was the time to find a way out."<sup>138</sup> Russell's only public comment was a remark made to reporters on January 11, 1965, after a briefing of the Senate Armed Services Committee by CIA Director McCone. Russell said there could be no victory in Vietnam unless "a more stable government" was established. "The situation is at best a stalemate that promises to be prolonged endlessly," he added.<sup>139</sup>

In early January, Johnson also had a report from Rusk on the state of opinion in the Foreign Relations Committee, where Rusk and William Bundy had testified on Vietnam in an executive session on January 8, following another executive session on January 7 at which the concern of some members of the committee about the situation in Vietnam had been sharpened by secret testimony from a group of witnesses assembled by Vice-President-Elect Humphrey.<sup>140</sup> (Johnson had been told of the January 7 hearing by Humphrey, and his reaction, according to Humphrey, was ". . . 'if you feel that some of these things should be done get ahold of Rusk and talk to these people and bring these boys in.'")

The witnesses on January 7 were General Lansdale, Rufus Phillips, and two officials from the U.S. foreign aid mission in Vietnam, Bertram Fraleigh and George H. Melvin.<sup>141</sup> They told an informal meeting of the committee attended by Fulbright, Sparkman and Humphrey, that the situation in Vietnam was deteriorating, and that a military response was not the answer. As Fraleigh said, "This is not a war of more dollars, more guns or more people. . . ." Melvin added, "I know it would be unpolitic to reduce the budget for Vietnam, but we need only a fraction of the money that you are spending in Vietnam, and only a fraction of the people you have out there."

The war, they said, was a "political war," and could only be won politically. But it had to be won. ". . . if we don't win it there," Fraleigh said, "we are going to have to fight it everywhere, Central America, Africa, the whole works."

In a memorandum (included in the transcript of the hearing) summing up his own position, which appears to have been generally shared by the other witnesses, Lansdale said, "The United States needs a win in Vietnam. . . ." and ". . . a win is possible." The key, he said, reiterating some of the ideas he had expressed in his October 1964 article in *Foreign Affairs*, was to recognize, first, that the Vietnamese could win the struggle against the Communists, and, secondly, that the U.S. had to give Vietnam the kind of assistance, from the kinds of people, that would enable the Vietnamese to win. "Thus," he concluded, "the United States must place Americans into Vietnam, in positions where their influence can be decisive, whom the Vietnamese trust to share the Vietnamese desire to

<sup>138</sup>Bundy MS., ch. 20, p. 14.

<sup>139</sup>*New York Times*, Jan. 12, 1965.

<sup>140</sup>U.S. Congress, Senate, Committee on Foreign Relations, unpublished transcripts of the informal hearing on Jan. 7 and of the executive session on Jan. 8, 1965.

<sup>141</sup>At this time Lansdale had technically retired from the Air Force, and was a Consultant to the White House on Food for Peace. Phillips, who had been replaced in 1964 as head of the office of rural affairs in the U.S. mission by George Tanham, was president of Intercontinental Consultants, Inc.

be free in a way understood by Vietnamese, and whom the Vietnamese realists believe can give practical advice worthy of their heading on how to defeat Communist subversive insurgency as it is waged in Asia. . . ."

As the meeting with the Lansdale group concluded, Sparkman, who tended to be a staunch supporter of the executive branch in the conduct of foreign policy, said he was deeply troubled by the testimony. Humphrey said that he was too. Sparkman asked what could be done. Fulbright said, "There is only one man that can do anything . . . and that would actually be the President." Sparkman asked, "How are you going to get that word to the President?" Fulbright replied, ". . . we have got the Vice President here. I will go with him . . . the only thing I can think of is that you and I and the Vice President talk to the President about it." It was at this point that Humphrey said he had talked to the President, who had told him to go ahead. "The President hasn't a closed mind on this," Humphrey added, and he suggested that the material from the hearing be summarized and that he, Fulbright, Sparkman and Hickenlooper, the ranking Republican on the committee, ask to see the President to talk about it. Referring to the witnesses, Humphrey added, ". . . I feel like these men do. It is just a tragedy to think we are losing when we don't need to. I know some of the decisions . . . that are being made as we sit here and talk right now. I feel that maybe we are going to make some decisions that will be disastrous."

Fulbright also suggested that at the hearing the next day (January 8) with Rusk, some questions be asked based on the hearing with the Lansdale group. Humphrey disagreed. His explanation was off the record, but it presumably had to do with the fact that the hearing with the Lansdale group had been set up for the benefit of the committee, and the witnesses were speaking informally, off-the-record, and out of official channels.

Several months later, in an executive session of the Foreign Relations Committee on May 19, 1965, Fulbright referred to the hearing in January with the Lansdale group, and said that he had "mentioned" to the President the need for more attention to the political side of the war, and "got a very cool reception." He added that Fraleigh had been "fired" by the administration for testifying on this subject, an act which Fulbright said was considered by the AID mission chief in Vietnam to be "disloyal."<sup>142</sup>

In the executive session on Vietnam with Rusk and William Bundy on January 8, various members of the Foreign Relations Committee expressed concern about the situation in Vietnam and the ineffectiveness of U.S. policy.<sup>143</sup> "The only reason I and others," Fulbright said, "have entertained the possibility . . . that maybe we might have to negotiate is simply it looks hopeless. It isn't because we want to but . . . we are faced with the fact [that] it just isn't working. . . ." Without revealing that he and others on the committee had discussed the "political war" with the Lansdale group the previous day, Fulbright said, ". . . maybe we have

<sup>142</sup>U.S. Congress, Senate, Committee on Foreign Relations, unpublished executive session transcript, May 19, 1965.

<sup>143</sup>*Ibid.*, Jan. 8, 1965.

thought of this entirely as a military operation or practically so, and that we have not been . . . willing and able . . . to help them generate a stable political organization which could then be the basis with which we work. . . ." Gore took a similar position.

Church and Morse advocated using the U.N. Rusk, saying that he did not think that the U.N. would fight in Vietnam, commented that it would be tempting to take the issue to the U.N. to prove to Morse, in particular, that this was not a feasible solution.

Fulbright referred to Taylor's testimony before the committee in December 1964 that the war would not be escalated unless and until a stable government was established in South Vietnam. He wanted to know whether this was still the policy of the administration. Rusk replied, "Mr. Chairman that is present policy. I think I should say if the President should come to any other conclusions he would do so in consultation with the leadership of the Congress." What about the argument that an attack on the north was necessary in order to bring about a stable government in the south? Fulbright asked, adding, "I don't think anything can justify the escalation of the war. . . ." Rusk replied, "Well, Mr. Chairman, I think that is something that the President and the leadership will talk to each other about." The exchange continued:

The Chairman. Will we be told after the decision is made or before. Will we be invited to a meeting at the White House and told we have made up our mind tomorrow morning or in 30 minutes launch an attack.

Secretary Rusk. We have never ourselves guaranteed North Vietnam as a safe haven for all those deprivations which have been coming out of North Vietnam. There have been incidents down the coast and other things which have happened.

The Chairman. I understand covert attacks have been made and we know about it. But I am talking about a rather major attack on North Vietnam by forces which are not just a hit and run.

Secretary Rusk. I take it you are going beyond the possibility of retaliation at this point.

The Chairman. Yes.

Secretary Rusk. There was the Gulf of Tonkin.

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The Chairman. I just want to know what the idea is. I would hate for this decision to be made before the committee had the opportunity to consider it. . . . [Fulbright then mentioned the restraining role of Congress when the U.S. was considering military action at Dien Bien Phu and in Laos.] In this case it is so important that I hope the administration won't make a decision of that nature. Before they make the decision, at least feeling the pulse of this committee. Do you think that would be a reasonable thing to expect?

Secretary Rusk. I think Mr. Chairman, perhaps the reasonable thing on a matter of such importance is to report your remarks to the President.

The Chairman. That is right.

On January 15, Rusk testified again before the Foreign Relations Committee in an executive session on the committee's annual

review of the "state of the world."<sup>144</sup> There was a brief discussion of Vietnam, including a question by Sparkman about news stories that the U.S. was planning airstrikes on North Vietnam. Rusk replied: "I myself feel that strikes against the North are a part of the problem on which the leadership and President would be in consultation, because this would be a significant development of the situation. I have reported the views expressed by members of the committee on that point at our last meeting."

During the last two weeks of January and the first week of February, as various other Members of Congress were expressing concern about the situation in Vietnam, and the possibility of military escalation, Fulbright replied to a friend who was an overseas employee of the U.S. foreign aid program, and who had written to him about U.S. policy in Vietnam:<sup>145</sup>

. . . it is not exactly within my power to influence the course of events in South Viet Nam, other than to express a personal opinion, as the matter is run by the Executive Branch, as you well know. We are only told whatever is thought suitable for our sensitive ears. All I can say is that there is a great deal of discussion under the surface. I feel sure the majority of my colleagues do not wish to see it expanded, but would like very much to see it administered more effectively. I hope some way can be found to persuade the Vietnamese to work together. While I have a very high opinion of Ambassador Taylor as a military leader, he has not demonstrated a very effective political talent when it comes to inspiring the Vietnamese to pull together, but perhaps no one can do it.

### Conclusion

These last weeks of January 1965 proved to be the end of another phase of U.S. involvement in Vietnam. Within a few weeks, the United States began systematic bombing of North Vietnam, followed by the deployment of U.S. ground forces to fight in South Vietnam. At the end of 1964, there were about 23,000 U.S. military personnel in Vietnam, only about 3,000 more than a year before, and most of them were still serving in an advisory capacity. By the end of 1965, there were 183,000 U.S. troops in Vietnam, and the United States had assumed major responsibility for the war.

Neither the President nor most Members of Congress wanted to become more involved militarily in South Vietnam. There was a general reluctance to commit U.S. forces to a land war on the mainland of Asia; memories of the Korean war were still fresh, and the "never again club" still active. A major war could also seriously interfere with Johnson's Great Society. Yet a year's experience with the situation since the death of Diem also had convinced many policymakers that the U.S. had no choice; either it had to withdraw from Vietnam, a position with little support, or it had to become more involved alongside the South Vietnamese. Seemingly, only American power could prevent a Communist victory. As the President had told Taylor and his other associates at the meeting

<sup>144</sup>U.S. Congress, Senate, Committee on Foreign Relations, unpublished executive session transcript, Jan. 15, 1965.

<sup>145</sup>University of Arkansas, Fulbright Papers, series 48, box 85.

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<sup>145</sup>University of Arkansas, Fulbright Papers, series 48, box 85.

in December 1, 1964, the Vietnamese would be given one last chance to pull themselves together, but if that failed, he would have to send in the troops.

## APPENDIX

### *Legal Commentary and Judicial Opinions on the Gulf of Tonkin Resolution*

In the legal and political controversy that developed subsequent to the passage of the Gulf of Tonkin Resolution, especially after opposition to the war intensified, numerous questions were raised by legal scholars about the legality and constitutionality, as well as the appropriateness, of the Gulf of Tonkin Resolution. Among other things, it was argued that the resolution was an impermissible delegation of power, that it was not sufficiently specific, that it authorized military action but not a large-scale war, and that it was obtained from Congress by misinformation if not deception. Professor Richard Falk, a legal scholar and political activist who was a most vigorous critic of the U.S. role in the Vietnam war, declared, "The Gulf of Tonkin Resolution was obtained from Congress in August 1964 by fraud, the Executive branch distorting the circumstances of alleged attack by North Vietnamese torpedo boats on U.S. warships and masking from Congress the Executive's plans to extend the war to North Vietnam in subsequent months."<sup>1</sup>

Alexander Bickel, a noted professor of constitutional law, contended that the U.S. entered the Vietnam war in 1965 "unconstitutionally" because of Congress' impermissible delegation of power to the Executive. ". . . the real answer to the Gulf of Tonkin resolution," he said, "is that if it authorized anything, beyond an immediate reaction, beyond its own factual context, it was an unconstitutionally broad delegation." ". . . standard delegation doctrine," he added, "requires that whenever Congress authorizes anybody to do something prospectively . . . that it be done under standards, and that the delegation be relatively narrow and specific . . . as opposed to, as compared with, a broad prospective delegation of power to act in circumstances not now foreseeable."<sup>2</sup>

Lawrence R. Velvel, another professor of constitutional law, and a very active participant in efforts to challenge the constitutionality of the war (he was founder of the Constitutional Lawyers Committee on Undeclared War which opposed the war, and he also initiated two court cases in his own name), contended that the war "represents a flagrant executive usurpation of Congress' power to declare war." In explaining his position, Velvel said, among other things, that Congress may have been "deceived" by the Executive with respect to the Gulf of Tonkin incidents. ". . . while it is unnecessary to rely on the possibility of such deception, it must be ad-

<sup>1</sup>Richard Falk, Foreword to Lawrence R. Velvel, *Undeclared War and Civil Disobedience: The American System in Crisis* (New York: Dunellen, 1970), p. ix.

<sup>2</sup>Senate hearings on *War Powers Legislation*, cited above, pp. 563, 575-576.

mitted," he added, "that the alleged deception does not aid the executive's case that the Tonkin Resolution authorizes it to conduct the current war. For it can be argued that, somewhat like the restitution doctrine of mistake of fact, even if Congress had intended to authorize the current war, its authorization would be void if based on an improper understanding of the facts of the Tonkin Gulf attack, let alone a deliberate deception as to the facts of the attack."<sup>3</sup>

Velvel took the position that the Gulf of Tonkin Resolution did not and was not intended to authorize a "sustained and large-scale offensive and defensive war in Viet Nam":<sup>4</sup>

As the text of the Resolution illustrates, any reasonable man must concede that, if one considers only the language of the Resolution and totally ignores the congressional intent expressed in its ample legislative history, its language is broad enough to authorize the President, in his sole discretion, to fight a large-scale land, sea, and air war on the continent of Asia. Indeed, if one considers only the language of the Resolution and ignores the intent expressed in its legislative history, its language is broad enough to authorize the President, in his sole discretion, to initiate the atomic holocaust of World War III should he alone believe that World War III must be commenced in order to stop Communist aggression in Southeast Asia. This fact graphically demonstrates that, as is true with any legislation, the language of the Resolution cannot be considered in isolation from the congressional intent displayed in the legislative history. That history shows that Congress did not intend to authorize the executive, in its sole discretion, to fight the present long-sustained and large-scale land, sea, and air war on the continent of Asia.

In one of the most definitive statements on the subject, an unnamed student at the Harvard Law School prepared a paper, published by the *Harvard Law Review* in 1968, examining the powers of the President and Congress to commit U.S. forces to combat. This paper concluded, ". . . instead of assuming that the President may deploy American forces as he sees fit and only in the exceptional case need he seek congressional approval, the presumption should be that congressional collaboration is the general rule whenever the use of the military is involved, with presidential initiative being reserved for the exceptional case."<sup>5</sup>

The Gulf of Tonkin Resolution, the paper said, was broad enough to enable the President to ". . . conduct the war as he sees fit. He has the power to bomb North Vietnam and presumably even China if that is deemed necessary to defend South Vietnam's freedom." The author concluded, however, that the resolution was imperfect,

<sup>3</sup>Lawrence R. Velvel, "The War in Viet Nam: Unconstitutional, Justiciable, and Jurisdictionally Attackable," *Kansas Law Review*, 16 (1968), pp. 449-503, reprinted in Richard A. Falk, ed., *The Vietnam War and International Law*, Volume II (Princeton: Princeton University Press, 1969), pp. 650-710. (See also Velvel's book cited above.) The four-volume work edited by Falk for the American Society of International Law, and published by Princeton, 1967-76, is an excellent collection of readings on the legal aspects of the war.

<sup>4</sup>Falk, vol. II, p. 675.

<sup>5</sup>"Congress, the President, and the Power to Commit Forces to Combat," Note from *Harvard Law Review*, 81 (1968), pp. 1771-1805, reprinted in Falk, vol. II, pp. 616-650.

and that Congress should have been asked to approve the large commitments of forces made in 1965:<sup>6</sup>

Despite apparent statements to the contrary when the bill was being debated, Senator Fulbright claims, however, that there was no understanding that the resolution extended to the authorization of war. In his defense it must be admitted that the circumstances surrounding the passage of the resolution hardly lent themselves to minimizing misunderstandings. The resolution was presented in an atmosphere of great urgency immediately after the attack. This factor, coupled with the allusions to that attack and the request for approval of a response to it, created a strong impression that the implications of the second section [of the resolution] were overlooked. Although such a result is surely as much the fault of Congress as of the administration, under the circumstances, compliance with the principle that Congress should be given the closest possible participation in such decisions would have demanded at the least that prior to the decision the following year vastly to increase the commitment of troops to the area, congressional reassertion of its approval be sought.

The *Harvard Law Review* paper reached this conclusion:<sup>7</sup>

At best, the Gulf of Tonkin Resolution, even coupled with subsequent appropriations, leaves unclear the extent to which congressional authorization of the war has been expressed.

With respect to the future, the problem can be avoided by placing a strict time limit on the resolution, giving Congress adequate time to deliberate and review the resolution and encouraging the Executive to seek further specific support later. With respect to the present, although the *fait accompli* problem can no longer be avoided, the ambiguity is best resolved, not by relying on Congress' failure to repeal the resolution as provided for in the third clause, but by resubmitting for congressional approval a resolution specifically phrased to give consent to the war.

Louis Henkin, one of the foremost authorities on constitutional aspects of the U.S. Government's foreign affairs powers, has argued, however, that for "constitutional purposes" Congress approved the war by passing the Gulf of Tonkin Resolution and appropriations for the war. Henkin also has dismissed suggestions that Congress did not know what it was doing, that the President exceeded or misused the resolution, or that Congress was barred from taking corrective action:<sup>8</sup>

That, as some later claimed, Congress did not appreciate what it was doing, or that its hand was forced to do it, is constitutionally immaterial. . . . It would be constitutionally material if, as some claimed, the resolutions [Gulf of Tonkin and a statement of purpose contained in a subsequent appropriations act in 1965] did not authorize full-scale war, that the President misinterpreted them and exceeded the authority they granted;

<sup>6</sup>*Ibid.*, pp. 649-650. (footnotes in original have been omitted)

<sup>7</sup>*Ibid.*, p. 650.

<sup>8</sup>Louis Henkin, *Foreign Affairs and the Constitution* (Mineola, N.Y.: Foundation Press, 1972), pp. 101-102.

there is not evidence, however, that Congress (as distinguished from some Congressmen) thought so, and Congress had the power and many opportunities to tell the President so, and did not seize them. (The Tonkin Resolution itself expressly reserved the power to withdraw the authorization it granted by concurrent resolution.) Congress also had the power to withhold appropriations, at least to make them with disclaimer and protest, and to check the President in other ways; and surely it could have readily and justifiably done so if it believed he had exceeded the authority granted him. Similarly, that Congress could not muster a majority to terminate or redefine the President's authority; that it could not openly break with the President without jeopardizing major national interests; that it could not discontinue support for the war because it "could not let the troops down"—these do not indicate that Congress did not authorize or continue to support the war; rather, they show that, and why, Congress did. . . .

For the constitutional lawyer, as well as for the citizen, then, it is important to distinguish in these controversies between appeals to the Constitution and complaints against it. The claim on Vietnam, properly, was less that the President usurped power than that the Constitution gave him "excessive" power; or, since Congress has the authority to check the President, that the constitutional distribution does not work because, in the end, the restraints on the President are not effective. Many were really asking whether, in essential respects, we have a desirable system for conducting foreign relations.

John Norton Moore, another noted authority, takes the position that the Gulf of Tonkin Resolution "completely—and in my opinion unquestionably—satisfied the constitutional requirement of congressional authorization of hostilities in the Indo-China War," and that Congress was aware that the resolution "gave the President the authority, within his discretion, to take whatever action he deemed necessary with respect to the defense of South Vietnam." Moreover, he says, the language of the resolution was sufficiently broad to embrace the large-scale war that followed. Nor has Moore found merit in the invalid delegation argument: ". . . even if there is a constitutional requirement as to the breadth of congressional delegation of the war power to the President, a proposition open to considerable doubt, the Congress which passed the Tonkin Gulf Resolution was, I believe, reasonably informed of the circumstances giving rise to the need for the use of U.S. forces."<sup>9</sup>

Moore has contended, however, that the Executive should have attempted to avoid the "authority deflation" that resulted from the controversy over the Gulf of Tonkin Resolution:<sup>10</sup>

<sup>9</sup> Letter to CRS from John Norton Moore, Nov. 20, 1968, and John Norton Moore, "The National Executive and the Use of the Armed Forces Abroad," *Naval War College Review* (January 1969), pp. 28-38, reprinted in Falk, vol. II, pp. 808-821. "If there is to be a delegation test," Moore said, "I would suggest that it be one asking whether there has been meaningful participation by a congress reasonably informed of the circumstances giving rise to the need for the use of U.S. forces." Falk, vol. II, p. 818. For a more extensive statement of Moore's views see his *Law and the Indo-China War* (Princeton: Princeton University Press, 1972).

<sup>10</sup> CRS Interview with John Norton Moore, Dec. 7, 1978.

I think the emphasis, in all of this, on the question of precisely where is the constitutional line between congressional and executive branch power, which is the usual focus, is not as interesting in terms of future policy for the United States as an effort to try to develop some meaningful procedures, in which Congress and the President could attempt to work together in ways that would both insure meaningful congressional involvement and protect the President from the severe kind of authority deflation that occurs when there is a controversy as to whether he has the authority to do it. Because even if he's going constitutionally to the limit of his authority, and he has the authority to do it, it may be very poor policy to press that if, in fact, there is going to be such a substantial controversy about the issue that we will suffer a severe authority deflation, with associated criticism and law suits and all of the rest, at a time when we need particularly to pull together.

Moore would have preferred congressional action at a different time, even prior to August 1964, and under circumstances that would not have involved the factual and other ambiguities of the Gulf of Tonkin incidents. He has suggested that one test of the time for obtaining congressional authorization, would be when "regular combat units are committed to sustained hostilities." Based on this test, he has argued that congressional authorization for the Vietnam war should have been required in February 1965, when the U.S. began bombing the North on a continuing basis, and in the summer and fall of 1965 when U.S. ground forces began sustained combat.<sup>11</sup>

Moore has made the additional point that if congressional authorization needed to be requested at the time of the Gulf of Tonkin incidents, the executive branch should have been clearer in its reporting of the facts and in its request for authorization, in order to "make it clear to adversaries abroad and to those who have to participate domestically that, in fact, there is complete authorization and national congruence between Congress and the Executive in that kind of serious undertaking." It was the failure to do so, he feels, that helped to precipitate the domestic political controversy which followed, and which became the "cost"—the avoidable cost, in his opinion—of obtaining the Gulf of Tonkin Resolution in the manner in which it had been obtained.<sup>12</sup> ". . . if, in fact, the debate is filled with discrepancies and arguments back and forth, and it accompanies a *Maddox* type incident, and there is not very substantial clarity in the record at the time, then it seems to me that it leads to the kind of authority deflation that undercuts the effort abroad and hurts us at home." Moore added:<sup>13</sup>

Government really is, I'm convinced, and presidential power really is, the ability to build a consensus. And you're successful if you can do it. And if you can't, your policy won't work. You may push it through, but the chances are that you won't. They'll get you in the courts or they'll get you somewhere else, at some point.

<sup>11</sup> Falk, vol. II, pp. 814, 819.

<sup>12</sup> CRS Interview with John Norton Moore, Dec. 7, 1978.

<sup>13</sup> *Ibid.*

Abram Chayes, who helped draft the resolution, said that Congress was not fully informed about the incidents in the Gulf of Tonkin, "And, in a legal-political sense that means that you didn't have them on the hook the same way you would have had them if you had exposed the situation more fully. That is, the criticism by congressmen who had voted for the resolution—the subsequent criticism—you couldn't foreclose by simply saying, well you voted, you're in this with me."<sup>14</sup>

### *The Reactions of the Judiciary*

During the latter 1960s and early 1970s, numerous efforts were made to get the courts to rule on the legality of the war.<sup>15</sup> They refused to do so primarily because of the political question doctrine, the traditional judicial position with respect to controversies between the political branches of the Government, Congress and the Executive, by which the courts refrain from adjudicating political disputes between the two branches.<sup>16</sup>

In most of the court cases on the war the plaintiffs challenged the legality and constitutionality of the war based on the argument that the Gulf of Tonkin Resolution was not constitutional authorization for the war, particularly for the large-scale war waged after 1965. In 1967, the Supreme Court was asked to hear *Mora v. McNamara* involving servicemen who were being sent to Vietnam, and who wanted the war declared illegal.<sup>17</sup> The Court declined to consider the case, but Justices William Douglas and Potter Stewart dissented on the grounds that the questions being raised were serious and deserved a hearing.<sup>18</sup> Some of these questions Justice Stewart said, were:

<sup>14</sup>CRS Interview with Abram Chayes, Oct. 13, 1978.

<sup>15</sup>Unfortunately there is no single comprehensive analysis of the role of the judiciary in the war. In addition, much of the literature was produced by those opposed to the war, and tends to reflect that position. The only general, nontechnical study is of that genre: Anthony A. D'Amato and Robert M. O'Neil, *The Judiciary and Vietnam* (New York: St. Martin's Press, 1972).

For a discussion of court cases resulting from efforts by activists who deliberately broke the law in order to challenge the legality and morality of the war, see John F. and Rosemary S. Bannan, *Law, Morality and Vietnam: The Peace Militants and the Courts* (Bloomington: University of Indiana Press, 1974). The best analysis of the role of the U.S. Supreme Court, also written by a lawyer opposed to the war, is Philippa Strum, "The Supreme Court and the Vietnamese War," in Falk, vol. IV, pp. 535-572. For the numerous additional sources see the footnotes contained in the selections reprinted in Falk.

<sup>16</sup>Perhaps the best definition of "political question" is contained in Justice Brennan's opinion in *Baker v. Carr*, 369 U.S. 186 (1962): "Prominent on the surface of any case held to involve a political question is found a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question."<sup>17</sup>389 U.S. 934 (1967).

<sup>18</sup>Justice Brennan joined Justice Douglas in voting to grant certiorari in the case of *Orlando v. Laird*, 404 U.S. 869 (1971). Justice Douglas dissented for similar reasons in several other cases on the war, one of the most prominent of which was *Massachusetts v. Laird*, 400 U.S. 886 (1970), in which Justices Stewart and Harlan joined Douglas in voting to hear arguments on the case. For comments on dissents on the justiciability of Vietnam war cases by justices of the Supreme Court, see Strum in Falk, vol. IV, p. 542. For a brief discussion of the position taken by the justices on the Massachusetts case see Bob Woodward and Scott Armstrong, *The Brethren* (New York: Simon and Schuster, 1979), pp. 125-127. For a good discussion of the justiciability of Vietnam war cases see John Norton Moore, "The Justiciability of Challenges to the use of Military Forces Abroad," *Virginia Journal of International Law*, 10 (December 1969), pp. 85-107. For the importance of adjudicating such cases, see Warren F. Schwartz, "The Justiciability of Legal Objectives to the American Military Effort in Vietnam," *Texas Law Review*, 46 (1968), pp. 1033 ff.

I. Is the present United States military activity in Vietnam a "war" within the meaning of Article I, Section 8, Clause 11, of the Constitution?

II. If so, may the Executive constitutionally order the petitioners to participate in that military activity, when no war has been declared by the Congress?

III. Of what relevance to Question II are the present treaty obligations of the United States?

IV. Of what relevance to Question II is the Joint Congressional ("Tonkin Gulf") Resolution of August 10, 1964?

Justice Douglas, who had first argued in *Mitchell v. United States*<sup>19</sup> the need for the Supreme Court to consider these kinds of questions, added these questions to those posed by Stewart:

(a) Do present United States military operations fall within the terms of the Joint Resolution?

(b) If the Joint Resolution purports to give the Chief Executive authority to commit United States forces to armed conflict limited in scope only by his own absolute discretion, is the Resolution an impermissible delegation of all or part of Congress' power to declare war?

"We do not, of course, sit as a committee of oversight or supervision," Douglas said. "What resolutions the President asks, and what the Congress provides are not our concern. With respect to the Federal Government, we sit only to decide actual cases or controversies within judicial cognizance. . . ." But Douglas said that the court should "squarely face" these "large and deeply troubling questions." "We cannot make these problems go away simply by refusing to hear the case of three obscure Army privates."<sup>20</sup>

The U.S. Supreme Court refused, however, all appeals to hear Vietnam war cases, provoking this comment by a lawyer who opposed the war and thought that the Court should have been more active:<sup>21</sup>

United States involvement in Southeast Asia has been a key—if not *the* key—issue of American national politics in the 1960's and 1970's. Nevertheless, superficial examination of the role played by the Court in cases involving the constitutionality of American involvement would seem to indicate that the Court refused to play any role whatsoever. The Court denied certiorari not only to cases challenging the constitutionality of the war itself, but to related cases involving the issues of the right of the military to order servicemen to Vietnam and the right of the executive to draft civilians for service in Vietnam. Obviously, this raises the question of the Court's policy-making role in war-time. It is tempting but insufficient to postulate that the Court has no alternative other than to maintain a "hands-off" approach during war. Closer examination reveals that the Court's refusal to grant certiorari can be interpreted as an attempt to preserve lower court decisions that held the alleged unconstitutionality of a President-initiated war to be

<sup>19</sup>386 U.S. 972 (1967).

<sup>20</sup>See also William O. Douglas' comments in his autobiography, *The Court Years 1939-1955* (New York: Random House, 1980), pp. 55-56, 151-152.

<sup>21</sup>Strum in Falk, vol. IV, pp. 535-536.

justiciable. A total of four justices voted to grant certiorari in the war cases, although at no time did all four vote to do so in the same case. The Court also played an extremely active role in considering the collateral questions of conscientious objector exemptions, the permissible limits of anti-war speech, and the right of the press to print information which the government deemed inimical to national security. Even in the latter areas, however, the Court's record is erratic. While it perverted the language of a statute in order to extend draft exemptions as far as possible, the Court stopped short of adopting the selective conscientious objector standard. It upheld the right of school children to protest the war symbolically but declined to recognize draft card burning as symbolic speech. While rejecting one instance of prior restraint, it accepted the theory of restraint before publication.

Despite the Supreme Court's refusal to hear Vietnam war cases, the decisions of district and appeals courts produced some interesting case law, which, while it had little if any practical effect during the Vietnam war, may suggest the direction of judicial action should similar questions be posed in the future. (The existence of the War Powers Resolution, of course, created a new legal framework within which such disputes could be adjudicated in the future.) In 1970, in *Berk v. Laird*,<sup>22</sup> a lower court found that because Congress and the Executive must both authorize, under certain circumstances, the use of the armed forces, the question of whether the Vietnam war involved "mutual legislative-executive action" was justiciable in view of the existence of a "discoverable and manageable standard," namely, whether the executive branch had complied with the duty of acting with congressional authority. *Berk* left open, however, the question of what action by Congress would be sufficient to constitute authorization by the legislature. This was taken up in *Orlando v. Laird*<sup>23</sup> in 1971, in which the court found that judicial review of the adequacy of congressional authorization of a war was not barred by the political question doctrine, and, further, that several actions by Congress satisfied the standard for "mutual participation in the prosecution of war." Not only had Congress passed the Gulf of Tonkin Resolution; it had passed appropriations bills to fund the war, and an extension of the draft in order to provide the necessary manpower. Thus, the court concluded:

... the constitutional propriety of the means by which Congress has chosen to ratify and approve the protracted military operations in Southeast Asia is a political question. The form which Congressional authorization should take is one of policy, committed to the discretion of the Congress and outside the power and competency of the judiciary because there are no intelligible and objectively manageable standards by which to judge such actions.

*Berk* and *Orlando* were also significant because of the courts' firm rejection of the government's claim that the President's power

<sup>22</sup>429 F. 2d 302 (2d Cir. 1970).

<sup>23</sup>404 U.S. 869 (1971).

to commit U.S. forces to combat is as broad as his foreign affairs power.<sup>24</sup>

The *Berk* and *Orlando* cases were carried one step further in 1973, by one of the last of the Vietnam court cases, *Mitchell v. Laird*,<sup>25</sup> in which a number of liberal Democrats in the House of Representatives<sup>26</sup> sought an injunction to prohibit further prosecution of the war "unless, within 60 days from the date of the order, the Congress of the United States shall have explicitly, intentionally and discretely authorized a continuation of the war, with whatever limitations Congress may place upon such continuation."<sup>27</sup> The *Mitchell* case went to the U.S. Court of Appeals for the District of Columbia, which made a significant determination with respect to the form of congressional authorization of the Vietnam War. Reversing earlier decisions, it found that congressional approval of appropriations acts and of the draft was not a "constitutionally permissible form of assent."<sup>28</sup>

<sup>24</sup>For a full-length record of the *Orlando* case, see the book edited by two of the counsels for the plaintiffs: Leon Friedman and Burt Neuborne (eds.), *Unquestioning Obedience to the President: The ACLU Case Against the Legality of the War in Vietnam* (New York: W. W. Norton, 1972).

<sup>25</sup>476 F. 2d 533 (2d Cir. 1973). There were several other important cases, as described succinctly in the "Plaintiff's Memorandum of Law" in the case of *Holtzman v. Richardson*, D.C.E.D., N.Y., 73 C 537, mimeo, pp. 11-13 (footnotes in the original have been omitted):

"In *DaCosta v. Laird*, 448 F. 2d 1368 (2nd Cir. 1971) cert den 31 L. Ed. 2d 255 (1972), this Circuit reaffirmed its decision in *Orlando* and ruled that military appropriations, standing alone, (in the absence of the Tonkin Gulf resolution) constituted sufficient authorization of the Vietnam war.

"However, the *DaCosta* court, as did each court accepting the analysis of the *Orlando* court, explicitly noted that should the Executive attempt to escalate the war or to continue the war without Congressional authorization, its actions would violate Article I, Section 8 of the Constitution.

"The passage of the Mansfield Amendment (PL 92-156, 85 Stat. 430) and its immediate public repudiation by the President on Nov. 17, 1971, ushered in the fourth phase of this Circuit's consideration of the legality of military operations in Vietnam.

"In *DaCosta v. Laird*, 72 Civ. 207 (Feb. 16, 1971) this Court ruled that the national policy of military withdrawal from Indochina enunciated in the Mansfield Amendment was binding upon the President, but that the Executive's actions through February 16, 1972 had not been inconsistent with such a binding national policy. This Court's opinion was summarily affirmed without opinion, on February 25, 1972.

"The Executive's unilateral decision to mine North Vietnam's coastal waterways led to the fifth phase of judicial inquiry into the legality of Executive warmaking in Indochina. . . . Judge Kaufman, writing for the Circuit, ruled that once initial Congressional authorization for the commitment of American forces to combat in Vietnam was found in the passage of military appropriations bills, the question of whether subsequent military tactics designed to protect the lives of American troops in the field fell within the original Congressional grant of authority constituted a non-justiciable political question. He noted, however, that the judiciary continued to recognize a threshold obligation to determine whether, within the meaning of *Berk* and *Orlando*, sufficient Congressional authorization existed for the commitment of American forces to combat."

<sup>26</sup>These included Representatives Parren J. Mitchell (D/Md.), Michael J. Harrington (D/Mass.), Benjamin S. Rosenthal (D/N.Y.), Bella S. Abzug (D/N.Y.), Phillip Burton (D/Calif.), Herman Badillo (D/N.Y.), William Clay (D/Mo.), Shirley Chisholm (D/N.Y.), John Conyers, Jr. (D/Mich.), Charles C. Diggs, Jr. (D/Mich.), Charles B. Rangel (D/N.Y.), Thomas M. Rees (D/Calif.), Louis Stokes (D/Ohio), Robert L. Leggett (D/Calif.), Donald M. Fraser (D/Minn.), Edward R. Roybal (D/Calif.), Don Edwards (D/Calif.), and William R. Anderson (D/Tenn.). For a copy of their brief see CR, Vol. 119, pp. 16846-16880.

<sup>27</sup>In their brief, the plaintiffs explained these criteria, all three of which they said must be met in order for a war-authorizing resolution "to be sufficient under the declaration of war clause without being a formal declaration."

<sup>28</sup>"This court cannot be unmindful of what every schoolboy knows: that in voting to appropriate money or to draft men a Congressman is not necessarily approving of the continuation of a war no matter how specifically the appropriation or draft act refers to that war. A Congressman wholly opposed to the war's commencement and continuation might vote for the military appropriations and for the draft measures because he was unwilling to abandon without support men already fighting."

The court also found in the *Mitchell* case that the Gulf of Tonkin Resolution, which had been repealed by Congress in 1970, could not be used as justification for the "indefinite continuation of the war." (emphasis in original) The court held, however, that despite the apparent lack of authorization from Congress for continuing the war, President Nixon was trying to bring the war to an end, and because the court could not presume to judge whether he was doing so, the case was dismissed on the political question doctrine.

Following the *Mitchell* case, another member of Congress, Representative Elizabeth Holtzman (D/N.Y.), and four members of the U.S. Air Force, filed suit in 1973 to enjoin U.S. bombing of Cambodia on the grounds that it had not been authorized by Congress and was unconstitutional. The district court held for the plaintiffs,<sup>29</sup> but the appeals court eventually found for the government on the political question doctrine, and the Supreme Court rejected review.<sup>30</sup> One leading antiwar legal analyst charged:<sup>31</sup>

Thus the [Supreme] Court, having steered its way dextrously through the dangerous waters churned up by most of the war cases, foundered on *Holtzman*. Its previous non-decisions had had the happy effect of leaving full responsibility for American actions in Southeast Asia with what the Court delights in calling the "political" branches of the federal government and with the American people. When the Congress and the people had finally spoken, however, the Court paid no heed. Thus there is still no definitive ruling that a Presidential war is unconstitutional or that as Judge Judd<sup>32</sup> indicated, it "cannot be the rule that the President needs a vote of only one-third plus one of either House in order to conduct a war." As the law now stands, it is possible to argue that, in clear contradiction of Article I, Section 8, "Congress must override a Presidential veto in order to terminate hostilities which it has not authorized," and that the Court has tacitly concurred in Congress' loss of its monopoly over the power to declare war.

<sup>29</sup>*Holtzman v. Schlesinger*, 361 F. Supp. 553 (1973).

<sup>30</sup>See Strum's excellent account in Falk, vol. IV, pp. 664-669.

<sup>31</sup>*Ibid.*, pp. 570-571 (footnotes in original are omitted).

<sup>32</sup>This refers to action by Congress banning U.S. military action in Cambodia. Judge Orin Judd of the U.S. District Court in New York enjoined the government in the *Holtzman* case.

## NOTES ON SOURCES AND STYLE

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### Sources

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This study is based largely on primary unpublished and published materials and oral histories conducted by CRS. All pertinent memoirs and relevant secondary sources were also consulted, and are cited in the footnotes where appropriate.

Congressional materials which were used include the Congressional Record and all published committee hearings and reports during 1961-64 which relate in any significant way to the Vietnam war.

Open and unpublished papers of the Senate Foreign Relations Committee were reviewed at the National Archives, and are cited where appropriate. Some pertinent files containing classified materials or internal committee staff memoranda remain restricted.

Unpublished executive session transcripts of the Foreign Relations Committee for 1962-64 (1961 has been published in the committee's Historical Series) were also consulted, and material from those is used herein by permission of the committee.

Unpublished materials from the Executive which were consulted for this part of the study consisted of the archives at the John F. Kennedy Library in Boston, Massachusetts, and the Lyndon B. Johnson Library in Austin, Texas.

All relevant published studies by the historical offices of the Military Services were utilized, and the three editions of the Pentagon Papers were used extensively.

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### Style

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Full name identification of persons referred to in this study, as well as their role or political party, is given at the place where the person is first mentioned, which can be found in the index.

For Vietnamese names, in which the last name is first, the use of first names (Ngo Dinh Diem becomes Diem rather than Ngo) follows the general practice in U.S. Government documents and in published materials, based on Vietnamese custom.

## INDEX

- A.I.D. (Agency for International Development). *See* Executive Branch  
Abzug, Bella S., 411 fn.  
Acheson, Dean, G., 252, 359 fn.  
Adair, E. Ross, 309  
Agency for International Development (A.I.D.). *See* Executive Branch  
Aiken, George, 30, 116, 192, 206, 265, 295, 304, 319, 329, 341  
Albert, Carl, 29 fn., 113 fn., 289, 308  
Alger, Bruce, 310  
Allott, Gordon, 330  
American Friends of Vietnam, 5, 142  
Anderson, John B., 310  
Anderson, William R., 411 fn.  
Anthis, Rollen H., 284  
Antiwar activities, 144-145, 250-251  
Arends, Leslie C., 29 fn., 113 fn., 366  
Arnett, Peter, 131  
Bader, William, 337  
Badillo, Herman, 411 fn.  
Baldwin, Hanson W., 221  
Ball, George W., 6, 8, 88, 89, 103, 122-123, 146, 147, 149, 151, 155-156, 187, 196, 204, 209, 254, 285, 286, 290, 292, 299-300, 353, 356-357, 360-362, 367, 372, 373, 374  
Barnhart, Robert C., 296  
BARREL ROLL, 375, 382  
Bartlett, E. L., 226, 319  
Bay of Pigs. *See* Cuba  
Bell, David E., 27, 37, 187, 188, 189  
*Berk v. Laird*, 410  
Berlin Resolution (1962), 130  
Bernstein, Daniel J., 144 fn.  
Bickel, Alexander, 403  
Bigart, Homer, 108  
Bissell, Richard, 17  
Black, Eugene R., 359 fn.  
Boggs, Hale, 113 fn.  
Boggs, J. Caleb, 131, 207  
Bolton, Frances P., 304  
Bonesteel, Charles H. III, 35  
Bowles, Chester, 6, 28, 82, 121 fn., 216 fn.  
Bradley, Omar C., 359 fn.  
Brewster, Daniel B., 322  
Bridges, Styles, 29  
Broomfield, William S., 264  
Brown, Winthrop G., 11  
Browne, Malcolm W., 108, 131  
Bundy, McGeorge, 11, 19, 27, 32, 33, 37, 88, 95-96, 97, 123, 146, 156, 167, 168, 169, 170, 174, 175, 186, 188, 197, 199, 209, 216, 254, 256, 268, 269, 283, 290, 292, 301-302, 331, 349, 350, 359-360, 362, 373, 374, 375, 379, 384, 389, 391  
Bundy, William P., 41, 68, 79, 80, 83-84, 87, 89, 91, 98, 114 fn., 118, 127, 163, 183, 186, 204-205, 209, 211, 237 fn., 241 fn., 244, 245, 246, 249, 263, 266-268, 269-270, 273, 283 fn., 300-301, 346, 349, 350-351, 354, 363-364, 365-375 *passim*, 389-390, 398  
Burchinal, David A., 290, 292 fn.  
Burke, Arleigh, 28  
Burton, Phillip, 411 fn.  
Buttinger, Joseph, 142-143  
Byrd, Harry F., 329  
Byrnes, John W., 113 fn.  
CIA (Central Intelligence Agency). *See* Executive Branch

Carlson, Frank, 167-169, 320  
 Carter, Marshall S., 356  
 Carver, George, 365  
 Case, Clifford P., 311, 329  
 Cater, Douglass, 252, 269, 302  
 Central Intelligence Agency (CIA). *See* Executive Branch  
 Charlton, Michael, 285  
 Chayes, Abram J., 82, 114, 117, 292-293, 408  
 Chiang Kai-shek, 260  
 Child, Frank C., 76, 143  
 Chipperfield, Robert B., 29 fn., 113 fn.  
 Chisholm, Shirley, 411 fn.  
 Church, Frank, 134, 143, 167-169, 192-193, 194, 207, 275-277, 318, 329, 394-395, 400  
 Clark, Joseph S., 168, 329  
 Clay, William, 411 fn.  
 Cleveland, Harlan, 82  
 Clifford, Clark, 9 fn.  
 Clifton, Chester V., Jr., 278  
 Cline, Ray S., 298-299  
 Colby, William E., 50 fn., 104, 140, 153, 183, 193, 197, 202-203, 213, 284  
 Committee on Foreign Affairs. *See* Congress, U.S.  
 Committee on Foreign Relations. *See* Congress, U.S.  
 Conein, Lucien, 146, 148, 152, 154, 189-190, 191, 195, 196, 198, 200  
 Congress, U.S., 52, 111, 118-119, 126:  
   Committee on Appropriations (House), 121, 226, 266  
   Committee on Armed Services (Senate), 287, 304  
   Committee on Foreign Affairs (House):  
     congressional control of war-making, 306-307  
     consultation (and hearings) with Executive, 126  
     coup against Diem, 194, 207  
     Gulf of Tonkin Resolution, 304-307  
     study missions to Vietnam, 102 fn., 189, 194  
   Committee on Foreign Relations (Senate):  
     congressional role in foreign policy commitments and war-making, 30, 110 fn., 114, 117, 313  
     consultation (and hearings) with Executive, 10-11, 29, 46, 53, 108, 110, 113, 114-115, 116, 117, 139, 147, 166, 192-193, 204, 241-242, 249, 275, 287, 376, 398-400, 401  
     coup against Diem, 110, 194-195, 206  
     Gulf of Tonkin Resolution, 304, 310-314  
       reconsideration of (1968), 333-342  
     study missions to Vietnam, 131, 134  
     consultation with Executive on Vietnam (and Laos), 21, 29, 100-101, 116, 151, 191, 214, 247  
   Cuba Resolution, 129  
   Gulf of Tonkin Resolution, 304-330 *passim*. *See also* Foreign Affairs and Foreign Relations Committees  
   Laos, views on, 22, 29, 118-119  
   national commitments hearings and resolution (1967), 332-333, 335-336  
 Connor, John T., 359  
 Conyers, John, Jr., 411 fn.  
 Cooper, Chester L., 186, 245 fn., 254  
 Cooper, John Sherman, 279, 318, 325-326, 329, 340, 397  
 Cottrell, Sterling J., 38, 49, 70, 75, 77  
 Cowles, Jack, 337 fn.  
 Cowles, John, 359 fn.  
 Craig, William H., 66, 77 fn.  
 "Credibility Gap," 282 fn.  
 Cronkite, Walter, 163  
 Cuba, 11:  
   Bay of Pigs, 23, 25  
   Cuba Resolution (1962), 129, 305, 330  
 DRV. *See* Democratic Republic of Vietnam  
 Darden, William, 304  
 Dean, Arthur C., 359 fn.  
 Decker, George H., 28  
 Derwinski, Edward J., 307

DE SOTO Patrols, 280, 282-343 *passim*, 347, 351, 354, 356, 389  
 Democratic Republic of Vietnam (North), 213-214, 239, 244, 245, 247-248, 253, 254, 255, 256-259, 261, 281, 282, 297, 342, 344, 346, 348-349, 351, 353, 360, 363, 365, 366-377 *passim*, 379, 381, 386, 390, 391  
 Diem. *See* Ngo Dinh Diem  
 Diggs, Charles C., 411 fn.  
 Dillion, C. Douglas, 156, 175, 313  
 Dirksen, Everett McKinley, 29, 50, 113 fn., 167, 265, 286, 317, 329, 394, 397  
 Dodd, Thomas E., 46-47, 225, 330  
 "Domino Theory," 57  
 Don. *See* Tran Van Don  
 Douglas, Paul H., 330  
 Douglas, William O., 408-409  
 Dulles, Allen W., 8, 11, 15, 359 fn.  
 Duong Van Minh, 147, 152, 154, 175, 182, 190, 191, 200, 202, 218, 229, 254  
 Durbrow, Elbridge, 13, 15, 33, 153  
 Dutton, Frederick, 266  
 Eccles, Marriner, 359  
 Edwards, Don, 411 fn.  
 Eisenhower, Dwight D., 8, 9, 115  
 Ellender, Allen J., 224, 249, 329  
 Ellsburg, Daniel, 348, 391 fn.  
 Ervin, Sam J., Jr., 329  
 Executive Branch. *See also* names of individual Presidents and other officials;  
   United States Foreign and Military Policy and Strategy, Vietnam  
   Agency for International Development (A.I.D.), 13-15, 51, 100, 183, 187, 189  
   Central Intelligence Agency, 15, 23, 77, 211, 213  
   intelligence estimates on Vietnam, 89, 147, 228, 272, 359  
   Vietnam and, 104-105, 152, 177  
 Congress and:  
   consultation with (including hearings), 10-11, 21, 29, 46, 53, 100-101, 108, 110, 113, 114-115, 116, 117, 121, 126, 139, 147, 151, 166, 191, 192-193, 204, 214, 226, 241-242, 247, 249, 261, 275, 287, 294-295, 365-366, 372, 376, 398-400, 401  
   preparation of congressional resolution, 235, 254, 255, 258, 262-263, 266-274, 292-293  
 Joint Chiefs of Staff (JCS), 26, 27, 28, 32, 34, 39, 61, 67, 86, 97, 115, 120, 138, 229-232, 234, 251, 260-261, 283-284, 347, 352, 355, 363, 364, 369, 382  
 Laos Task Force, 18, 19, 26  
 National Security Agency, 282, 292 fn.  
 National Security Council:  
   discussions of Vietnam (and Laos), 14-15, 20-21, 26, 32, 33, 38, 78, 96, 151, 152, 156, 164, 167, 168, 169, 180, 183, 188, 196, 201, 238, 246, 263, 272, 292, 343-348, 350, 375  
   documents:  
   NSAM 2, February 3, 1961, 15  
   NSAM 9, February 6, 1961, 16  
   NSAM 28, March 9, 1961, 16  
   NSAM 52, May 11, 1961, 40  
   NSAM 65, August 11, 1961, 52 fn.  
   NSAM 104, October 13, 1961, 70  
   NSAM 111, November 22, 1961, 99  
   NSAM 124, January 18, 1962, 17 fn.  
   NSAM 131, March 13, 1962, 17 fn.  
   NSAM 157, May 29, 1962, 117 fn.  
   NSAM 162, June 19, 1962, 17 fn.  
   NSAM 263, October 11, 1963, 188  
   NSAM 273, November 26, 1963, 209  
   NSAM 280, February 14, 1964, 234 fn.  
   NSAM 288, March 7, 1964, 238-240  
   NSAM 308, June 22, 1964, 274  
   NSAM 314, September 10, 1964, 353  
   Special Group and 303 Committee, 283-284  
   Special Group (Counterinsurgency), 17, 143  
   Southeast Asia Task Force, 58, 64  
   Vietnam Coordinating Committee, 213, 234, 244, 259, 274  
   Vietnam Task Force, 33, 35, 36, 38-39, 49, 80, 213  
 Falk, Richard, 403

Fall, Bernard B., 136  
 FARM GATE, 70, 108, 247, 256  
 Fascell, Dante B., 307  
 Felt, Harry D., 72, 262  
 Findley, Paul, 47, 309, 335  
 Fishel, Wesley R., 123, 143  
 FitzGerald, Desmond, 35  
 Flood, Daniel J., 226  
 Ford, Gerald R., 226-227, 279, 309, 376  
 Ford, Harold, 365  
 Foreign Affairs Committee. *See* Congress, U.S.  
 Foreign Aid, U.S. *See* Executive Branch, (Agency for International Development)  
 Foreign Relations Committee. *See* Congress, U.S.  
 Formosa Resolution (1955), 304, 305, 330  
 Forrestal, Michael, 118, 134-135, 138, 139, 146, 148, 149-150, 151, 153, 156, 174, 180, 211, 228, 247, 271, 283 fn., 350-351, 363-364, 365, 389, 391 fn.  
 Fosdick, Henry Emerson, 144 fn.  
 Fowler, Henry M., 359  
 Fraleigh, Bertram, 398-399  
 Fubini, Eugene G., 284 fn.  
 Fulbright, J. William, 22, 29 fn., 30, 46, 47-48, 50, 110, 113 fn., 118, 121, 127, 128 fn., 143, 180, 192, 214, 222-223, 225, 237, 242-243, 275-276, 295, 300, 304, 310, 315, 316, 321-322, 323-327, 329, 333, 334, 335, 338-340, 358, 376, 377, 398-399, 400-401  
 Gaither, H. Rowan, 2  
 Gaither Committee, 2-3  
 Galbraith, John Kenneth, 82, 93 fn., 100, 119-120, 141, 165  
 Gavin, James, 3  
 Gault, Charles de, 219, 237, 239, 241, 252, 344  
 Geneva Conference and Accords (1954) 27, 40, 69, 109, 110, 112: Laos (1962), 117  
 Gilpatric, Roswell, 35-36, 86, 149-150, 156, 157, 359 fn.  
 Goldwater, Barry M., 271, 295, 313, 314, 329, 337, 357-358, 364  
 Gore, Albert A., 110, 114, 241, 320, 329, 340-341, 396 400  
 Goulden, Joseph, 312, 315  
 Green, Marshall, 365  
 Greene, Wallace M., Jr., 352  
 Gross, H. R., 307  
 Gruening, Ernest, 168, 225, 249, 277, 335  
 Gulf of Tonkin, 280-342 *passim*: incidents, 285-297 *passim*  
 Legal Commentary and Judicial Opinions, 403-412  
 Resolution, 269, 301-343 *passim*, 372  
 Halberstam, David, 108, 112, fn., 131, 133, 353, 384 fn.  
 Halleck, Charles A., 29 fn., 113 fn., 295, 309  
 Hannah, John A., 123  
 Harkins, Paul D., 103, 125, 139, 140, 154, 156, 172, 183, 197-199, 228, 232, 244  
 Harriman, W. Averell, 26, 49, 64, 66, 82, 93, 109, 110, 112, 113, 114, 115, 120, 122, 189, 146, 148, 149-150, 151, 156, 165, 172, 174, 188, 196, 211  
 Harrington, Donald S., 144  
 Harrington, Michael J., 411 fn.  
 Harris, Louis, 364  
 Hartke, Vance, 329  
 Helms, Richard, 149-150, 201-202, 283, 290  
 Henkin, Louis, 405  
 Herrick, John J., 286, 288-292, 337  
 Herter, Christian A., 11  
 Hickenlooper, Bourke B., 29 fn., 50, 113 fn., 192, 206, 278-279, 294, 304, 318, 330, 376  
 Higgins, Marguerite, 123, 164, 202  
 Hilsman, Roger, 17, 106-107, 115, 124, 130, 134-135, 139, 145, 146, 148, 149-150, 151, 153, 156, 160, 161, 164-165, 166, 167, 168-169, 171, 174, 175, 176, 177-179, 180, 196, 202, 210, 211, 213, 237  
 Hoeven, Charles B., 113 fn.  
 Hoffman, Paul G., 359 fn.  
 Holt, Pat, 304, 310, 314-315  
 Holtzman, Elizabeth, 412  
 Holtzman v. Schlesinger, 412  
 Hoopes, Townsend, 363

House Foreign Affairs Committee. *See* Congress, U.S.  
 Humphrey, Hubert H., 29 fn., 113, 126, 193, 277-278, 286, 318, 375, 398-399  
 Huntley, Chet, 163  
 International Control Commission, 10, 109, 245  
 JCS (Joint Chiefs of Staff). *See* Executive Branch  
 Jackson, Henry M., 397  
 Javits, Jacob K., 220, 279, 317, 329  
 Johnson, Harold K., 352  
 Johnson, Lyndon B., 26, 113, 188, 215, 219, 222, 233-234, 238, 241, 243, 246, 248, 263-264, 271, 272, 277-278, 315, 342, 343, 350, 353-353, 354, 355-356, 360, 364, 365, 375-376, 379, 382-383, 384, 389, 391, 392-393, 397, 398:  
 approves continuation of Kennedy policies (November 1963), 209  
 approves 34-A operations (December 1963), 212  
 approves two-phase graduated pressure plan, 375-376  
 Gulf of Tonkin incidents and Resolution, 286-297 *passim*, 301, 304, 333-334, 342  
 opposes Diem coup, 156, 160-161,  
 Presidential campaign (1964), 271, 357-359  
 trip to Vietnam (May 1961), 33, 41-46  
 Johnson, Robert H., 37 fn., 49, 53, 61 fn., 65, 76, 80, 118, 235, 365  
 Johnson, U. Alexis, 29, 35, 53, 55, 59, 62, 63, 69, 89, 121, 196, 202, 282, 283, 381, 387  
 Johnston, Olin, 250  
 Joint Chiefs of Staff (JCS). *See* Executive Branch  
 Jones, Robert, 144  
 Jorden, William J., 70, 74-75, 103  
 Judd, Walter H., 113 fn.  
 Karnow, Stanley, 143  
 Kattenburg, Paul, 155, 150-161, 213  
 Katzenbach, Nicholas deB., 308, 332-333  
 Kaysen, Carl, 44, 76  
 Kearns, Doris, 241, 392  
 Kennedy, Edward M., 329  
 Kennedy, John F., 23, 48:  
 emphasis on counterinsurgency, 16-17  
 foreign and military policy of, 7, 17, 34  
 inaugural address, 3  
 Laos, 8-9, 11-12, 20-21, 22, 25, 27, 29, 32, 33, 49, 58, 71, 113  
 Vietnam, 14-15, 33, 38, 49-50, 58-71, 82, 84, 91, 93-94, 101, 107, 108, 111-112, 120, 125, 132-133, 138-139:  
 Diem coup, 146-211 *passim*  
 increased commitment (May 1961), 40-41, 42  
 Joint Action Plan (August 1961), 51, 52 fn., 60  
 "Limited Partners" (December 1961), 96-103  
 views on importance of defending Vietnam, 4-6, 43, 137  
 Kennedy, Robert F., 27-28, 63, 110, 151, 156, 169-170, 196-197, 275 fn.  
 Khanh. *See* Nguyen Khanh  
 Khiem. *See* Tran Thich Khiem  
 Khrushchev, Nikita, 16, 23, 48  
 Kirkpatrick, Lyman D., 201, 228  
 Kissinger, Henry A., 17  
 Kistiakowsky, George B., 359 fn.  
 Komer, Robert W., 14, 35 fn., 53, 57, 81  
 Krulak, Victor H., 146, 149, 150, 151, 153, 170-172, 175, 212, 213-214, 232  
 Kuchel, Thomas H., 113 fn.  
 Ky. *See* Nguyen Cao Ky  
 Laird, Melvin R., 265, 309  
 Lansdale, Edward G., 11, 12-13, 14-15, 16, 35, 37, 67, 70, 73-74, 78, 99 fn., 107, 140, 155, 165-166, 178-203, 274, 278, 383, 385-386, 398-399  
 Laos, 8-9, 10-11, 15, 18-23, 25, 26-33, 37, 43, 49, 59-71, 112-119, 234, 251-252, 272, 344 fn., 347 fn.:  
 Laos Accords (1962), 117  
*See also*, Executive (Laos Task Force); Souvanna Phouma  
 Larson, Arthur, 359 fn.  
 Lausche, Frank J., 50, 113, 166, 249, 287, 330, 340, 396  
 Leggett, Robert L., 411 fn.  
 Le Quang Tung, 172, 187, 192-193, 207  
 Le Van Kim, 147  
 LeMay, Curtis E., 210, 260, 272

Lemnitzer, Lyman L., 39, 62, 91, 97, 105  
 Liebman, Morris I., 359 fn.  
 Lilienthal, David, 82  
 Lippmann, Walter, 219, 237, 280  
 Lisagor, Peter, 164  
 Lodge, Henry Cabot, 148, 151, 154, 156-157, 158-159, 160, 161, 162, 163, 164, 166, 167, 168, 169, 170, 175, 176, 181, 182-183, 188, 190, 195, 197-198, 199-200, 203-204, 218, 222, 229, 244, 246, 252, 261, 262, 264, 275, 281  
 Loeb, John L., 359  
 Long, Russell B., 117, 249, 311  
 Lovett, Robert A., 359 fn.  
 Macmillan, Harold, 22, 32  
 McCarthy, Eugene J., 329, 333, 335  
 McClellan, John, 249  
 McCloy, John J., 89, 359 fn.  
 McCone, John A., 139, 140, 150, 151, 156, 164, 174, 175, 177, 188, 190, 193, 197, 201, 209, 211-212, 238-240, 263, 284 fn., 287, 290, 293, 294, 350, 352-353, 373  
 McConnell, John P., 352  
 McCormack, John W., 113 fn., 294, 295  
 McDonald, David L., 352  
 McGarr, Lionel C., 34, 42, 50, 95 fn., 103  
 McGee, Gale W., 134, 330  
 McGhee, George, 82, 94, 95 fn.  
 McGovern, George, 168, 191, 327-328, 329, 394-395, 396  
 McNamara, Robert S., 7-8, 13, 27-28, 38, 39, 64, 68, 86, 88, 89-91, 92, 97, 107, 116, 120, 121, 125, 130, 139, 140, 151, 156, 160, 161, 166, 170, 175, 192, 209, 211, 213, 217, 225, 227, 241-242, 243, 246, 249, 261, 262, 263, 278-279, 286, 287-294, 305, 310-312, 337-341, 350, 352, 355, 356-357, 360, 362, 364, 373, 374, 376, 382, 391:  
   missions to Vietnam, and reports on:  
     October 1963, 183-188  
     December 1963, 211-212  
     March 1964, 238-240  
     May 1964, 247-248  
 McNaughton, John T., 247, 254-255, 282, 283 fn., 348, 350, 365, 367, 373, 390-391  
 Mahon, George, 376  
 Manning, Robert, 275  
 Mansfield, Mike, 10-11, 29, 30-32, 46, 50, 84-85, 113, 118, 127, 131-133, 143, 167, 168, 192, 206, 215-218, 219, 252, 272, 279, 294, 295, 304, 305, 313, 316, 329, 341, 377-378, 397  
 Marcy, Carl, 128, 214  
 Mathias, Charles, 322  
 May 2nd Movement, 250  
 Mecklin, John, 112, 171-174  
 Meeker, Leonard C., 274-275, 330 fn., 332  
 Melvin, George H., 398  
 Mendenhall, Joseph A., 170-172  
 Michigan State University Group, 105, 123, 142  
 Middle East Resolution (1957), 270, 303, 304, 305, 330  
 Minh ("Big"). See Duong Van Minh  
 Ministers Vietnam Committee, 144  
 Mitchell, Parren J., 411 fn.  
 Mitchell v. Laird, 411  
 Mohr, Charles, 108  
 Monroney, A. S. Mike, 396  
 Moore, John Norton, 330, 406-407  
 Moore, Jonathan, 249  
 Moore, Robert B., 288  
 Moorer, Thomas H., 288, 289, 296  
 Mora v. McNamara, 408  
 Morgan, Thomas E., 29 fn., 113 fn., 118, 304, 305, 309  
 Morgenthau, Hans, 141, 251  
 Morse, Wayne, 110, 116, 117, 126, 130, 143, 155, 168, 191, 224, 243, 249-250, 275, 277, 280, 287, 303-304, 310, 311-313, 315, 320-321, 327 fn., 329, 335, 340-341, 396, 397, 400  
 Morton, Thruston B., 323, 329  
 Moscoso, Teodoro, 359 fn.  
 Moss, Frank E., 134

Moyers, Bill D., 337, 364  
 Mundt, Karl E., 396  
 Murrow, Edward R., 172  
 Muskie, Edmund S., 329  
 Mustin, Lloyd, 365, 369  
 NSA (National Security Agency). See Executive Branch  
 NSC (National Security Council). See Executive Branch  
 National Committee for a Sane Nuclear Policy (SANE), 251  
 National Security Agency (NSA). See Executive Branch  
 National Security Council (NSC). See Executive Branch  
 Nehru, Jawaharlal, 82  
 Nelson, Bryce, 277  
 Nelson, Gaylord, 168, 323-325, 328, 329, 396  
 Nea, David G., 232-233  
 New York Times, 30, 71, 109, 163, 206, 280, 317  
 Newhouse, John, 121, 143  
 Ngo Dinh Diem, 62, 140-143, 387:  
   Buddhist disturbances, 143-144  
   coup against, 141  
   dissatisfaction with, 75, 124  
   U.S. and, 12, 14-15, 35, 40, 42, 70, 71, 75, 79, 99-100, 102, 110, 111, 131, 135, 144-211 *passim*:  
     approves U.S. proposals, 104-105:  
       June 1961, 49  
       December 1961, 103  
 Ngo Dinh Can, 202  
 Ngo Dinh Luyen, 202  
 Ngo Dinh Nhu, 12, 79, 104-105, 148-211 *passim*  
 Ngo Dinh Nhu, Madame, 153, 160, 163, 164, 170, 171, 176, 202  
 Ngo Dinh Thuc, 160, 163, 164  
 Nguyen Chanh Thi, 381  
 Nguyen Dinh Thuan, 49, 70, 79, 148, 160, 170, 182  
 Nguyen Cao Ky, 381  
 Nguyen Khanh, 147 fn., 152, 218, 229, 238-240, 246, 247-248, 253-254, 259-260, 261, 264, 281-282, 312, 342, 347, 349, 351, 352, 359, 378-382  
 Nguyen Ngoc Tho, 79, 145, 202  
 Nguyen Van Thieu, 381  
 Nhu. See Ngo Dinh Nhu  
 Niebuhr, Reinhold, 144 fn.  
 Nitze, Paul H., 18, 35, 338  
 Nolting, Frederick E., 8, 33, 34, 40, 43, 70, 79, 95 fn., 99, 102, 108, 131, 135, 139, 140, 146, 147, 148, 153, 156, 160-161, 170, 171, 202  
 Nuclear weapons, 245, 257, 262, 373  
 O'Daniel, John W., 35  
 O'Donnell, Kenneth P., 133, 289  
 Ogier, Herbert L., 286, 291, 297  
 OPLAN (Operations Plan) 34-A, 210, 212-214, 282-301 *passim*, 304, 312, 347, 351  
 Orlando v. Laird, 410  
 Parsons, J. Graham, 11, 18  
 Paterson, Thomas G., 7  
 Pell, Claiborne, 131, 168, 207, 329, 341, 396  
 Perkins, James, 359 fn.  
 Pham Van Dong, 245 fn., 345  
 Phan Quang Dan, 202  
 Phillips, Rufus, 105, 148, 172, 174, 278, 386-387, 398  
 Phoumi Nosavan, 9, 19, 62, 66, 112, 115  
 Pike, James A., 144 fn.  
 Pilcher, J. L., 126  
 Powell, Adam Clayton, 308  
 Powers, Thomas S., 210  
 Press, role of, 107-108, 110-112, 134, 138, 176  
 Protests against the war. See Antiwar activities.  
 Prouty, Winston L., 129  
 RVN (Republic of Vietnam). See Republic of Vietnam  
 RANCH HAND, 99 fn.  
 Rangel, Charles B., 411 fn.  
 Rayburn, Sam, 29 fn.

Reedy, George E., Jr., 334-335  
 Rees, Thomas M., 411 fn.  
 Republic of Vietnam (RVN):  
   Buddhist disturbances, 143-144  
   counterinsurgency plan (January 1961), 13-15  
   Diem coup and assassination, 150-211 *passim*  
   dissatisfaction with Diem, 75, 124  
   Khanh coup, 218  
   Military Revolutionary Council, 202  
   neutrality, proposals for, 119-120, 215-218, 219-220  
   strategic hamlet program (Agrovilles), 51, 104  
   U.S. and, 12, 40, 43, 70-71, 75, 99-100, 102, 110, 111, 141, 228, 239-240, 247, 252-254, 259-260, 263-264, 342, 347, 348, 351, 366, 370, 373, 376, 378-382, 388, 391, 392  
   *See also* Ngo Dinh Diem  
 Reston, James, 48, 109, 219, 313, 360  
 Richardson, John H., 140, 154, 193, 202  
 Rielly, John, 277-278  
 Rivers, Mendell, 366  
 Robertson, A. Willis, 116, 329  
 Robinson, James, 108  
 Rosenthal, Benjamin J., 411 fn.  
 Rostow, Walt W., 12, 17, 18, 19, 20, 25, 26, 33, 35, 40, 52 fn., 53-55, 59-63, 64, 66, 70, 77, 92-93, 93 fn., 118, 214, 231, 246, 272, 345, 371  
 Rowan, Carl, 293  
 Rowen, Henry, 345-346  
 Roybal, Edward R., 411 fn.  
 Rusk, Dean, 6, 11, 15, 18, 19, 28, 29, 38, 48, 64, 82, 88, 89-91, 92, 96, 97, 98, 114, 116, 117, 121, 130, 149, 150, 151, 156, 157, 159, 160, 161, 162, 168, 169-170, 174, 175, 176, 186, 188, 193, 209, 217, 244, 245-246, 252, 255, 259-260, 261, 262, 263, 275, 286, 287, 290, 294, 301, 305-307, 310-311, 343, 344, 350, 352-353, 355, 356, 360, 362, 363-364, 373, 374, 376, 382, 391, 398, 400, 401  
 Rusk-Thananat Agreement, 114  
 Russell, Richard B., 29, 34, 113, 118, 215, 286, 287, 294, 304, 310, 313, 318, 329, 338, 376, 396, 397-398  
 Russia. *See* Union of Soviet Socialist Republics  
 SANE. *See* National Committee for a Sane Nuclear Policy  
 SDS. *See* Students for a Democratic Society  
 SEATO. *See* Southeast Asia Treaty  
 SEATO Plan 5, 22, 49, 62, 64, 66, 67-68  
 Salinger, Pierre, 111, 194  
 Saltonstall, Leverett, 29 fn., 113 fn., 304, 318, 376, 396  
 Sarit Thanarat, 19, 62, 65  
 Schlesinger, Arthur M., Jr., 26, 151, 196  
 Scott, Hugh, 318, 396  
 Seaborn, J. Blair, 245, 345  
 Senate Foreign Relations Committee. *See* Congress, U.S.  
 Sharon, John H., 8  
 Sharp, Ulysses S. Grant, Jr., 283, 288, 290-291, 292, 295-296  
 Sheehan, Neil, 108, 131  
 Sidey, Hugh, 164  
 Sigma I and II war games, 353  
 Sihanouk, Norodom, 209 fn., 378  
 Siler, Eugene, 266, 308  
 Silva, Peer de, 228  
 Smathers, George A., 113 fn.  
 Smith, Benjamin A., 131  
 Smith, Joseph, 77  
 Sockman, Ralph, 144 fn.  
 Sorensen, Theodore C., 15, 25, 26, 37, 43, 44, 218  
 Southeast Asia. *See* U.S. Foreign and Military Policy and Strategy, Vietnam  
 Southeast Asia Treaty, 7, 9, 20, 22, 27, 31, 64, 67-68, 69, 72, 114, 275  
 Souvanna Phouma, 8, 11, 19, 31, 113, 251, 252, 347 fn., 354, 375 fn., 378  
 Sparkman, John J., 117, 398-399  
 Special Group (303 Committee) of the NSC. *See* Executive Branch  
 Special Group (Counterinsurgency). *See* Executive Branch  
 Spera, Alphonso G., 152

Staley, Eugene, 51  
 Staley Mission and Report (1961), 4, 51, 60  
 Steeves, John, 18, 28, 58, 62, 64  
 Stennis, John C., 118-119, 318, 329  
 Stevenson, Adlai E., 344, 397  
 Stewart, Potter, 408  
 Stockdale, James B., 298  
 Strategic Hamlet Program, 51, 104, 131, 134, 228  
 Students for a Democratic Society (SDS), 250  
 Sullivan, William H., 24, 120, 183, 186, 212, 235, 245 fn., 247, 254, 262, 273, 274, 275, 280  
 Sully, François, 108  
 Sulzberger, Arthur, 112 fn.  
 Sulzberger, C. L., 251  
 Sylvester, Arthur, 110 fn.  
 Symington, Stuart, 101-102, 117, 192, 249, 341  
 Taylor, Maxwell D., 17, 53, 55, 59-62, 63, 64, 66, 67, 70, 72-95 *passim*, 97, 105, 107, 140, 150, 151, 156, 161, 170, 174, 183-188, 192, 197-199, 201, 202, 226, 229-231, 238-240, 241, 247, 260-261, 262, 275, 281-282, 312-313, 343, 344 fn., 347, 350, 352-353, 363, 364, 369-370, 374, 375, 376-377, 379, 381-383, 384, 387-389, 391-392, 400  
 Thanat Khoman, 114  
 Thieu. *See* Nguyen Van Thieu  
 Tho. *See* Nguyen Ngoc Tho  
 Thomas, Norman, 144  
 Thompson, Llewellyn, 283 fn.  
 Thompson, Robert K. G., 104-105, 107, 140  
 Thomson, James C., Jr., 24, 249, 269, 300, 331  
 Thuan. *See* Nguyen Dinh Thuan  
 Thurmond, Strom, 311, 330, 396  
 Ton That Dinh, 147 fn.  
 Todella, Louis, 299  
 Tonkin Gulf. *See* Gulf of Tonkin  
 Tower, John G., 330, 396  
 Tran Thieh Khiem, 147, 152, 154  
 Tran Van Chuong, 155  
 Tran Van Don, 146, 148, 189, 196, 200  
 Tran Van Huong, 392  
 Trapnell, T. J. H., 34  
 Trueheart, William C., 186, 283 fn.  
 Truong, Cong Cuu, 158  
 Tung. *See* Le Quang Tung  
 U.N. *See* United Nations  
 U.S.S.R. *See* Union of Soviet Socialist Republics  
 Ung Van Khiem, 120  
 Unger, Leonard, 389  
 Union of Soviet Socialist Republics, 22, 31, 43, 245. *See also* Khrushchev, Nikita.  
 United Nations, 7, 169, 257, 276, 294  
 United States Foreign and Military Policy and Strategy, Vietnam, 34, 36-39, 53-71  
   *passim*:  
     Chinese and Russian factors, 22, 31, 39, 48, 69, 98, 113, 233, 245, 257, 294, 326, 342, 371  
     commitments to defend, 42-43, 100, 137, 209  
     comprehensive plan for (July 1962), 124-125, 130  
     counterinsurgency plan (January 1961), 13-15  
     DE SOTO patrols, 280, 282-343 *passim*, 343, 347, 351, 354, 356, 389  
     Diem coup and assassination, 150-211 *passim*  
     "encadrement" of Americans in Vietnamese government, 73, 229, 247, 259, 262, 274  
     graduated pressure plan (1964), 241, 366-377 *passim*  
     Honolulu Conferences, 103, 125, 209, 261  
     Joint Action Program (Staley Plan, August 1961), 51, 60  
     "Limited Partnership" (December 1961), 94-103  
     negotiated settlement, neutrality, 119-120, 212-214, 215-218, 219-220, 222-223, 239, 241, 344, 384, 386, 389  
     OPLAN 34-A, 210, 212, 282-301 *passim*, 312, 347, 351  
     OPLAN 37-64, 241, 343, 375  
     policy plans and proposals (selected):

- October 1961, "Concept for Intervention in Vietnam," 69  
 January 1962, "A Strategic Concept for Vietnam," 106-107  
 March 1964, "Alternatives for Imposition of Measured Pressure Against North Vietnam," 235-236  
 May 1964, "Basic Recommendations and Projected Course of Action on Southeast Asia," 256-259  
 September 1964, "Courses of Action for South Vietnam," 350-352  
 November 1964, "Draft Position Paper on Southeast Asia," 374-375  
 January 1965, "Notes on the South Vietnamese Situation and Alternatives," 389-390
- reasons for U.S. involvement in (importance of defending), 6-7, 24, 27, 41, 43, 45, 48, 73, 137, 257, 353  
 strategic hamlet program, 51, 104, 131, 134, 228  
 Taylor-Rostow mission and report (November 1961), 72-96  
 U.S. combat forces, use of, 39, 42, 45, 50, 70-71, 76, 80, 86, 88, 109, 173, 278, 349-350, 365, 373, 388-389, 390-391  
 "White Paper" on Communist aggression (December 1961), 103
- U Thant, 260, 344  
 Valeo, Francis, 42 fn., 215  
 Vance, Cyrus, 283, 286, 290, 292  
 Velvel, Lawrence R., 403  
 Vietnam Coordinating Committee. *See* Executive Branch  
 Vietnam (North). *See* Democratic Republic of Vietnam  
 Vietnam (South). *See* Republic of Vietnam  
 Vietnam Task Force. *See* Executive Branch  
 Vinson, Carl, 29 fn., 113 fn., 366  
 Wadsworth, James J., 359 fn.  
*Wall Street Journal*, 248  
 Walter, Francis E., 113 fn.  
*Washington Post*, 316-317  
 Westmoreland, William C., 241, 262, 281, 382, 387, 388  
 Wheeler, Earle C., 138-139, 244, 246, 247, 286, 287, 290, 294, 350, 352, 353, 356-357, 372, 373, 374  
 White, Theodore H., 142  
 Wiley, Alexander, 29 fn., 113 fn.  
 Williams, Samuel T., 35  
 "Wise Men," 359  
 Wood, Chalmers B., 38, 121, 145  
 Young, Kenneth T., 72 fn., 114  
 Young, Milton R., 396  
 Young, Stephen M., 168, 335  
 Zablocki, Clement J., 113 fn., 118, 126, 189, 193-194, 206-207, 220-221

