

THE VIETNAM WAR DISSENT OF ERNEST GRUENING AND WAYNE MORSE, 1964-  
1968

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## ABSTRACT

Gary R. Hess, Advisor

On 2 August 1964, while patrolling in the Gulf of Tonkin, the U.S.S. Maddox was attacked by the North Vietnamese Navy. Then on 4 August both the U.S.S. Maddox and the U.S.S. C. Turner Joy were also allegedly attacked. These events were used by President Lyndon B. Johnson to secure authority from the United States Congress to take actions he deemed necessary to protect United States military personnel, national security interests, and United States allies. The Tonkin Gulf Resolution was approved unanimously in the House of Representatives and by a vote of 88-2 in the Senate. In this dissertation the Gulf of Tonkin incidents will be summarized, the ensuing Senate debates analyzed with a specific focus on the dissenting position of Senators Ernest Gruening (Democrat-Alaska) and Wayne Morse (Democrat-Oregon), the only members of Congress to vote against the resolution, their ceaseless effort to extricate the United States from Vietnam and finally their impact on their Senatorial colleagues.

There has been much written about the Gulf of Tonkin incident and the Congressional debate; however, there has been little focus on the continued arguments of these two senators from 1964-1968, their attempts to bring equilibrium back to the Senates relationship with president and the impact they had on their Senate colleagues. This continuing debate over Vietnam deeply divided the Senate into three main groups who each held distinct opinions on the support they should give Johnson. One group comprised of Hawks believed that the president should be given full support in taking whatever action he deemed necessary, even if it led to war. A strong response after all

would discourage other enemies from attacking the United States. Once war came, they strongly supported it. A second group believed that the president needed to be supported at this time, especially since the United States had been attacked. They also held the view that the United States foreign policy needed to be re-evaluated once the conflict was resolved. How far could the United States extend itself before it became spread too thin and thus ineffective? After the U.S. went to war, many in this group opposed it. The third group, originally comprised of just Gruening and Morse, did not believe that the United States should be involved in Vietnam at all. Rationale for this position was not merely based on their belief that the United States had no real business meddling in the affairs of Vietnam, it was also rooted within a concern over the manner in which America had been led to war by President Johnson. Requesting and being granted the resolution according to these two senators gave the president a blank check and did two things. First, it altered the governance structure established by the Founding Fathers which was codified in the Constitution. Those who had written and ratified this document intended that Congress declare war and the Chief Executive guide the military once the country had become involved in one. Second, it altered the balance of power in favor of the president allowing him to take whatever actions he deemed necessary and provided Congress with little recourse to stop him. While the Senate finally supported the president's request for the resolution and continued to fund the war once it had become Americanized, it was those who opposed the resolution and were overruled who made the most valid argument. The balance of power was altered and re-establishing that balance was extremely difficult to achieve.

I dedicate this work to

Susan Ann, Brent Dwayne, Brigette Ann and “Uncle Craig”

Without your support this project could never have been completed

## ACKNOWLEDGMENTS

Personally, working on and completing a Ph.D. in United States History is the fulfillment of a dream that was birthed in my heart and mind over twenty years ago. While finishing my senior year at Fort Wayne Bible College I found myself both craving more knowledge about U.S. History and desirous to become a teacher at the colligate level. Both James Saddington and Arlan Berkey inspired me during this time to want to progress academically and to both of them I owe a debt of gratitude. When I returned to school, seven years ago my dream to complete a graduate degree was re-birthed as a result of taking classes at Bowling Green State University. Drs' Gary Hess, Jeffrey Peake and Edmund Danziger all stoked the fire as I became immersed once again in the world of Academics. To each of them I also owe more than I can ever repay, which I will address in more detail later.

The idea for this particular dissertation formed in my heart while I was participating in a graduate seminar led by Dr. Gary R. Hess. This dissertation, beginning as a seminar paper progressed to a thesis and from there to the document before you. As the project moved forward I found that I had involved myself in an enormous undertaking that I could not have been able to complete on my own. Therefore I wish to express my gratitude to the many people who have assisted me as I worked on this project. I first want to express my thanks to Dr. Gary Hess who has inspired me to follow my dream, who encouraged me to be the best historian I can be, who has helped me to find renewed direction in life and who served as the chairman of my dissertation committee spending long hours helping me complete this work. Dr. Hess has been more than just a teacher, he has also become a good friend. Thank-you Dr. Hess for all that

you have done for me and my family. I would also like to acknowledge Dr. Edmund Danziger. I began working with Dr. D, as I refer to him, during the second year of my Master's Program. Dr. D not only inspired me to learn more about American Environmental History he also created a thirst within me to learn more about Native American History. In addition, he helped me learn how to teach at the collegiate level allowing me to serve as a teaching assistant in both his American Environmental and Native American Courses. Beyond giving me insight into teaching Dr. D. helped me to sharpen my research skills by giving me the opportunity to serve as his research assistant for three years. More than what he has taught me academically, Dr. D. has taught me what it means to be a good husband, father and friend. To say the least, he has been a good academic and life role model. I appreciate the insight that he shared while I worked on this project, his steadfast encouragement and the belief that he has demonstrated in me. Like Dr. Hess, Dr. D has become more than a teacher he has become a good friend- and hiking partner. Dr. Jeffrey Peake has also contributed to this project and to my life in many-many ways. Like Dr. Hess, Dr. Peake inspired me to follow my dream. While sitting in a course that he taught I found myself believing that I could acquire my hearts desire-mainly because Dr. Peake helped me to really believe in myself. Throughout my time at Bowling Green State University Dr. Peake has continued to push me and to help me to grow as a historian. I wish to thank him for all of the good insight that he has given to me as I have worked on this project. Dr. Peake helped me to clarify my thoughts while I was developing the prospectus and he provided great insight about Congressional/Presidential relations as I have worked on this dissertation. Dr. Peake has been another giant along my path, one who has inspired me and I will never forget him

for what he has done. I also count Dr. Peake as more than just a mentor, I also count him as a friend. One last individual who I must also personally acknowledge is Dr. Beth Griech-Poelle. Throughout the course of this project, and really throughout my entire academic career at Bowling Green Dr. Beth has been a source of inspiration and encouragement. A vivacious teacher who holds the attention of her students, Dr. Beth has taught me how to captivate a classroom and how to make learning history fun. I must also say that she has taught me what it means to be compassionate and merciful when dealing with students. Dr. Beth has also been more than just a member of my dissertation committee, she has been a confidant and a friend.

In addition to these gentlemen I would like to extend my thanks to Carol Singer, historical research librarian, at the Jerome library on the campus of Bowling Green State University. She has been invaluable as we searched the stacks and the internet for needed material. John Wilson archivist at the Lyndon Baines Johnson Presidential Library in Austin Texas was most helpful as I scoured the archives in search of material that was relevant to my topic. John was not only very helpful, seeking to facilitate my success in any way that he could, pointing me in the right direction many times during that research trip, he was also very friendly. I also owe a debt of gratitude to the entire staff at the LBJ Presidential Library. They all made my work there enjoyable and made themselves available to assist me in any way that they could. The archivist at the University of Oregon Library was also most helpful. The Wayne Morse papers, which is a very extensive collection and central to my research is housed at this facility. When I first arrived at the university I was overwhelmed and did not really know where to begin. The finding aids were detailed but the numbering system was a little off. This meant that

I needed to begin randomly pulling boxes out of storage to see if they were the ones that I needed. The archivist and his staff assisted me without complaint until we found the material that I needed. This meant many trips to the basement for the student workers and much paper work for the archivist. Much like the staff at the LBJ library the folks at Oregon were all very friendly and accommodating. I am grateful for all they did to facilitate this work. Finally, Caroline at the University of Fairbanks Library deserves my thanks for what she did to help with this project. Caroline stirred me toward the components of the Ernest Gruening Collection that would be the most beneficial to me and my research. She demonstrated not only knowledge about the collection but also a passion for research and a willingness to serve individuals such as myself. I want to express my thanks to all the staff at the University of Fairbanks library for being not only helpful by friendly and encouraging.

Tina Amos and Dee Dee Wentland the secretaries of the history department have provided much encouragement and support. I really have appreciated them and look forward to working with them in the future. Special friends have also been helpful to me while I have worked on this project and I wish to express my thanks to them at this time. Craig Sampson drove me from my home in Findlay to Bowling Green daily and provided me with extra time to read, study for examinations and write down thoughts for papers that I was writing. Additionally Craig helped me by shuttling my children to and from activities when I was unable to get them where they needed to go. Craig has supported this project from the beginning and I am so very grateful for all that he has done. Dr. Matthew Bloom, Amanda Miracle and Ian Mladjov also provided sounding boards for research ideas, interesting conversations on various topics of history, light hearted fun

from time to time-which was also much appreciated and encouragement during the difficult days. As each of us find gainful employment and leave BGSU I will miss the camaraderie that we have shared whether on the golf course, in the office, computer lab or at the lunch table. These three have been good friends to say the least. Space does not permit me to express thanks to all those who have been of assistance to me so sacrifice it to say that I am grateful to all of my colleagues in the History program at BGSU for all have made a positive impact on me throughout the past seven years. Finally, I want to thank my wonderful family; my wife, Susan, and my children, Brent and Brigette Anne. They have all sacrificed time with me as I spent many hours reading over Congressional records and other relevant material. Susan read every page of my thesis and dissertation served as both proof reader and critic. I owe them all so much.

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## INTRODUCTION:

In the fall of 2003, after completing twenty-two years of professional ministry I became a full time student at Bowling Green State University. I had taking two semesters of undergraduate work just prior to this academic year and found myself encouraged by Dr. Jeffrey Peake to continue taking class at the university, but at the graduate level. During that first semester of master's work my academic schedule included two history courses which were taken in an attempt to decide what should be done with the rest of my life. One of those courses, taught by Dr. Gary Hess, United States and the World 1890-1945, was really captivating and created a thirst within me to explore more in-depth United States Foreign Relations in the twentieth century.

This led to participation in a seminar with Dr. Hess, entitled Twentieth Century American Diplomatic History. One of the course requirements for this class was a twenty-five page research paper. While working on this particular project my research interest became solidified. With the advice of Dr. Hess I began researching the Gulf of Tonkin Incident/Resolution with an emphasis on the only two Senators to oppose the legislation. The thesis of the paper focused on the reasoned arguments Gruening and Morse made against the resolution and whether the ensuing war was legal as it had been argued by the Johnson administration and its congressional supporters. Attempting to prove this thesis led to an exhaustive search of all the Congressional Record for 1964 that pertained to the Gulf of Tonkin affair which was done in order to outline Gruening and Morse's arguments as well as those made by the Senators who supported the resolution. As a result of this research I was able to articulate eight basic arguments put forth by

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these two Senators and demonstrate that their assessment was sound and that the president had usurped congressional authority as it related to war making.

Interest in Gruening and Morse did not end when this paper was finished, but rather increased as a result of the ongoing research. Thus the two dissenting Senators became the focus of my Master's Thesis. A concern at this point dealt with whether or not an advanced research project, such as a thesis covering this topic, would make any significant contribution to the field of history. After some preliminary investigation a wealth of material written on the Vietnam War was found, including significant literature focusing on the Gulf of Tonkin incident and subsequent resolution. In the search very little was found, however, which had been written about the dissent of Gruening and Morse and nothing had been penned which traced their opposition within the Senate to the war. These men were not considered to be power brokers in the Senate or part of the establishment yet they were the ones voicing concern over the actions of President Johnson and American involvement in Vietnam from the very beginning. Whether it will ever be admitted publically or not, it was the position of these two that would be endorsed by the Senate and bring the war to a conclusion. Thus I came to believe that their story needed to be told.

The research paper itself had focused primarily on what took place in the Senate in late 1964. Subsequently my thesis progressed beyond this particular time frame examining the continued debate over American participation in Vietnam and the role that Gruening and Morse played in both stimulating and keeping the debate alive from 1965-1968. Extending beyond the arguments articulated by these two, the focus of my thesis became the influence they had on the debate within the Senate, the over-all impact they had on their Senate colleagues, their claim that the president had taken unconstitutional action and that America needed to get out of Vietnam.

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Desirous to continue probing into the Gulf of Tonkin incident/resolution and to learn more about these two Senators led me to make this topic the focus of my dissertation. While working on my prospectus significant questions emerged about the topic that would drive my research. These included: how the Gruening and Morse opposition to Vietnam Policy fit within the historical context of the Congressional and Executive struggle over war making, the principal examples of efforts to uphold congressional prerogatives prior to 1964, institutional arguments that surfaced as the building blocks utilized by Gruening and Morse to make their case, and their influence on Congress and war making during their tenure in the Senate. Thus my research and the dissertation itself is an attempt to answer each of these questions.

Having discovered an interest, developed a topic and determined the direction which I should go helped me identify the places where I could find the most pertinent material. The Lyndon Baines Presidential Library in Austin Texas was indentified as critical to my research and thus my first stop. At the Johnson library I spent three and a half days combing through specific collections including the William Gibbon papers, the National Security files and the L.B.J. papers. My goal was multifaceted. First, I looked for any information dealing with the attacks in the Gulf of Tonkin and then for insight into how this event was both interpreted and handled by the administration. While looking for such information I found correspondence between William C. Gibbon White House Counsel and Johnson that indicated the President had requested that Gibbon draft a generic resolution several months before the incident in the Gulf even occurred. Any interaction between President Johnson and members of Congress relating to the incident was the second thing that I looked for while going through the various collections. Here I was specifically looking to see if Johnson penned any letters seeking support or that offered thanks to Senators that supported his position. I also wanted to see if he wrote any

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correspondence chastising Senators who may have been uncertain about endorsing the resolution or who would not support it for any reason. Then I wanted to see if Johnson received any memos or letters from members of Congress confirming that he had made the right decision or that took him to task for how he had handled the whole affair. Finally, I searched the documents to see what reports and correspondence traveled between the President, his staff and other governmental officials. While searching for this material I found reports from the United States ambassador to Vietnam as well as letters and documents from the Secretary of Defense, the Secretary of State and the National Security Advisor. In all I took photos of over two thousand documents and was able to incorporate some good material into the dissertation.

The Wayne Morse papers located at the University of Oregon Library was another collection I deemed to be pertinent to the successful completion of my project. Throughout the two days spent in Eugene, I scoured several boxes looking for the following: correspondence between Morse, Senate colleagues and the President regarding American involvement in Vietnam. Second, I looked for speeches written by the Senator which addressed his concerns over the actions taken by the president. Third, I searched for information that would outline and make clear Morse's involvement with the anti-war movement. Fourth, I sought to find any information compiled by Morse which he may have used to solidify his argument against American involvement in Vietnam. Here I wanted to see if the Senator had drawn insight from past occurrences and had based his arguments on historical precedent. Fifth, I went through file folders containing magazine articles desirous to see what Morse wrote about American participation in the war. Interaction between Morse and his constituents over his Vietnam position was one of the last things that I sought. What I found was a considerable number of people from Oregon wrote him letters of support as did people from all over the country. In

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addition to letters of support Morse did receive telegrams from individuals who saw his position as subversive. At the end of my time in Oregon I felt as though I had done a fairly good job mining the material, at least for my current purposes.

Ernest Gruening's papers, which are housed at the University of Alaska library located in Fairbanks, were an important source. During my three days in Fairbanks, I endeavored to find much of the same type of material that I had been trying to obtain in Oregon. The Gruening collection was well organized and catalogued which made it possible to go through a large amount of material and locate data important to my research. One of the most significant findings was the letters exchanged between Gruening and his Senate colleagues over the events taking place in Vietnam. The correspondence from Gruening seeks to sway others to embrace his position or to thank them for statements they made which supported his stand. Letters from colleagues to Gruening demonstrated a progression of thought about American involvement in Vietnam. Early correspondence was cordial yet non-committal in offering support toward Gruening's plea to have the United States removed from Vietnam. Later mail sent from Senators showed a shift as individuals like Frank Church, Mike Mansfield and Robert Kennedy were beginning to embrace the view that had been propagated by Gruening and Morse. Although none of these letters said "you were right" or "thank you for helping us to see the light," they did seem to indicate that they were embracing the position that Gruening had held. As was the case with the Morse Collection, when I left Fairbanks I believed that I had found the material needed for this project.

I had started my research at the Bowling Green State University Library and continued to work with Carol Singer throughout the duration of this dissertation. My primary focus at Bowling Green was two fold. First, I looked for needed secondary sources such as material that

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focused on Congressional/Presidential relations, books dealing with past United States military conflicts which might identify institutional arguments used to justify or argue against war, biographies of Gruening and Morse, books about the Tonkin Gulf and the subsequent debate over the proposed resolution and monographs that would provide insight into the responses and actions of key Senators to the ongoing conflict in Vietnam. Second and most important to this project was the Congressional Record. It was here that I found the initial debate and subsequent discussions about American interaction in Vietnam. These resources helped me understand not only the position taken by Gruening and Morese, but also the evolution of thought of the other Senators and the position they would adopt—or maintain. Like the other places where I have had the privilege to do research the Bowling Green State University library proved to be instrumental to my work.

After developing the prospectus, compiling the material and organizing it I set out to write the dissertation which would be comprised of five chapters. The first chapter deals with the actual event(s) in the Gulf of Tonkin, the proposed resolution, the debate and subsequent passage of the resolution. Here I sought to lay the ground work for the readers helping to acquaint them with Johnson's reasons for seeking the resolution, Congressional precedent and rationale for passing it and with the early stand taken by Gruening and Morse which opposed its passage—among other things because they believed it was unconstitutional. In the next Chapter I introduce the reader to the two dissenting Senators. I included this section for several reasons, first and foremost because these individuals were the only vocal opponents of the war from the very beginning. Second their opposition has gone unnoticed for the most part—which I will address later—yet they were key players in the debate over United States involvement in Vietnam. Third and most important, I thought it important to provide some background material

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on each man so that others might better understand who these individuals were, what drove them and why they took the actions they did over American involvement in Vietnam. My goal in chapter three was to establish the historical context for dissent. I begin by outlining the intent of the Founding Fathers in relation to Presidential/Congressional relationships. Here I discuss what the specific duties of the president were to be as well as the role Congress was to play in governing the country, especially in relation to war making. Next I discussed five instances when Presidents took the country to war without a formal declaration and then pointed out how the various Commander-in-Chiefs rationalized their actions and how Congress responded to what they had done. Here I sought to identify any institutional arguments which may have been developed and used throughout history by either the Chief Executive or Congress. Chapter four is really the heart of this dissertation. Here I outline what was taking place in America from 1965-1968 emphasizing the rise of the anti-war movement, the decrease in support that Johnson would experience, the continued debate that took place in the Senate over American involvement in Vietnam, the turn of many Senators from supporting the presidents' actions in Vietnam and most significant, the efforts of Gruening and Morse to restore the balance of power between the president and congress and to bring the war to an end. In the final chapter I discuss the repeal of the Gulf of Tonkin Resolution and the War Powers Act which I believe were both outgrowths of the efforts made by Gruening and Morse.

The dissertation may be complete but there is more that I would like to do with this topic in the future which more than likely will facilitate additional trips to Eugene, Oregon and Fairbanks, Alaska. One of my primary goals for the future will be to learn more about the actions taken by Gruening and Morse after they lost their Senate seats in 1968. I am aware that each man continued to call for an end to the war and that each one spoke at anti-war rallies yet I

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would like to do some additional research in order to learn more about their efforts and why they would continue the struggle after their days of official government service. I also feel compelled to see if there is any correspondence which would indicate that indeed members of the establishment—within the Senate—credit these two for attempting to restore the balance of power between the President and Congress and for bringing the war to an end. Finally, from the perspective of a historian, I would like to do some more research to determine what if any political legacy these two gentlemen have left behind as a result of the stand they took in 1964. As I stated earlier, no direct credit may ever be given them yet it seems clear that their cries did have a profound impact on the war being waged in Vietnam and their story needs to be told.

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## **CHAPTER ONE:**

### **ORIGINS OF WAR: THE GULF OF TONKIN INCIDENT AND RESOLUTION**

In the summer of 1964 while the United States Navy was patrolling in the Gulf of Tonkin, a combined military force of South Vietnamese and U.S. military special advisors were carrying out covert operations along the North Vietnamese coast. The purpose of these raids was multifaceted. First, they would cripple the industrial capability of the North. Doing so would make it difficult if not impossible for North Vietnam to continue producing military items needed by the Viet Cong which they were using in their efforts to overthrow the South Vietnamese government. Second, these attacks by destroying storage facilities would hinder the ability of North Vietnam to pass along supplies received from either the Soviet Union or China, which were also important for the continuance of the gorilla activities occurring in the south. Third, by crippling the manufacturing capability of the North, interrupting electric output, damaging roads and other components of the country's infrastructure, the attacks would lead the people of North Vietnam to call for their government to discontinue supplying the Viet Cong. Raids of the magnitude necessary to achieve these particular goals, if they were even realistic: would not begin in earnest until after 1963. This was due in part to the unwillingness of the U.S. government to become overtly involved in the conflict taking place in Vietnam before 1964.

Prior to 1961 American aid to South Vietnam was limited to supplying equipment and offering the service of military advisors, which numbered fewer than 700 men. Initial U.S. personnel were to train the indigenous military on how to utilize the equipment supplied them, on ways to protect their country and also on how to carry out acts of sabotage. On May 11<sup>th</sup>, 1961 however, President John F. Kennedy approved National Security Memorandum (NSAM)

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52 which increased covert paramilitary operations executed against the North Vietnamese, an expansion in the United States forces available to participate in such operations, and a relaxation on the restrictions placed on what role U.S. personnel could play.<sup>1</sup> This order came as the result of Kennedy's belief that an increase in the role taken by the United States, in supporting the South Vietnamese military, was absolutely necessary if South Vietnam was to remain independent. Thus from 1961 until 1963, the Central Intelligence Agency helped to plan attacks, trained South Vietnamese military personnel, supplied equipment and assigned American military specialists to go on missions with the South Vietnamese into North Vietnam.<sup>2</sup> Kennedy dramatically increased the number of military advisors, which reached 16,000 by the end of 1963.

Although U.S. personnel were more involved in the operations taking place in the North from 1961 to 1963, their participation was still limited to combat support. Accompanying South Vietnamese combatants, they would airlift and drop them into mountainous regions or take them by boat to a particular drop site in a harbor or on a beach but then remain on the perimeter of the action awaiting the completion of the task undertaken and the return of the South Vietnamese soldiers. On many occasions the U.S. personnel would have to leave without their comrades-in-arms because they had either been captured or killed by North Vietnamese forces. When the military personnel did make it back safely, it was often at the expense of the over-all mission's success. Having been discovered prior to taking action or while attempting to detonate explosives, some would make their way back to the awaiting Americans, head back to their boat and flee before being caught by their enemy.

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<sup>1</sup> Edwin E. Moise, Tonkin Gulf and the Escalation of the Vietnam War (Chapel Hill: University of North Carolina Press, 1996), p. 24-25.

<sup>2</sup> Ibid. p. 2ff.

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Between 1961 and 1963 most of these missions, whether inland or along the coast, were unsuccessful. These missions proved to be very costly in terms of the financial investment and in the number of lives lost. As a result, William Colby who was in charge of the C.I.A. in the Far East became discouraged with the operations and wanted to see them ended. Because of the firm hold that the Communist government had on the Vietnamese people from both the North and South and the limited role played by the Americans, he did not feel the operations could be successful and that it was wrong to continue sending individuals to their deaths. The White House, civilian leadership and the United States military disagreed with Colby's assessment. They came to the conclusion that covert operations in Vietnam should be continued but they should be turned over to the United States Armed Forces. The United States military was indeed ready for this assignment.

In 1963 the Joint Chiefs of Staff sent a team of high ranking officers headed by General Earle Wheeler into Vietnam to survey the situation. The consensus of this team was that the Saigon government needed help in dealing with the insurrection being fomented by the North Vietnamese and the Viet Cong. One of the best ways to handle this situation would be through making the North feel the effects of the war in a more profound manner, thus OPLAN (Operation Plan) 34-A was born.<sup>3</sup> Directed by the United States military, OPLAN 34-A would consist of a series of attacks along the North Vietnamese coast that would be carried out by a combination of American military personnel and American trained and led South Vietnamese soldiers. These attacks would include even more U.S. involvement than the previous operations and it was believed that through direct U.S. military participation, these raids would be more successful in pressuring Ho Chi Minh's government to end this conflict.

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<sup>3</sup> Ibid., p. 5-22.

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Preparation for the actions took place at locations where training could theoretically occur undetected by the enemy. Military camps were set up in places such as Danang where special South Vietnamese units were brought for detailed instruction and training in scuba diving, the handling of explosives—demolition, and guerilla warfare.<sup>4</sup> In addition to these units there was the South Vietnamese Navy which consisted of individuals being trained by United States personnel to handle watercraft that had been made available to the South Vietnamese government by the American navy. Officially these boats were purchased from Norway by the South Vietnamese government in a futile attempt to propagate the illusion that the U.S. was not involved in what was taking place along the North Vietnamese coastline. Boats made available to the South Vietnamese Navy included the following: Swift Patrol Boats, Assault Support Patrol Boats, Coastal Patrol Boats, and Motor Patrol Gunboats. The fledgling Navy accompanied by American personnel transported the special units north and shelled areas along the coastline once the raiders were in place. Shelling the coastline served as a mechanism to distract the North Vietnamese while at the same time protecting the parties who went to shore.<sup>5</sup>

During one particular series of raids in late July of 1964, the South Vietnamese military in conjunction with U.S. forces traveled on Swift Patrol Boats and on Assault Support Patrol Boats attacking radar and military installations on the islands off the North Vietnamese coast. While these attacks were in progress, a United States Naval intelligence vessel was traveling into the Gulf of Tonkin where it would patrol to make the United States presence known and monitor North Vietnamese and Chinese communications and actions in the area.<sup>6</sup> The presence of American watercraft in the area was nothing new. From the time of the Eisenhower administration ships such as the U.S.S. Maddox had been traveling in and out of the Gulf

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<sup>4</sup> Stanley Karnow, Vietnam: A History (New York: Viking Press, 1983), p. 347-348.

<sup>5</sup> Selected Naval Documents: <http://www.history.navy.mil/docs/vietnam/tonkin-7.htm>, p.1-17.

<sup>6</sup> Karnow, Vietnam p. 347-348.

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periodically. U.S. naval vessels' presence in the Tonkin Gulf at the time of these raids was very disconcerting to the North Vietnamese. The close proximity led them to believe that these ships were not on routine patrol but rather to support the military action.<sup>7</sup>

Timing of the patrols was not the only act that generated a belief among the communists that the U.S. was somehow involved in the actions. Coming to within three miles of the Vietnamese coast seemed to confirm that the American ships were present for no other reason than to support the covert actions. If the Americans were merely conducting routine naval maneuvers they should have been done in international waters. According to the Vietnamese, the U.S. ships were not in international waters but rather within the boundaries of Vietnam. The North Vietnamese claimed that international waters began twelve miles from their coast; thus if U.S. Naval vessels were within three miles of the North Vietnamese shore line they were well inside the water boundary of North Vietnam.<sup>8</sup>

On 2 August 1964, two days after the covert raids the U.S.S. Maddox, while carrying out its reconnaissance mission, was attacked by three North Vietnamese P.T. boats. As indicated it was quite possible that North Vietnamese officials suspected that the Maddox had been involved in the attack and as a result dispatched the P.T. boats to retaliate.<sup>9</sup> According to Edwin Moise, the author of the most scholarly work on the incident, two or more hours prior to the confrontation, the commander and crew of the Maddox had been alerted about the possibility of an attack. The warning came from a special communications intercepting device located on the

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<sup>7</sup> Moise, Tonkin Gulf p. 1-21.

<sup>8</sup> Ibid. p. 50ff.

<sup>9</sup> David Kaiser, American Tragedy: Kennedy, Johnson, and the Origins of the Vietnam War (Cambridge Massachusetts: Harvard University Press, 2000), p. 332-333.

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ship, which had intercepted a North Vietnamese attack order directed toward a ship located in the Gulf, which could only mean the Maddox.<sup>10</sup>

Between 2:00 and 2:30 p.m. the Maddox radar picked up three torpedo boats coming toward it at about 30 knots. Moise states that it was very strange that the North Vietnamese P.T. boats would be coming out to face a destroyer because these ships were no match for it. The Maddox fired four warning shots over the approaching boats. Ignoring the warning shots, one of the patrol boats continued and opened fire.<sup>11</sup> Of all the torpedoes launched by the North Vietnamese Navy, not one hit its target. The only damage that the Maddox sustained in the confrontation was a single bullet hole.<sup>12</sup> The Maddox inflicted substantial damage on the P.T. boats.

The initial attack on August 2<sup>nd</sup> did not keep the U.S. Navy out of the Gulf of Tonkin. Indeed President Lyndon B. Johnson ordered the C. Turner Joy to join in patrols and warned of escalation in the event of another attack. So on the night of August 4<sup>th</sup> two United States destroyers, the U.S.S. Maddox and the C. Turner Joy, were patrolling in the Gulf of Tonkin. As in the case of the first attack, there were covert raids planned on North Vietnam by the South Vietnamese and the United States. Although the captain of the lead ship had been ordered to steer clear of the areas that would be hit by the raiding parties, he claimed that he did not receive that order and subsequently took his ship close to where conflict would occur.<sup>13</sup> Reports similar to those received prior to the first altercation were passed on to the naval vessels indicating that they were going to be attacked again. It is now believed that this information was old and that it dealt with the first attack. Fearing another attack, the crew of these destroyers went to general

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<sup>10</sup> Moise, Tonkin Gulf p. 52ff.

<sup>11</sup> Ibid. p. 73ff.

<sup>12</sup> Ibid. p. 73ff.

<sup>13</sup> Kaiser, American Tragedy p. 333.

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quarters. At this time fighter aircraft were requested and subsequently sent from the carrier the U.S.S. Ticonderoga. In accordance with the President's previously issued directives these planes were to provide the ships with protection from attack. As an uneventful afternoon turned to evening the sailors became less concerned about the possibility of an attack and became more relaxed.

These American ships found themselves close to several small Vietnamese fishing boats and, being unsure of their motives, the two American ships turned and headed out further to sea.<sup>14</sup> After the men had been released from general quarters, the radar man of the U.S.S. Maddox picked up signals he believed to be enemy boats moving toward his position.<sup>15</sup> He also indicated that there were at least three unidentified aircraft coming toward the two boats. Called back to general quarters the men once again manned their battle stations waiting for an attack. That night crew members from both United States ships believed they had seen a large spotlight, heard gun fire, seen the wake of a torpedo close to their ship and heard sonar that indicated an enemy ship(s) was very near to them. Responding to what they thought they were hearing and seeing, the men began to fire at the locations given them by the radar men. Air support was again called in but the pilots were not able to find or confirm the presence of enemy vessels in proximity to the two United States ships. Many shells were fired and when a blip disappeared from the radar screen, it was believed by the Americans that they had sunk an enemy ship. The morning after the attack United States planes and ships investigated the coordinates where the enemy vessels had supposedly sunk, but found no debris or sign that would indicate that a ship had sunk.<sup>16</sup>

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<sup>14</sup> Moise, Tonkin Gulf p. 106ff.

<sup>15</sup> Kaiser, American Tragedy p. 334ff.

<sup>16</sup> Moise, Tonkin Gulf p. 109ff.

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Responding to the second incident, President Johnson ordered the Seventh Fleet carrier group to launch retaliatory airstrikes against the North Vietnamese. On August 5<sup>th</sup>, aircraft from the U.S.S. Ticonderoga and U.S.S. Constellation were sent on 64 bombing runs. Targets included five North Vietnamese patrol boat bases which were located at Quang Khe, Phuc Loi, Vinh, Loc Chao and Hon Gay; and an oil storage depot, also located at Vinh that served as a support for these installations. The oil storage facility at Vinh, which contained 14 tanks representing 10% of the petroleum of the country, was 90% damaged. Twenty-five naval vessels moored at the locations of the attacks were also either damaged or completely destroyed. Two U.S. aircraft were lost during the action and two were damaged but able to make it back to the carrier group. All other planes were able to perform their mission and return safely.<sup>17</sup>

A limited retaliation for the attack(s) in the Tonkin Gulf would not be Johnson's only response. When word of this second attack reached Johnson, he knew that he had what he needed to petition the U.S. Congress for a resolution supporting further action to protect American military personnel and allies from aggressive acts of communist states, particularly in Southeast Asia. Stanley Karnow's book, Vietnam A History: The First Complete Account of Vietnam at War, states that Johnson had his advisors draw up this resolution, based on the Formosa resolution, at least five months prior to the Gulf of Tonkin attacks. Karnow seems quite generous in his statement that Johnson had the resolution drawn up five months prior to the events that took place in the Tonkin Gulf. In actuality Johnson began discussing the idea of a resolution that would provide him with the support of Congress, in relation to taking military action in Southeast Asia, in December of 1963, and subsequently had the White House Counsel begin drafting rough copies eight months prior to the events that took place in the Tonkin Gulf.<sup>18</sup>

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<sup>17</sup> Selected Naval Documents: <http://www.history.navy.mil/docs/vietnam/tonkin-7.htm>, p.1-17

<sup>18</sup> Karnow, Vietnam p. 358.

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Beginning in January of 1964 Johnson had some of his legal advisors, including William C. Gibbon, Chief White House Council and William Bundy, Assistant Secretary of State for International Security Affairs, draw up multiple draft copies of what would eventually be the Tonkin Gulf Resolution. Over the course of several months Johnson's legal team and other close advisors hammered away at rough drafts of the requested resolution. Some of the early documents specified that not only would South Vietnam be protected and the president able to take military actions there but also that Cambodia and Laos would receive the same level of protection from the United States. Like his Cold War predecessors Johnson believed that the spread of communism was detrimental to United States security and had to be contained. Furthermore, he embraced the domino theory propagated by Eisenhower which espoused the notion that if Vietnam fell to communism, then all of Southeast Asia would follow suit.<sup>19</sup>

Early drafts of the resolution indicated that the territorial sovereignty of South Vietnam had to be respected by both the Viet Cong and North Vietnamese and that America needed to help the South Vietnamese keep from losing its independence. Also included in the early drafts was an explicit time frame for the departure of the American military from Vietnam. It was believed that the U.S. could provide the assistance needed by the South Vietnamese for creation of a viable government that could protect itself and its citizens by January 5, 1965. Finally, in early models of the resolution, dollar figures and spending caps were placed on how much assistance could be given. Most of these components did not make it into the final draft. Inclusion of these elements would have made it obvious that the resolution was not meant to be a means used to protect American personnel, American interests or American allies (who were

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<sup>19</sup> *Ibid.* p. 378.

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being attacked by an outside source) but rather as an avenue to strengthen and protect an ailing fellow democratic government.<sup>20</sup>

From January through early summer of 1964, Gibbons and Johnson's chief advisors continued to work on this resolution. Their belief in the importance of this document and Congressional support of it were based on several notions which they articulated and recorded during the early phases of the development of the document. First, they believed that the situation brewing in Southeast Asia was quite serious. Hanoi was taking actions that could lead to all of Southeast Asia becoming Communist. Since the United States was in the best position to take action to stop the Communist aggression, the U.S. had an obligation to do so. In order to move ahead however, it would be important to garner the support of Congress. Second, securing a resolution would demonstrate that the United States was serious in its determination to stop the spread of Communism. Third, global peace and stability had to be restored. This use of large quantities of American resources would require Congressional support at some level. Fourth, having a Congressional resolution would put the president in a position to negotiate from a position of strength. The president would have options in the face of Communist aggression; there would be some flexibility in how he could respond to difficult situations. Not having a resolution could indicate to the Communists that any threats made by the president were just that, threats.<sup>21</sup>

Gibbons and those who worked on the resolution also sought to answer among themselves questions that might be asked when the resolution came before Congress. While seeking to anticipate Congressional reaction, these advisors came up with over twenty-five questions that could be asked prior to a vote on the resolution. Only one will be discussed at this

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<sup>20</sup> Johnson Presidential Library, William Gibbons, Box 1, Memorandum, L. Meeker, June 9<sup>th</sup>, 1965.

<sup>21</sup> Johnson Presidential Library, William Gibbons, Box 1, Memorandum, L. Meeker, June 9<sup>th</sup>, 1965.; Louis Fisher, Presidential War Power (Kansas: University Press of Kansas, 2004), p. 130.

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time. This particular question was; “does this resolution give the president a blank check?”

Seeking to provide Johnson with an answer that would calm the fears of members of Congress, the advisors stated that the resolution would only allow the president to order limited military actions. Those scripted to present the resolution to Congress were to state that a larger scale escalation would require a significant number of men and a larger amount of resources. The magnitude of engaging in conflict in Vietnam would require that the president go before Congress and seek a declaration of war.<sup>22</sup>

As alluded to previously, Stanley Karnow pointed out that the particular resolution called for by Johnson was based on the Formosa Resolution. An examination of the William C. Gibbon Papers housed at the Lyndon Baines Johnson Presidential Library, however, demonstrates that the resolution was based not only on the Formosa Resolution of 1955, but also on the Middle East Resolution of 1957 and the Cuban Resolution of 1962. When working on this particular resolution Gibbon drew up a chart laying out these three resolutions in order to break each one down into specific component parts. It would appear that he did this to gain insight into how he should formulate this resolution; after all, each of these earlier resolutions had been ratified by both the House of Representatives and the Senate. To further understand why Gibbon, Bundy and some of Johnson’s other advisors relied so heavily on each of these resolutions, they need to be summed up and consideration given to the goals of each, paying particular attention to how they were constructed so they would meet their respective goals.<sup>23</sup>

The Formosa Resolution of 1955, reflected President Dwight D. Eisenhower’s philosophy of government, in particular his belief that Congressional resolutions authorizing presidential action, were important diplomatically and constitutionally. Eisenhower firmly

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<sup>22</sup> Johnson Presidential Library, William Gibbons, Box 1. Memorandum, L. Meeker, June 9<sup>th</sup>, 1965.

<sup>23</sup> Johnson Presidential Library, William Gibbons, Box 1, Memorandum, L. Meeker, June 9<sup>th</sup>, 1965.

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believed that the Korean War had occurred, in part, because the Communists did not think that the United States would come to the assistance of the Korean Republic. In order to put such a misconception to rest Eisenhower wanted to demonstrate to all other nations, particularly the Communists, that he and Congress were united in American Foreign Policy.<sup>24</sup> He also believed that Truman had made a mistake in intervening in Korea without Congressional authorization.

Eisenhower demonstrated his thinking in response to a crisis in the Formosa Straits. Conditions in the Formosa Straits, according to Louis Fisher “threatened to deteriorate into a military confrontation between the United States and China.” In 1954 a memo sent to the President by Secretary of State John Foster Dulles stated that “it was doubtful that the issue in the Formosa Straits could be handled without Congressional approval.” One particular issue rested on whether Eisenhower could order air strikes on Chinese air fields if he felt this was necessary to protect American allies and American interests. The allies being referred to here were the Chinese Nationalists, led by Chiang Kai-Shek, who were sequestered on the islands of Taiwan, Matsu and Quemoy. Dulles pointed out that any action Eisenhower might take to protect the Chinese Nationals would need Congressional approval. Again, according to Fisher, Dulles told Eisenhower that without Congressional authorization, any action taken to support the Chinese nationals could be grounds for impeachment.<sup>25</sup>

In 1955, in direct response to a series of actions taken by the Chinese Communists, namely the bombing of the island of Quemoy, Eisenhower went to Congress seeking authorization to respond, if it would be necessary, to protect an American ally and American interests.<sup>26</sup> Eisenhower did not believe that the United States should behave independently. He did believe that the United Nations should get involved; however, he believed that he should gain

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<sup>24</sup> Fisher, Presidential War Power p. 118-119.

<sup>25</sup> Ibid. p. 118-119.

<sup>26</sup> Stephen Ambrose, Eisenhower Soldier and President (New York: Simon and Schuster, 1990.), p. 382.

the support of Congress before going to the United Nations, unlike the process followed by former President Truman in the Korean crisis of June 1950.<sup>27</sup> Attempting to gain such support, Eisenhower had Dulles, and Admiral Arthur H. Radford, Chairman of the Joint Chiefs of Staff meet with congressional leaders on January 20<sup>th</sup>. During the meeting Senator Leverett Saltonstall (Republican-Massachusetts) posed a question in relation to the resolution. He wanted to know if “Congress could legally give the president the power to use troops without making it an official declaration of war?” Senator Earle C. Clements (Democrat-Kentucky) also asked a key question during this meeting. The Senator wanted to know if the resolution constituted a line drawn in the sand from which the United States would not retreat. Dulles, speaking on behalf of the president during the briefing, sought to answer these questions and to gain the support of the congressional leadership.<sup>28</sup> Some Congressional members did not believe they should try to take from the president powers vested in him by the constitution. What was being asked for in the resolution clearly fell under the jurisdiction of the president and therefore should be endorsed if that was what the president desired.<sup>29</sup> For his part, Eisenhower urged Congress to make a decision, to not wait for the United Nations to take action. Gary Hess, a pre-eminent scholar in United States foreign policy points out that Eisenhower pushed Congress to take immediate action, by passage of a specific resolution that would be designed to improve the chances of peace in the Formosa straits. Stating what he believed to be his duties as Commander in Chief, Eisenhower also indicated that his desire was to act jointly with the Congress.<sup>30</sup> In a speech given to a joint session of the legislative branch, Eisenhower stated that:

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<sup>27</sup> Gary R. Hess, “Authorizing War: Congressional Resolutions and Presidential Leadership, 1955-2002,” in *Divided Power: The Presidency, Congress, and the Formation of American Foreign Policy* ed. Donald R. Kelley (Fayetteville: University of Arkansas Press, 2005), p. 41.

<sup>28</sup> *Ibid.* p. 41.

<sup>29</sup> Arthur M. Schlesinger, Jr. *The Imperial Presidency* (Boston: Houghton Mifflin Company, 1973), p. 160.

<sup>30</sup> Hess, “Authorizing War” p. 42-43.

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Authority for some of the actions which might be required would be inherent in the authority of the Commander in Chief. Until Congress can act I would not hesitate, so far as my Constitutional powers extended to take whatever emergency action might be forced upon us in order to protect the rights and security of the United States.

However, a suitable congressional resolution would clearly and publically establish the authority of the President as Commander in Chief to employ the armed forces of this nation promptly and effectively for the purposed indication in his judgment it becomes necessary. It would make clear the unified and serious intentions of our government, our Congress and our people.<sup>31</sup>

During this speech Eisenhower made it clear to Congress that he did not expect that the United States would have to expand its defensive parameters beyond the Formosa Straits. Congress responded quickly to Eisenhower's plea for authorization to take actions he might deem necessary. The House Foreign Affairs Committee issued a statement which read in part;

...while making it clear that the people of the United States stand behind the President, and do not enter the field of controversy as to the respective limitations of power in the executive and legislative branches. Acting together, there can be no doubt that all constitutional powers necessary to meet the situation are present.<sup>32</sup>

The House of Representatives and the Senate passed the resolution overwhelmingly, with just three dissenting votes in each house. During the tense days of 1955 and through the remainder of his presidency Eisenhower never had to use the authority given through this resolution; he was able to avoid direct military actions.<sup>33</sup> The final version of the Formosa Resolution stated:

Whereas the primary purpose of the United States, in its relations with all other nations, is to develop and sustain a just and enduring peace for all; and Whereas certain territories in the West Pacific under the jurisdiction of the Republic of China are now under armed attack, and threats and declarations have been and are being made by the Chinese Communists that such armed attack is in aid of and in preparation for armed attack on Formosa and the Pescadores,

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<sup>31</sup>Fisher, Presidential War Power p. 118-119.

<sup>32</sup> Fisher, Presidential War Power p. 120.

<sup>33</sup> Hess, "Authorizing War" p. 44-45.

Whereas such armed attack if continued would gravely endanger the peace and security of the West Pacific Area and particularly of Formosa and the Pescadores; and

Whereas the secure possession by friendly governments of the Western Pacific Island chain, of which Formosa is a part, is essential to the vital interests of the United States and all friendly nations in or bordering upon the Pacific Ocean; and

Whereas the President of the United States on January 6, 1955, submitted to the Senate for its advice and consent to ratification a Mutual Defense Treaty between the United States of America and the Republic of China, which recognizes that an armed attack in the West Pacific Area directed against territories, therein described, in the region of Formosa and the Pescadores, would be dangerous to the peace and safety of the parties to the treaty: Therefore be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be and he hereby is authorized to employ the Armed Forces of the United States as he deems necessary for the specific purpose of securing and protecting Formosa and the Pescadores against armed attack, this authority to include the securing and protection of such related positions and territories of that area now in friendly hands and the taking of such other measures as he judges to be required or appropriate in assuring the defense of Formosa and the Pescadores.

This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, and shall so report to the Congress.<sup>34</sup>

Reading the resolution makes it clear that Congress gave the president the authority to utilize the armed forces at his discretion, without returning to Congress for any further action or a formal declaration of war. The last portion of the resolution makes it clear that Congress had done something which had not been done previously in American history; it gave the President an open ended “blank check” which in this case would be used in the pursuit of any military action taken in the Formosa Straits.<sup>35</sup> According to the resolution President Eisenhower had the unlimited authority to take military actions until he deemed the region both peaceful and safe. It identified no specific method for him to use nor did it name any particular enemy but it did offer

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<sup>34</sup> Johnson Presidential Library, William Gibbons, Box 1, Memorandum, L. Meeker, June 9<sup>th</sup>, 1965.

<sup>35</sup> Stephen Ambrose, Eisenhower Soldier and President (New York: Simon and Schuster, 1990.), p. 382.

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support for preemptive actions, even possibly the use of nuclear weaponry.<sup>36</sup> Congress would not terminate the resolution; the resolution would only be terminated when the president felt that it was no longer needed.<sup>37</sup>

The second resolution obtained by President Eisenhower, which was studied by Gibbon while he was working on the resolution for President Johnson, focused on the Middle East and was passed by Congress in 1957. Like the Formosa Resolution it was to cover a certain geographical area and would not be a global resolution. As in the case with the Formosa Resolution, Eisenhower went before a joint session of the Congress asking them to pass a resolution that would give him the authority to employ U.S. troops in the Middle East. During his address, he indicated that he was seeking this resolution because of Soviet ambitions and actions in the Middle East although there was no immediate crisis, no direct actions had been taken by the Soviets.<sup>38</sup> In order to disarm those who expected for the United Nations to handle the situation, Eisenhower pointed out how the Soviet Union had previously used their veto power within the United Nations Security Council to block any United Nations actions relating to the Russian intervention in Hungary.<sup>39</sup> Eisenhower thus emphasized the importance of the United States being willing to take needed action on its own. Furthermore, he pointed out the importance of both the executive branch and the legislative branch working together in handling possible Russian aggression in the Middle East. Eisenhower stated that “I deem it necessary to seek the cooperation of Congress. Only with that cooperation can we give the reassurance

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<sup>36</sup> George C. Herring, From Colony to Super Power: U.S. Foreign Relations Since 1776 (Oxford: Oxford University press, 2008) p. 662.

<sup>37</sup> Fisher, Presidential War Power p. 124-25. Ambrose, p. 382. Schlesinger, p. 160.

<sup>38</sup> Hess, “Authorizing War” p. 47

<sup>39</sup> Fisher, Presidential War Power p. 124-125.

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needed to deter aggression. Effective action meant that basic United States policy should now find expression in joint action by the Congress and the Executive.”<sup>40</sup>

When seeking to gain authority from Congress to take military actions in the Middle East if necessary, Eisenhower invited thirty leading Senators and Congressmen to the White House and shared with them his concern that the Soviet Union had an interest in the Middle East and that the Soviets could seek to fill a void that had been created by the erosion of British and French power in the region.<sup>41</sup> During the gathering and when the resolution was presented to Congress, he promised to provide the House and Senate with hour by hour reports about what was going on, if Congress were in session and it was feasible to supply them with reports. According to Louis Fisher, Eisenhower also promised, if the situation were critical, to call Congress back to Washington for a special session.<sup>42</sup> A number of Senators questioned whether Eisenhower needed such authorization. They believed that the president had power to act on his own in the event of crisis. In response to Eisenhower’s request, John McCormack (Democrat-Massachusetts) asked if the President even needed congressional support to take action. In a similar vein Senator J. William Fulbright (Democrat-Arkansas) expressed concern that Eisenhower was acting timid and in need of congressional authority when he really did not need it. He stated:

Experience tells us that when the highest interests of the country are at stake, an Executive who is timid represents a far greater danger to the preservation of our constitutional system than does one who exceeds the letter of the law in a vigorous use of Executive power to defend the Government, the Nation and the Constitution.<sup>43</sup>

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<sup>40</sup> *Ibid.* p. 121.

<sup>41</sup> Hess, “Authoring War” p. 46-47.

<sup>42</sup> Fisher, Presidential War Power p. 123-124.

<sup>43</sup> Hess, “Authorizing War” p. 49.

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According to Gary Hess, the Senate majority leader Lyndon B. Johnson also was concerned that the administration's resolution would facilitate a weak president; that in such cases independent action needed to be taken.

In this particular situation—the request for the Middle East Resolution—Congress was not nearly as cooperative as it had been in 1955 during the Formosa Crisis. When Eisenhower sought Congressional authority during the Formosa situation, Congress had given him a “blank check.” Many Congressmen believed that providing the president with what he was requesting was an abdication of Congress' constitutional powers.<sup>44</sup> Senators including Wayne Morse (Democrat-Oregon) proposed amendments to the Formosa resolution. One such amendment stated that the president could in no way use American armed forces without first alerting Congress; maintaining Congress's role in war making. This and several other amendments ended up being rejected. Now this time, in the Middle East resolution, several members of Congress objected to giving President Eisenhower another “blank check.” Among other things, many members of Congress were concerned that like the Formosa Resolution this one would expire when the president determined it so. After much debate, it was decided that the statute would retain the clause which gave the president the right to terminate the resolution when he deemed it unnecessary, but it would also include a clause which allowed congress to terminate the resolution by the passing of a joint concurrent resolution, which was not subject to a presidential veto. In the end the resolution was passed but with more opposition; the votes were 350-60 in the House and 72-9 in the Senate.<sup>45</sup> The final text of the Middle East Resolution stated that:

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<sup>44</sup> Schlesinger, *Imperial Presidency* p. 161.

<sup>45</sup> Fisher, *Presidential War Power* p. 123-124.

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...Resolved by the Senate and House of Representatives of the United States of America in Congress assembled...this joint resolution shall expire when the president shall determine that the peace and security of the nations in the general area of the Middle East are reasonably assured by international conditional created by action of the United Nations or otherwise except that it may be terminated earlier by a concurrent resolution of the two Houses of Congress.<sup>46</sup>

Like the first resolution given to Eisenhower, this one allowed him to take any action he deemed necessary while at the same time allowing him to determine when the resolution would be terminated. Instead of using it as a way to engage the United States in a military conflict, Eisenhower believed it provided an avenue to pursue diplomatic means of reducing the tensions.

The final resolution that was examined by Gibbon and the White House staff was the Cuban Resolution of 1962. President Eisenhower's effort at Executive-Congressional cooperation was short lived. When Kennedy faced the Cuban Missile Crisis, he was prepared to act on what he believed to be his constitutional authority, though according to Arthur M. Schlesinger there was no legal basis for the action that he was to take.<sup>47</sup> After receiving information suggesting that the Soviet Union had placed and were continuing to place nuclear missiles in Cuba, Kennedy assembled a group of advisors to help determine what course of action to take. Among the possibilities was an air strike, ground invasion or blockade.<sup>48</sup> Earlier on September 13, 1962 he stated in a news conference that he had full authority to handle the Cuban situation. Kennedy was asked by a reporter if he thought it would be a good idea for Congress to pass a resolution giving him the authority to pursue what ever actions he deemed necessary. Kennedy stated that although he believed members of Congress would give good, possibly helpful insight and that it would be all right if a resolution would be passed, a resolution

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<sup>46</sup> Johnson Presidential Library, William Gibbons, Box 1, Memorandum, L. Meeker, June 9<sup>th</sup>, 1965.

<sup>47</sup> Schlesinger, *Imperial Presidency* p. 174.

<sup>48</sup> Randall Woods, *Fulbright: A Biography* (Cambridge: University of Cambridge Press, 1995), p. 270.

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was not in itself necessary for him to take action to protect the United States.<sup>49</sup> The President felt no real need to consult Congress, only the need to inform them after action had been taken.<sup>50</sup>

Nonetheless Congress went ahead and passed a resolution stating that the United States was “determined to prevent by whatever means necessary, including the use of arms, the Marxist-Leninist Regime in Cuba from extending, by force or threat of force, its aggressive or subversive activities to any part of this hemisphere.” The Resolution went on to state “that the United States was determined to keep Cuba from being given external military support which could endanger the security of the United States.” This resolution passed with a little more ease than the Middle East Resolution. In this case Congress deferred to the president’s authority in relation to foreign affairs. They also abdicated their war powers by giving the president the ability to make war without asking for either their permission or support.<sup>51</sup>

On October 23, 1962, Kennedy skillfully utilized the powers bestowed on him by the Constitution with, as he implied, the unnecessary support of Congress. When Kennedy alerted the America public about the imposition of a naval quarantine, he indicated that he was acting by “the authority entrusted to him by the Constitution as endorsed by Congress.” Senator J. William Fulbright had actually encouraged Kennedy to take more sweeping action than just a blockade, to do everything possible to ensure that the nuclear missiles inside Cuba could not be used against the United States. In urging the president to do so, he never indicated that the president needed to go before Congress and get its support for any actions which might be taken against Cuba.<sup>52</sup> Kennedy took the congressional abdication of war powers to mean that the

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<sup>49</sup> Fisher, *Presidential War Powers* p. 125-127.

<sup>50</sup> Schlesinger, *Imperial Presidency* p. 175.

<sup>51</sup> Fisher, *Presidential War Powers* p. 125-127

<sup>52</sup> Woods, *Fulbright: A Biography* p. 272.

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Congress supported his personal position that as Commander-in-Chief he had the constitutional authority to take any military action he deemed necessary to protect the United States.<sup>53</sup> The significant portion of the resolution states that:

Where as President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers “to extend their system to any portion of this hemisphere as dangerous to our peace and safety”; and

Where as in the Rio Treaty of 1947 the parties agreed that “an armed attack by any State against an American State shall be considered as an attack against all the American State; and; consequently, after each one of said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the charter of the United Nations and

Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared; “The present Government of Cuba had identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and excepts similar assistance from extra-continental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union; and

Whereas the international Communist movement has increasingly extended into Cuba its political, economic, and military sphere of influence; Now therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,

That the United States is determined to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere:

To prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and...<sup>54</sup>

Although Kennedy considered extensive military options, in the end the quarantine worked to bring a solution to the crisis through diplomatic means.

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<sup>53</sup> Fisher, *Presidential War Powers* p. 125-127.

<sup>54</sup> Johnson Presidential Library, William Gibbons, Box 1, Memorandum, L. Meeker, June 9<sup>th</sup>, 1965.

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Gibbon and other Johnson advisors studied these resolutions and used them as a model for the resolution they would author for Johnson, a resolution that would give him the ability to take whatever action he deemed necessary in Southeast Asia. President Johnson's request for support, the resolution that had been authored by his chief legal advisor was called the Gulf of Tonkin Resolution. This resolution stated;

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.

Section 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.

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

A careful examination of the stark similarities between this particular resolution and the others confirm they had been used by Gibbons and Bundy as the basis for its development. Like the Formosa, Middle East and Cuban resolutions, this one was born out of crisis, the United States and its global interests were being threatened. What the president gained in each of these resolutions was prior commitment from Congress, before possible actions were even presented to them, for him to take whatever steps he deemed necessary to protect the United States or its

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interests.<sup>55</sup> Incorporating such a clause affirmed the right of the President to use the armed forces without getting specific approval or authorization from the Congress. This did carry with it some serious legal and constitutional ramifications that would plague the Congress when it sought to repeal the Tonkin Gulf resolution in 1970. William Gibbons points out that “not having specifically authorized the President to act, its repeal of the resolution was, perforce, symbolic.”<sup>56</sup> The same could have also been said for the other resolutions had Congress tried to repeal them and bring American involvement in conflict to an end. Finally some of these resolutions indicated they would expire when the president deemed it appropriate.<sup>57</sup>

There were also some distinct differences between the Gulf of Tonkin resolution and the three which had been used as a model for its construction. A stark difference was the time frame for the development of the resolutions. As indicated, the resolutions passed prior to the Gulf of Tonkin incident were authored as the crisis was unfolding not months prior to the onset of hostile actions, which was the case for the latter document. It should also be noted that there was no imminent crisis in the Middle East in 1957, no specific threat, just Eisenhower’s concern of Soviet exploitation of the demise of British and French influence after the Suez Crisis of 1957. Even so, Eisenhower sought the resolution at the time the situation was actually unfolding. Another distinction between the various resolutions involved the time frame for when the treaties would end. Both the Formosa and Gulf of Tonkin Resolutions indicated they would come to an end when the president determined that peace and stability had been achieved and they were no longer necessary. Provision in the Middle East resolution for bringing it to an end was provided for by a concurrent vote of Congress. Although the Gulf of Tonkin resolution indicated

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<sup>55</sup> William C. Gibbons, The U.S. Government and the Vietnam War (Princeton, New Jersey: Princeton University Press, 1986), p. 278.

<sup>56</sup> Ibid. p. 348.

<sup>57</sup> Ibid. p. 348.

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it could be brought to an end by the president it also included a clause making it possible for congress to terminate it in the same manner the Middle East resolution could be ended, through a concurrent vote. Termination of the Cuban resolution was far different than these others. It did not include any mechanism for it ending. Wording in regard to the position held by Congress regarding actions to be taken by the president also differed between the various resolutions. The Formosa and Middle East resolutions requested the support of Congress for actions that the President may take. Gibbons points out that:

by contrast the 1964 Gulf of Tonkin Resolution passed by Congress at the request of President Johnson did not authorize action by the President. Its language was very carefully drafted to avoid any suggestion that the President needed Congress to authorize his use of the armed forces, and, in fact, the wording was intended to put Congress on record as agreeing that he had that power as Commander-in-Chief.<sup>58</sup>

Regardless of similarities or differences the Tonkin Resolution passed through both the House of Representatives and the Senate with relative ease.<sup>59</sup> In the House of Representatives, consideration of the resolution was relatively brief and overwhelmingly favorable. This foreshadowed the House's unanimous vote in favor (416-0). Proponents emphasized the importance of standing solidly with the President at a time of crisis in an important area of the world to American security. Setting the tone were remarks by the influential Thomas Morgan (Democrat-Pennsylvania) who pointed out that it was paramount the president receive the full support of the House at so dire a time—when the U.S. Navy had been the target of unprovoked attacks. The attacks, he went on, had been a part of a systematic campaign of aggression by communist forces against the U.S. and that not responding would make America look weak in

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<sup>58</sup> *Ibid.* p. 185.

<sup>59</sup> Johnson Presidential Library, William Gibbons, Box 1, Memorandum, L. Meeker, June 9<sup>th</sup>, 1965.

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the eyes of both allies and enemies. The resolution would make it clear to the global community that Southeast Asia was vital to the United States and that peace and stability in the region is of paramount importance to America. After making his remarks in support of the resolution Representative Morgan asked that articles from several newspapers be entered into the Congressional Record. These included the Philadelphia Enquire, the Boston Herald, the Christian Science Monitor, the Washington Evening Star, the St. Louis Post Dispatch, the Baltimore Sun, the Washington Post, the Los Angeles Times, and the New York Post.<sup>60</sup>

At the conclusion of Morgan's remarks Francis Bolton (Republican-OH) spoke also urging her colleagues to vote in the affirmative for the resolution. She pointed out that the direction they were contemplating did not establish a precedent but rather followed suit with actions that had been taken in the past. Elaborating on his statement, she pointed out that four similar resolutions had been passed since 1955, each meant to support the president and any actions he felt were necessary to take. In reality its purpose was salutary in nature demonstrating to the global community support for the president while he was involved in international affairs. She did not believe that this resolution circumvented diplomacy. The president would seek diplomatic solutions in global affairs as he had in the past and would only resort to using the armed forces if absolutely necessary.<sup>61</sup>

When Bolton finished, the majority leader, Carl Albert (Democrat-Oklahoma) took the floor, focusing on the challenge placed before the U.S. by its communist foes, through the deliberate and unprovoked attack that occurred in the Gulf of Tonkin. Following suit with his colleagues, he too pointed to the importance of the United States responding to what had taken place. In his mind the attacks in international waters coupled with the ongoing hostile behavior

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<sup>60</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18538-18542.

<sup>61</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18542.

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of the communists in Southeast Asia was as serious as the Cuban missile crisis of 1962. Ignoring the aggressive behavior of the communists was not only dangerous but would also be as detrimental to the overall health of the U.S. as it would have been for President Kennedy to overlook the placing of Nuclear missiles in Cuba.<sup>62</sup> Charles Halleck (Republican-Indiana), the minority leader, voiced his unquestioned support. He stated that this resolution only marked the beginning, that more would be required to put an end to the problems occurring in Southeast Asia.

William Broomfield (Republican-Michigan), co-sponsor of the resolution, spoke at length about why the House had no choice but to support an obligation of the United States. After all, the U.S. had signed the SEATO Treaty (Southeast Asia Collective Treaty Organization) which meant that the country was obligated to assist any of the other signatories during times of distress. South Vietnam, according to Bloomfield, was being attacked by communist forces from the North. Being a member of SEATO meant that South Vietnam should be protected by the other signatory states of which, Representative Bloomfield pointed out, America was one. Beyond obligation, Mr. Bloomfield articulated Eisenhower's Domino Theory as a rationale for the passage of the Resolution. Action had to be taken to protect the democratic governments in Asia. If Vietnam fell to communism then so would Laos, Cambodia, Thailand, Malaysia, and all of Southeast Asia. The only way to stop such a horrendous event would be through supporting the president as he took actions necessary to keep South Vietnam from being consumed by the communists, demonstrating to the Russians and most notably the Chinese that America was strong, not a paper tiger.<sup>63</sup>

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<sup>62</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18542.

<sup>63</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18543.

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Adding his support Clement Zablocki (Democrat-Wisconsin) stated that affirmation would make it clear to the world that the American people supported the actions taken by Johnson in retaliation for the attacks. Furthermore, passage of the resolution would allow the president to take needed steps now and in the future to restrain or even repel communist aggression, particularly in Southeast Asia. Seeking to motivate his colleagues to vote in the affirmative, he brought to the attention of the House several newspaper articles which were supportive of the actions of the president. Articles referenced included the Milwaukee Journal, the Baltimore Sun and the Watertown Daily Times (NY). Motivation for sharing these articles and having them included in the Congressional Record stemmed from a desire to demonstrate that the American people wanted this resolution passed.<sup>64</sup>

Edwin Adair (Republican-Indiana) spent little of his allotted time addressing the specific incident; instead he focused on questions circulating among members of the house pertaining to the resolution itself. Both of the questions that he posed were very significant. The first focused on whether approving this resolution would mean the abdication of congressional rights and responsibilities with respect to the declaration of war and foreign affairs. His second question, which was meant to be as rhetorical as the first, asked if supporting this resolution meant that the house also endorsed all previous actions in Southeast Asia and gave consent to any future U.S. activity. Answering his own questions he stated that the resolution before them was meant to address a specific event and to authorize the president to take actions if the U.S. military were attacked again.<sup>65</sup> He also made it clear that regardless of how the resolution was interpreted the

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<sup>64</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18544.

<sup>65</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18543-18546.

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United States could not tolerate being attacked on the high seas. Members of the House needed to vote for the resolution as a way to demonstrate resolve and determination to the enemy.<sup>66</sup>

While supporting the resolution, a few members took the occasion to question U.S. policy, specifically whether it needed to come together. For instance, Harold Gross (Republican-Iowa) stated that there should be no problem in approving this document, that it was not a declaration of war but rather a show of support for actions already taken. He then used the opportunity to express his frustrations with the House of Representatives doing “nothing more than passing resolutions which imply that the U.S. has provided more than token opposition to the halting of the communist world conspiracy.” Without a doubt this representative desired that the American government take much stronger action. Supporting the comments made by the previous individual, John Ashbrook (Republican-Ohio) and Melvin Laird (Republican-Wisconsin) both focused on the importance of the President not just asking for the resolution but also actually using it as a means to bring communism in Southeast Asia under control. Indecision, appeasement and vacillation had been the marks of foreign policy. This resolution could signal a needed policy shift to one of action but would it, would the president take the direct actions needed to subdue the behavior of the communist.<sup>67</sup>

Also voicing concern and aligning with the comments made by Gross and Ashbrook was Representative Edward Derwinski (Republican-Illinois). Like his colleagues he believed that more needed to be done, that Congress was providing increased funding for a “win” policy. Additionally he believed that Congress should take a more active role in determining, implementing and directing foreign policy. Voicing very similar concern were Representatives Charles Chamberlain (Republican-Michigan) and Gerald Ford (Republican-Michigan).

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<sup>66</sup> George Herring, *America's Longest War: The United States and Vietnam, 1950-1975* (New York: McGraw-Hill, Inc, 1996), p. 136.

<sup>67</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18546ff.

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Chamberlain believed that the president needed to be supported specifically through this resolution but he also had concern that congress was being excluded from areas of responsibility that came under their Constitutional jurisdiction. As a member of the Armed Services Committee he believed that he and his colleagues should have been briefed about the events taking place in Southeast Asia prior to the escalation of tensions and certainly before the America people—who through the newsprint media—heard about the retaliatory strikes before congress had been officially informed.<sup>68</sup>

Congress taking a more active roll in what was happening in Vietnam and increasing the use of force were not the answer according to George Brown (Democrat-California). Dropping bombs on the people, destroying their homes and killing their loved ones would not work. A lesson needed to be learned from the Viet-Cong. They provided hope and promised the people of Vietnam, specifically the peasants, freedom. Vietnam had experienced hundreds of years of oppression at the hands of the Chinese, Mongols and French. The people desired autonomy. It was Brown's contention that aggressive behavior on the part of the Americans stripped the peasants and in reality all Vietnamese of both hope and belief that the U.S wished to help them obtain their freedom. Because this was the case, America needed to discontinue violent military action and to begin working with the people of Vietnam, seeking to gain their hearts and minds. Gaining the support of the people would strengthen the Saigon government while at the same time hinder the ability of the Viet-Cong/North Vietnamese to continue their war effort. Although Mr. Brown indicated that he would vote in support of the resolution, as a means to demonstrate to the world that the U.S. stood behind the president and was unified, he still believed that in the long run action taken in Vietnam needed to be more diplomatic in nature.<sup>69</sup>

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<sup>68</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18551.

<sup>69</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18554.

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Also supportive of the president's request but with similar foreboding about enlarged military involvement was Robert Barry (Republican-New York). Paramount among his concerns was how China would view American behavior in Southeast Asia and subsequently how they would react. Barry stated that China had designs on Vietnam and all of Southeast Asia; that China did not want and would not tolerate any imperialist power becoming involved in the region. Because this was the case, the U.S. would have to be very cautious, not giving the impression that America wanted to colonize Vietnam but only protect it from its aggressive northern neighbor. Keeping China out of the fray in Vietnam was absolutely vital in order to keep the events taking place from escalating and turning into a major war.<sup>70</sup>

Another individual to speak in favor of the resolution and yet voice concern was Henry Reuss (Democrat-Wisconsin). Like Laird, Kelly and several other members of the House, he believed that the action taken by the president in the Tonkin Gulf needed retroactive endorsement, that the president should have the full backing of Congress. He also believed however, that more stringent measures needed to be applied against the communist activities occurring in Southeast Asia. America, according to Reuss, could not and should not seek to handle the situation alone. Expressing his opinion about future involvement of America in Southeast Asia he stated that communist forces were acting hostilely toward other countries and they were obstructing universal peace. Protecting countries being attacked by outside entities and maintaining global balance was the task of the United Nations. Instead of maintaining a middle ground approach to what was occurring, the U.S. needed to turn the situation over to the Secretary General U Thant and the United Nations.<sup>71</sup>

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<sup>70</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18548.

<sup>71</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18551.

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Desirous to minimize some of the concerns that had been articulated throughout the discussion Laird took the floor and pointed out that he had confidence in the president, the military and the determination of the American people. He also pointed out that although some doubts and concerns may be present in the House of Representatives, the American people had confidence in the president's handling of the situation in Vietnam. To make his point he asked to have several newspapers articles voicing this sentiment be placed in the Congressional Record. Papers that Mr. Laird presented for inclusion in the record came from the Miami Herald, the New York Times and the Washington Post. Edna Kelly (Democrat-New York) was another who believed that the president held the support of the people. Additionally she believed as did some who had expressed themselves earlier that the actions taken by Johnson were more than justified. While making her remarks, she pointed out that the U.S. had "tried every resource at its command, with patience and perseverance, to advance the cause of peace and freedom in Southeast Asia." Valiant efforts had been made to "discourage communist aggression in that area at the conference table, and by assisting those free nations which have sought our help in resisting communist designs on their territory." Since America had done everything that could be achieved diplomatically it was time to use force, both now and in the future if necessary. Thus, Congress needed to give unanimous support to President Johnson, encouraging him to take military actions in the future if he felt that aggression was necessary.<sup>72</sup> Little attention in the House debate dealt with power being granted to the President.

Bruce Alger (Republican-Texas), who spoke much later-in the debate-did not embrace the answers Mr. Adair provided for the questions he had publically raised. He indicated that he believed endorsing the resolution was a clear abdication of powers designated to Congress in the Constitution. Endorsing this resolution would give President Johnson the ability to take actions

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<sup>72</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18551.

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that the House could not easily check. Furthermore, Alger stated that Congress had no guarantee that once President Johnson had this resolution he would come back to Congress if even more military action was warranted. Finally, Alger wanted to know America's position regarding Vietnam. What goals did the U.S. wish to achieve? Did the current resolution give the legal authority necessary for those goals to be met, especially if increased military involvement was required? After posing these pertinent questions he then asked if America was not already at war in Vietnam. Attempting to make his point he asked tough questions about the number of Americans who had been killed, wounded and taken prisoner while involved in military action in Vietnam.<sup>73</sup> Regarding those who had been adversely affected, he wanted to know what the government had told their families. He believed that these families and all Americans had a right to know the truth, that the U.S. was engaged in combat. Many lives had already been lost in a conflict void of clear cut direction. To keep this from occurring, the U.S. needed to develop an official policy for dealing with both Vietnam and Communism. Any policy developed needed input and approval from Congress.<sup>74</sup>

On the following day, 6<sup>th</sup> August 1964 the Senate debated the issue at length. In many ways, it followed the House debate with its show of support. There were, however, serious misgivings and questions about the implications of the resolution. The influential Mike Mansfield (Democrat-Montana) who was renowned as an Asian expert took the floor. He pointed out that acts of Communist aggression had been occurring with increased frequency, the President had sought counsel in dealing with those aggressive forces, Johnson had exercised restraint in dealing with enemies and ultimately that the President needed to be supported at this time. After all, it is the nation's leader who is most intimately familiar what is going on in the

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<sup>73</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18553.

<sup>74</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18132-18135.

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global community, who has established a course of direction for the U.S. based off of that information and who thus knows what is best for the country.<sup>75</sup>

Following Mansfield's lead and also encouraging the Senate to vote in support of this resolution was J. William Fulbright (Democrat-Arkansas), the chairman of the Foreign Relations Committee, who took responsibility for steering the resolution through the Senate. Like his colleague, the Senator from Arkansas believed that the president needed to be supported.<sup>76</sup> America had been attacked and the commander and chief had responded appropriately and legally. According to the United Nations Charter, article 51, members could respond and defend themselves when hostility attacked, which is what President Johnson had done. Finally, Fulbright stated that affirming this resolution would make it clear to both friends and foes that the U.S. would take necessary actions to defend itself and its allies. Acts of aggression in Southeast Asia were not a new phenomenon. Those perpetuating these acts needed to know the United States would stand up for its self and that the president would take action to stymie attempts by communists to take over countries that were allied with America. Gary Hess points out that Fulbright supported this resolution not just for the reasons stated but because he had come to believe that communism was a viable threat that had to be stopped. North Vietnam and China had designs not only on South Vietnam but all of Asia. Ultimately Fulbright was concerned that Communism would swallow up Southeast Asia, increase in strength and work methodically to consume the remainder of the globe. Letting them execute their plan would be disastrous to the United States in the long run.<sup>77</sup> Additionally, Randall Woods states that Fulbright was willing to shepherd this resolution through the Senate because he believed the Communists needed to see that America was united in its stand against willful acts of aggression

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<sup>75</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18398.

<sup>76</sup> Woods, Fulbright: A Biography (Cambridge: Cambridge University Press, 1995), p. 355.

<sup>77</sup> Hess, Authorizing War p. 54.

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on the part of any Communist state.<sup>78</sup> At the conclusion of his remarks Fulbright asked that several newspaper editorials expressing support for the president and the action that he had taken be placed in the congressional record. These included the following; the Philadelphia Inquirer-“A Nation United”, the Washington Post-“Stern Crisis”, the New York Herald Tribune-“The Right Response”, the New York Times-“Wider War” and the Baltimore Sun-“Peace the Purpose.”<sup>79</sup>

Even though he wanted to support the resolution Senator George McGovern (Democrat-South Dakota) had some concerns and serious questions that he felt needed to be addressed before he could cast an affirmative vote. His first question focused on the attacks that had occurred in the Tonkin Gulf. McGovern wanted to know if they had in any way been provoked by the United States. Admitting to being baffled, he stated that he could not understand why such a little ill equipped country like North Vietnam would deliberately engage the superior American forces in a naval battle. Quoting from the Washington Post of August 5<sup>th</sup>, he pointed out that the North Vietnamese Government was insisting that the South Vietnamese and U.S. forces had sent warships north and therefore the incident was not offensive, but rather defensive in nature. Responding to the question, Fulbright indicated that to the best of his knowledge the Navy had done nothing to spark this act. The U.S. military had certainly been training and supplying its Vietnamese allies but that was as far as American support had gone.<sup>80</sup>

Parameters of engagement were the focus of McGovern’s second question. He asked if the air strikes in North Vietnam represented a policy shift. General Khanh, head of the South Vietnamese Government, believed that the war needed to be carried into the North. Was this the feeling of the Johnson administration? If it did point to an alteration in focus, would the

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<sup>78</sup> Woods, Fulbright: A Biography p. 355.

<sup>79</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18399.

<sup>80</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18402.

resolution be used as a mechanism for this new direction? Senator Gaylord Nelson (Democrat-Wisconsin) would also pose similar questions. He pushed a little harder than McGovern and asked if this resolution could be used as a means to place a large number of American troops in Vietnam to aid in both protecting the South and in taking the war to the north.<sup>81</sup> Addressing these concerns, Mr. Fulbright stated that the area was dangerous and that events in the region could take place which would precipitate an escalation of American involvement, but that for now the resolution under consideration only offered an endorsement for actions already taken by the president and support for him to do whatever would be necessary to protect America, its interests and its allies, not wage an offensive war.<sup>82</sup>

Like McGovern, Nelson and Senator Allen Ellender (Democrat-Louisiana) were concerned that the aggression of the North Vietnamese had been sparked by the U.S. Navy. Nelson indicated that close proximity itself was enough to generate provocation. He argued that the U.S. Navy should not send its ships so close to enemy territory. Affirming this resolution, according to these senators, could only be done when it was confirmed that the U.S. did nothing to provoke these attacks or assurance given that precaution would be taken in the future to diminish the likelihood of such engagements occurring. Responding to the questions, Fulbright stated that the Maddox was on routine patrol in international waters, that it was not present at the request of the South Vietnamese government and that it had not traveled to the northern sector of the Tonkin Gulf.<sup>83</sup>

Senator Frank Lausche (Democrat-Ohio) addressed the Senate in support of the remarks made by Fulbright. He indicated there was no evidence to suggest that the Navy had done anything to warrant what happened. Again confirming the remarks made by the senator from

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<sup>81</sup> Schlesinger, Imperial Presidency p. 175

<sup>82</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18402.

<sup>83</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18403.

Arkansas, he stated that the U.S. ships were merely monitoring the Chinese activities in the Gulf of Tonkin which was routine.<sup>84 85</sup> Furthermore, he stated the resolution had to be passed, that the Senate had to stand behind the president...“to do otherwise would be to manifest a will not to resist lawlessness, unwarranted and unjustified attacks upon our sovereignty.”<sup>86</sup> Voicing support along the same line was the Democratic Senator from Georgia, Richard Russell, who did not say whether the Navy had instigated the attack, but did indicate, however, that the U.S. ships were in international water and that they had a right to be in the Tonkin Gulf. America should not begin allowing other countries, especially those from the communist camp to tell it where it could and could not patrol.<sup>87</sup> Stuart Symington (Democrat-Missouri) offered up his support. He too held the belief that America could not let itself be pushed around or isolated from any part of the globe. If this did start, where would it stop and what damage to U.S. credibility was anyone’s guess. Strom Thurmond (Republican-South Carolina), said that the U.S. was not, nor had it ever been, the aggressor in Southeast Asia. The Communists were the ones who launched the attack on U.S. naval forces in the “Bay of Tonkin” and they have been the aggressors in both Vietnam and Laos. Once attacked, the American Navy had no alternative but to retaliate against the unwarranted behavior of the North Vietnamese.<sup>88</sup>

Mr. Thurston Morton (Republican-Kentucky) and Jacob Javits (Republican-New York) indicated that they supported the actions taken by the president but, they had some concerns about the resolution. Each agreed that South Vietnam had been the target of communist aggression. They also held the belief that if Vietnam fell, then like dominos the other countries

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<sup>84</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18404.

<sup>85</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18404.

<sup>86</sup> James E. Odenkirk, Frank J. Lausche: Ohio’s Great Political Maverick (Orange Frazer Press: Wilmington, Ohio, 2005), p. 323.

<sup>87</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18409.

<sup>88</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18420.

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in the region would be lost to communism. Because of this possibility they believed that something needed to be done, but what that action should be or who ought to be involved was in question. The latter issue was central to their concerns. Was the resolution meant to support the retaliatory strikes ordered by the president? Did it give congressional support to future actions he might need to take to protect America or was it a document that could be used by Johnson to protect South Vietnam from its foes? If the Saigon government were attacked was it the sole responsibility of the United States to protect it from harm?<sup>89</sup>

Both of these senators believed that each of the other SEATO signatories needed to play a significant role in keeping South Vietnam safe. Thus prior to any future actions taken, they believed that the other countries needed to be consulted and they also needed to make major contributions to help protect South Vietnam. Before they could cast an affirmative vote for the resolution, they wanted assurances that it would not be used by Johnson to act independently in the defense of the Saigon government.<sup>90</sup> Seeking to shepherd this resolution through the Senate, Fulbright responded that the document was meant to demonstrate support for the actions the president had already taken and to provide support for any future military strikes initiated by him in response to acts of aggression.<sup>91</sup>

Two other senators who supported the resolution but who also had concerns about it in relation to the SEATO treaty were Spessard Holland (Democrat-Florida) and Jack Miller (Republican-Iowa). Their primary concern was with section two of the document which indicated that support would be given to any member of the SEATO alliance in need of military assistance. They wanted to make sure that they correctly understood the document, that it only provided support from the Senate for the president to do what the treaty already called for,

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<sup>89</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18404-18406.

<sup>90</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. 18405-18406.

<sup>91</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. 18405-18406.

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ensuring the safety of allies in Southeastern Asia. They did not want any part of the resolution to be used to justify American involvement in other parts of Asia or anywhere else in the world. Most important, Senators Holland and Miller wanted to ensure that voting for this was not an endorsement of offensive military activities that may be ordered by the president, but rather affirmation that defensive maneuvers were supported.<sup>92</sup>

Like many of his colleagues, John Sherman Cooper (Republican-Kentucky) wanted to cast a positive vote but, dissecting the resolution, he wanted clarification about specific sections and sentences within the document that were unsettling to him. First he wanted to know exactly what “repel and prevent” meant. Did these terms as used in the larger context of section one mean that the president had the support and approval of the Senate to take action he deemed necessary to stop an attack that was not yet underway, stop one already taking place or to keep one from ever progressing from the planning stages. Could this clause be used for preemptory strikes? Senator Cooper was also concerned over who exactly was to benefit. He wanted to know if it was limited to repelling and preventing strikes against America or against both the U.S. and its South Vietnamese ally. If this resolution provided the president with power to either thwart or keep South Vietnam from being attacked altogether and he chose to do so, then could America and its military be subject to the needs or whims of the South Vietnamese government? Would the Saigon Government draw the U.S. into a larger scale war than desired by America? Senator McGovern shared this concern. He wanted to know if the U.S. was bound to protect the South Vietnamese if it took offensive actions against the North. Furthermore, he was curious as to whether or not this document gave the president the right to use military power to assist the Saigon government if it did instigate a war.<sup>93</sup>

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<sup>92</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. 18405-18406.

<sup>93</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. 18409.

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Finally, Cooper voiced concern that this resolution bypassed the process called for in the Constitution. As a SEATO signatory, the U.S. was bound to assist its allies, however Congress was to be consulted prior to action if possible and certainly before the country engaged in war, it was after all, Congress that was to formally declare war. Cooper believed that the wording of this resolution gave the president advanced authority to take whatever actions he may deem necessary respecting South Vietnam and its defense of any other country included in SEATO. That would provide the president with the power to involve America in war without a congressional declaration. Passing this resolution as written would be an abdication by the Senate of its war making powers. Fulbright indicated that the concerns expressed by Cooper were valid, but he did not feel the president would abuse the power vested in him through the resolution or that the Senate was giving to the president any power he did not already possess.<sup>94</sup>

Senator Bourke Hickenlooper (Republican-Iowa) commented on the point under discussion. Imploring his colleagues to cast an affirmative vote, he stated that America and the global community were in a perilous situation. He believed that the U.S. needed to act not only in defense of the country's national honor and its prestige but also in defense of the basic principles of freedom which would either be defended or eroded and destroyed as the result of inaction on the part of America. Endorsing this resolution would do two things. First it would send a message of U.S. solidarity to the Communists which many agreed needed to happen. Second, and most importantly, it would give advanced support to the president for actions that might need to be taken. Providing this advanced support for the president was essential so he would have the freedom to act expediently if necessary.<sup>95</sup>

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<sup>94</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. 18409-18410.

<sup>95</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. 18409-18410.

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As a means of illustrating his point--why he believed it was so important for the president to have room to maneuver—he shared a theoretical story about a public building/house on fire. Imagine that in some American town a large building or house caught on fire. Should a meeting be called to determine how to handle the situation? Did the blaze in question warrant calling the fire department or could it be handled by the non-professionals? If it was determined that professional fire fighters' were not necessary then who would get the buckets, the hose and organize the water brigades? On the other hand, if the people thought that professionals needed to be called in to deal with the fire, who would call them and request their assistance? While these decisions are being made the structure continues to burn and the fire becomes more intense making it harder to bring under control. Fortunately, when fire does break out discussions along these lines do not need to occur. The fire department has the support of the general public to handle the situation. In a similar vein meetings are not needed for determining how all situations are handled, especially those involving acts of aggression toward the U.S. or its allies. As Commander-in-Chief the president needed to be able to make necessary decisions and then seek the support of congress once the situation(s) are brought under control or an opportunity to do so arises. Forcing the president to withhold support and not take action until he had consulted congress would allow the enemy to gain a stronger foothold and weaken American credibility.<sup>96</sup>

As is evident, throughout the discussion of August 6<sup>th</sup>, many Senators expressed their support for the resolution even through they had some reservations. Russell, in a quest to help alleviate some of the concerns, called attention to similar actions taken by Congress in the past. He pointed to the Formosa and the Middle East resolutions, both requested by the Eisenhower administration. After briefly outlining what had taken place in each area Russell indicated that Congress had passed documents very similar to the one requested by Johnson. Earlier in his

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<sup>96</sup>Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. 18409-18410.

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remarks he even called attention to the fact that these two resolutions were still in effect—they had never been officially terminated. While taking the senators on a stroll down memory-lane, he reminded them that the resolution gave Eisenhower power to act and caused both the Chinese Communists and Middle Easterners to become alarmed. He also pointed out that the president did not have to invoke the resolution and take any serious military actions. Having the support of Congress was enough. Concluding his remarks, he stated that things in Vietnam were tense and had been that way since 1954. Things could get worse to be sure; however he firmly believed that like Eisenhower, Johnson would only use this resolution in the manner it was intended and that he would not abuse it.<sup>97</sup>

Much later in the Senate discussion Thomas Kuchel (Republican-California) and John Stennis (Democrat-Mississippi) supported the remarks made by Russell, each stating that a request for a resolution of this nature was not new and that history bore testimony to the fact that documents like this were not abused, that as Senators Fulbright and Russell had mentioned, Johnson would not misuse it in any manner. In an effort to provide further credibility to this argument, Stennis indicated that when the Formosa Resolution was being discussed, a distinguished member of the Senate expressed the view that if passed the document would lead the U.S. into war within 90 days. The Senator from Mississippi pointed out that this prediction had been erroneous. He went further stating that the Formosa Resolution had actually kept America out of war and the Tonkin Gulf Resolution would do the same thing today.<sup>98</sup>

Following the remarks of Senators Kuchel and Stennis was a heavy hearted speech made by Frank Church (Democrat-Idaho). He commended the president for not overreacting to what had taken place and praised him for using restraint when ordering retaliation. Next he reminded

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<sup>97</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. 18409-18412.

<sup>98</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. 18414-18415.

the audience that Johnson himself stated that actions taken by the U.S. were not to be seen as an expansion of American involvement in Vietnam. He believed that the president was a man of peace and not a warmonger. Even though he embraced the position that the U.S. response was appropriate and that the resolution before the Senate needed to be passed, he still held some serious reservations, one of which he articulated. A misguided policy regarding South East Asia constituted the central concern he held and on this occasion verbalized for his colleagues. When speaking he asked rhetorically whether Southeast Asia in general and Vietnam in particular were really all that crucial to America's national and international security. Church pointed out that it seemed more like a quest on the part of America to gain the upper hand on the Communists, to keep democratic governments in place so the balance of power would either fall on the side of democracy or at the very least remain neutral rather than an action meant to protect the U.S. and its interests. Edward Bartlett (Democrat-Arkansas) wholeheartedly agreed with Church and gave a verbal endorsement to what the Senator had stated. Challenging the notion that Vietnam was vital to the country's national security, he pointed out that it was extremely far away and would be hard pressed if required to plan out and execute an attack against America.<sup>99</sup>

During his remarks Church pointed out that this policy had not originated with the Johnson Administration. Recounting the history of American involvement in Vietnam, he reminded the Senators that the policy had been initiated under the Eisenhower administration: that it was inherited and upheld by the Kennedy administration and that President Johnson was only continuing that policy. Furthermore, he pointed out that Congress had allowed the policy to be adopted and thus shared in the responsibility and the impact that it had on the country. To solidify his argument, he pointed out that even if the Senate had not formulated the policy as a body it had funded it from year to year and by doing so had acquiesced to it down through the

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<sup>99</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. 18415-18416.

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years. Although he had indicated that he had misgivings about American involvement in Vietnam, he indicated that for now the country and Senate must live with the policy that had been adopted. Now was not the time to rewrite policy, so soon after being attacked, but a revision of policy was certainly needed. At the conclusion of his speech, Senator Albert Gore (Democrat-Tennessee) commended the senator from Idaho and also offered his support by indicating that he held the very same position as that of Senator Church.<sup>100</sup>

Support for the resolution was further voiced by Claiborne Pell (Democrat-Rhode Island). As many others who spoke previously, he advocated that the president receive the full support of the Senate during situations like the one just experienced in the Tonkin Gulf. Coupled with his words of exhortation to support both the resolution and the actions taken by the president were words of caution. He stated that he had confidence in the president, that he believed that Johnson had access to information which the Senate did not have, that this information made the president better informed than the Senate and that this privileged information guided his decision making process. Caution was advocated by Mr. Pell. While the actions taken by Johnson needed to be supported by the Senate caution needed to be exercised when any further actions were taken in Southeast Asia. North Vietnam would attack South Vietnam again and more than likely even target U.S. military personnel located in the region. Over reacting to the actions of the North Vietnamese could lead to a widening of the conflict, beyond what America desired. Seeking to make his point Senator Pell stated, if the U.S. began bombing North Vietnam and destroying installations located in the region considered vital by the Chinese Communists, we could find ourselves at war in the region with China, much like we did in Korea.<sup>101</sup>

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<sup>100</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. 18415-18416.

<sup>101</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. 18417.

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Following up on the comments made by Pell was Javits. Beyond wanting to keep the U.S. from becoming entangled in an immediate war with China, the Senator from New York desired that his colleagues think through some key issues. According to Javits the prize that the Chinese were seeking was the great arsenal of production located in Asia including Japan. They were desirous of this ready-made arsenal in order to develop it quickly and be in a position to alter the balance of global power in favor of the communists. Does the resolution provide the president with the ability to move against the Chinese if they become involved in Vietnam? In what manner should the U.S. respond to the Chinese Communists? How does the American public feel about what is going on? Are they happy with how we have responded to date? Many want to know that every instrument of diplomacy has been used prior to military action. If force is required then care should be given to see that it is used in moderation. Finally, if a determination is made that action needs to be taken then cost in terms of the number of casualties obtaining the objective must be compared to the value of the objective. Continued involvement in Vietnam could lead to a wider war. Would Americans support this and ultimately is the U.S. poised for such a conflict. In asking these questions Javits, who as indicated, was supportive of the resolution, called upon the senators to think through the implications of the document—if either passed or defeated.<sup>102</sup>

As discussion on the resolution continued, Hubert Humphrey (Democrat-Minnesota), sought to make a case that this particular document did not really provide the president with any powers he did not already possess as Commander-in-Chief. What it did do was place the “elected representatives of the American people in Congress assembled on record as supporting the actions of the Commander-in-Chief in defense of American sovereignty, in defense of American Armed Forces, and in fulfillment of the country’s treaty obligations and

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<sup>102</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. 18417.

commitments.”<sup>103</sup> Humphrey went on to indicate his belief that the “president has authority under the Constitution to order the Armed Forces of the U.S. to protect the vital interests of the country whenever those interested are threatened.” Seeking to make his position clear to his colleagues, he expounded further stating that the “president acted fully within his authority when ordering the destroyer Maddox to repel the PT Boat attack from the North Vietnamese.”<sup>104</sup> As “Commander-in-Chief the president not only had the authority under the Constitution to use the Armed Forces of the United States for the protection of our freedom and security; he has the duty to do so. In the day and age in which we are living, attacks upon our country often come swiftly. They frequently come at a time and a place in which only a swift response will achieve the purpose of the action. Declared response would be of no avail.”<sup>105</sup> Continuing on the Vice President pointed out that “we live at a time when communications make it possible for an enemy to strike serious blows at our country and to adversely affect our vital interests, and to do it so rapidly and so decisively that unless we can respond quickly, we shall suffer defeat before we even have an opportunity to evaluate what has happened.”<sup>106</sup> Therefore presidents must be allowed to exercise their Constitutional right as Commander-in-Chief and take action when necessary to protect the U.S. and its vital interests.<sup>107</sup> Humphrey’s comments echoed agreements heard during the Middle East Resolution debate.

Concurring with Humphrey’s statements was John Sparkman (Democrat-Alabama). He reminded the Senate that Presidents Eisenhower and Kennedy had come to Congress seeking joint resolutions regarding Formosa and Cuba but neither one really needed it. Sparkman believed that each respective “President had full power and authority to develop and pronounce

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<sup>103</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. 18420.

<sup>104</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18420.

<sup>105</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18420.

<sup>106</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. P. 18420.

<sup>107</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18420.

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the Formosa or Cuban policy and to thus carry it out.”<sup>108</sup> Likewise, Johnson had the power as president to determine and implement policy regarding Vietnam. It was the task of Congress to support the foreign policy initiatives of the president.<sup>109</sup>

By the end of the day, August 6<sup>th</sup> 1964, many in the Senate had taken the opportunity to express their thoughts and feelings about the Tonkin Gulf Resolution. Many planned to vote for its passage regardless of any reservations or concerns they held in relation to it. Despite the fact that a considerable amount of time had been spent the past forty-eight hours on this document, it would be the center of attention one more day and then finally brought to a vote. Discussion of (S.J. Res. 189) To Promote the Maintenance of International Peace and Security in Southeast Asia was opened on August 7<sup>th</sup>, 1964 by Kenneth Keating (Republican-New York). After making it clear that he believed the attacks in the Tonkin Gulf, particularly the second was a calculated effort on the part of the Vietnamese Communists to escalate the conflict or even probe the strength of U.S. reaction, he declared his support for the actions taken by the president. Seeking to make sense out of the North Vietnamese attack on a superior force such as the U.S. he suggested that it was possibly meant to divide Americans and cause chaos during an election year. Expanding on this thought he went on to say that it was

...curious, and perhaps more than a coincidence that in recent years the greatest Cold War crisis have come in months immediately proceeding an American Election. The process of free elections and political campaigns is alien to Communist experience, and it may be that the Communist misinterpret the sharp revival of partisan political activity as a sign of division and mistrust on the part of the American people.<sup>110</sup>

Ultimately Keating seemed to believe that the Communists perceived America as weak, divided and most vulnerable during an election year. Therefore it was important for the Senate to

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<sup>108</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18421-18422.

<sup>109</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. P. 18421-18422.

<sup>110</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18456.

approve the resolution in a bipartisan manner and especially critical for all Republicans to cast a positive vote, so unity would be demonstrated to the Communists. In addition to his comments regarding unity, the Senator from New York wished to remind his colleagues that as he understood it the resolution was only meant to support the president as “Commander-in-Chief during times of conflict. It was a vote of confidence for the action that had already been taken.”<sup>111</sup> Finally, in an effort to generate support for the document he stated that it was

...not a blank check for policies that might in the future be carried on by the executive branch of the Government in other cases, without full consultation by the Congress. It was not a blank check authorizing U.S. military actions against Red China, nor was it a blank check authorizing guerrilla activities or other actions on the part of the Government of South Vietnam. It was not a blank check authorizing other nations in Asia to pursue independent military actions which are not in clear defense of their own territories.<sup>112</sup>

Senators could in good conscience vote in the affirmative for the Tonkin Gulf Resolution, because it really only demonstrated support, it had a limited focus, and because it would not be abused by the president.<sup>113</sup>

Doubts about U.S. policy in Southeast Asia were voiced, particularly by George Aiken (Republican-Vermont). He pointed out that an expansion of military operations in Southeast Asia was inevitable.” He also indicated that he had been “skeptical all along when assured by high ranking governmental officials that no expansion of military involvement in Vietnam was being considered.”<sup>114</sup> Increased interaction in Vietnam represented poor policy and would ultimately draw America into a conflict that would be very costly. Senator Aiken made it clear that he did not believe the value of Vietnam justified the cost. Regardless of his concerns he indicated that he would vote for passage of the resolution. This could be done with a clear

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<sup>111</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18456.

<sup>112</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18456.

<sup>113</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18456.

<sup>114</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18456-18457.

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conscience, according to Aiken, because the decision to escalate military involvement had been made by the president who as Commander-in-Chief evidently had the authority to take such action. Since the president had already taken the action and the senate was merely voting to support said action, it was the president who bore the responsibility for what would happen, good or bad, not the senate.<sup>115</sup>

As doubt continued to be expressed, Fulbright spoke up in defense of both the resolution and the administration. There had been some concerns expressed that the executive branch had been and would continue to withhold pertinent information regarding the situation in Vietnam. Furthermore, there had been some fear among Senators that those on the ground in Vietnam were less than qualified to transmit good non-biased information back to the states. Desirous to address the concerns and to set the record straight the senator from Arkansas made two statements. First he focused on the sharing of information between the Senate, specifically the Foreign Relations Committee, and the White House. Providing a brief history lesson for his colleagues, he recalled how the previous administration had been very good about briefing and reporting all activities in Vietnam to the committee. Following suit, the current executive had done the same, providing information pertaining to Vietnam to the appropriate congressional committees. Wanting his fellow senators to understand how the president had worked with Congressional leadership, he stated that “he had never felt as though there had been a tendency to withhold anything”. He felt every time the representatives and administration came together for a briefing and information was requested, it was provided. Never had the representatives of the administration refused to divulge information. Fulbright pointed out that in many cases the executive branch itself initiated opportunities to share critical information with members of congress. Second, he sought to assure the senators that those dealing with the situation in

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<sup>115</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18456-18457.

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Vietnam were competent men who would make sound decisions. It was the belief of Fulbright that the “administration went to great lengths to find the best equipped and qualified men to send to Vietnam.”<sup>116</sup> U. Alexis Johnson and General Maxwell Taylor were both very experienced and as a result brought to the position wisdom and sound judgment. Because of President Johnson’s candor and solid selection of field operatives, Fulbright believed that his colleagues could vote positively for the resolution knowing that it would be adhered to in the manner in which it was intended.<sup>117</sup>

While this debate was occurring on this third day, Nelson expressed a different kind of concern. He did not focus on what the resolution meant or its overall implications for America. Lack of agreement within the Senate regarding what the resolution meant was the thing that caught the attention of the senator from Wisconsin. Clarifying what the resolution meant as well as what its implications were, so that all senators had the same understanding, was of paramount importance. Without a unified understanding there could be no vote reflecting a genuine unified stance among the Senate. Confusion and misunderstanding would reign which could then lead to either unfilled expectations or actions that exceeded what was expected. Either result according to Nelson was not good.<sup>118</sup>

At the conclusion of Nelson’s remarks, efforts were made to clarify what the resolution meant, but these attempts were ineffective which led to the perpetuation of misunderstanding and to each senator continuing to draw his own conclusions and to developing his own expectations. One such attempt was made by George Smathers (Democrat-Florida) but this amounted to restating the administration’s position and a call for a stronger military program. After recounting the events of August 2<sup>nd</sup> and 4<sup>th</sup> and making a case that the attacks by the North

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<sup>116</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18457-18458.

<sup>117</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18457-18458.

<sup>118</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18458.

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Vietnamese were unprovoked, Smathers said that the actions taken by the president were both necessary and within his right to order as Commander-in-Chief. He highlighted the belligerent behavior of the communists and suggested that the swift response by the Americans would send a clear message that America would not be bluffed or bullied out of its commitments to friends or Allies. If the behavior of the president signified a change in policy, especially in Asia which it seemed to do, then it was a good thing. Smathers argued that it was about time for the U.S. to strip the Communists of their safe heavens, places where they could run and hide after they attacked, much like they did in Korea when they fled north of the 38<sup>th</sup> parallel.<sup>119</sup>

Discussion drew to a close on 7 August with Fulbright addressing the Senate. While imploring his colleagues to cast an affirmative vote he commended Senator Everett Dirksen (Republican-Illinois) the minority leader, and all of the Republicans who had offered words of encouragement and support. He made it clear that this bipartisan position demonstrated willingness for united action when necessary. Having concluded with these remarks, the Senator from Arkansas then reported on the unanimous vote of support the Tonkin Gulf Resolution received in the House of Representatives. Although he did not believe that unanimity within the Senate regarding this matter was necessary, he did believe that it would send a strong message to the Communists.<sup>120</sup>

Pressing ahead, he acknowledged that many in the chamber held reservations regarding what was happening in Vietnam. These concerns and fears were justifiable and even good because they led to discussion and thinking through situations needing attention, before mistakes might be made. However, in this case, under the system by which America is governed, it is the president, as the country's representative who should play the dominate role in making the

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<sup>119</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18461.

<sup>120</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18462.

decisions. Both the House and the Senate should jealously guard their respective privileges, but when it comes to dealing with National Security or the threat of warfare all must rely to a great extent on the leadership and decision making of the executive. Fulbright pointed out that the Senate always had a reserve power if the president made a mistake or took actions that were egregious to the people of the United States. A president could be impeached if he departed so far from his duty that he betrayed the over-all interests of the country. Funds necessary for supporting actions taken by the president could also be discontinued. This would make it impossible for the Chief Executive to facilitate activities the Senate believed to be misguided or wrong. If this was not solid enough rationale to vote for the resolution, according to Fredrik Logvall, then the fact that this resolution would prevent the spread of a wider war should in itself be reason to cast a positive vote or it.<sup>121</sup> At the conclusion of his remarks the vote was called for. When it came time to vote on the resolution “a general attitude prevailed that the circumstances of the Tonkin Gulf incident were less important than the fact that the president wanted congressional authorization to take action to protect the American flag in hostile waters. Few were willing to oppose him in that request.”<sup>122</sup> Additionally, many American people believed that the American flag had been fired on and the president should be supported in his desire to protect the flag. With elections just three months away many members of Congress were not going to jeopardize their seats because they did not agree with granting the president unlimited war powers, nor were Democrats going to oppose the request of a Democratic president.<sup>123</sup> When they were tallied there were 88 for and 2 against—the resolution passed. The two senators and indeed the only members of the entire Congress against the resolution and

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<sup>121</sup> Fredrik Logevall, Choosing War: The Lost Chance for Peace and the Escalation of War in Vietnam (Berkeley: University of California Press, 1999), p. 203.

<sup>122</sup> William J. Duiker, U.S. Containment Policy and the Conflict in Indochina (Stanford California: Stanford University Press, 1994), p. 323.

<sup>123</sup> Logevall, Choosing War p. 203

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the authorization it provided for further American involvement in Vietnam were Wayne Morse and Ernest Gruening.<sup>124</sup>

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<sup>124</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18462-18470.

## **CHAPTER TWO:**

### **THE DISSENTER: ERNEST GRUENING AND WAYNE MORSE**

As U.S. involvement continued to escalate in Vietnam during the 60's a vast majority of politicians, both Democrat and Republican, supported the policies of Presidents John F. Kennedy and Lyndon B. Johnson. The high point of congressional support came in August of 1964 when the U.S. House of Representatives voted unanimously and the U.S. Senate voted 88 to 2 to support the Tonkin Gulf Resolution. Through this act the legislative branch gave President Johnson the authority to wage war against the North Vietnamese. This support was also manifest in Congressional votes granting appropriations for the pentagon. These additional funds, given over and above the fiscal military budget, were meant to help the South Vietnamese Government pay its army and buy needed war material as well as cover unexpected U.S. military costs incurred during the fighting in Vietnam. Continued involvement in Vietnam became a direct catalyst from which many questions would begin surfacing among senators, primarily about the legitimacy and viability of the U.S. military action taking place in that Southeast Asian country. In turn these questions led many senators to have doubts about the truthfulness of what they had been told by both the president and military leaders regarding the over-all conflict in Vietnam. It would take approximately three years from the time the Tonkin Gulf Resolution passed before the questioning and doubts would escalate to the point where a majority of senators would be willing to consider repealing it and to thus take steps to remove the authorization for the war.

The two senators who voted against this resolution and who were vehemently against U.S. involvement in Vietnam from the very beginning were Ernest Gruening (Democrat-Alaska) and Wayne Morse (Democrat-Oregon). Both of these men spoke openly on the Senate floor

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seeking to sway their colleagues to take a stand against U.S. actions in Vietnam. Also, they both wrote articles and gave speeches denouncing American involvement in the Vietnam War. Additionally, they both spoke to various citizens groups who sponsored rallies and protests against the War. All of these efforts were done in an attempt to get U.S. citizens to assist them in their campaign to bring U.S. military personnel home and an end to U.S. involvement in Vietnam. Regardless of their efforts the U.S. commitment in Vietnam heightened and the U.S. increasingly assumed a majority of the responsibility for protecting South Vietnam from the North Vietnamese Communists. This Americanization of the war triggered debate on the war. Thirty-five years after the end of the Vietnam War, when looking back at the various events and key personnel, history seems to vindicate these two senators and point to the fact they were right in their assertions, questions, and predictions. Given their prophetic call and their dogged persistence in seeking to end U.S. involvement leads one to ask several key questions about these two senators. Who were these obstinate mavericks? Why were they so opposed to the war? Did they achieve any level of success—were they ever able to sway their senatorial colleagues or public opinion? What was the political outcome of their anti-war position?

As previously indicated Ernest Gruening, a Democratic senator from the state of Alaska was one of the two prophetic dissenters.<sup>1</sup> Ernest was born and raised in New York along with his four sisters Rose—from his fathers' first marriage, Clara, Marie and Martha. Emil, his father, was born in Inowraclaw Prussia in 1842. Seeking to avoid being drafted into the King's army Gruening Sr. made his way to the ocean where he was able to board a ship headed for America. Upon his arrival he found that conflict was occurring in the United States. Fighting against his

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Unless otherwise indicated, the material on Gruening is drawn from Claus Naske's book Ernest Gruening: Alaska's Territorial Governor (Fairbanks: University of Alaska Press, 2004), p. 6-120, Robert David Johnson, Ernest Gruening and the American Dissenting Tradition (Cambridge, Massachusetts: Harvard University Press, 1998), p. 10-208 and Ernest Gruening, Many Battles: The Autobiography of Ernest Gruening (New York: Liveright, 1973), p. 82-422.

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Prussian neighbors, particularly for the glory of the King and the fatherland had held no appeal to young Gruening. The war waging in America to preserve the union, however, did win his affections as well as his commitment. Out of a strong desire to gain the respect and admiration of his neighbors as well as American citizenship, he joined the Seventh New Jersey Volunteer Infantry which was the unit formed in Hoboken where he was residing at the time. While serving in the Seventh New Jersey, he fought in the battle of Five Forks and also witnessed General Lee's surrender at Appomattox Courthouse.

At the conclusion of the war Emil attended Columbia University where he studied medicine. In order to put himself through school, he served as a German tutor. Graduating in 1867 he went to Paris, London and Berlin to gain further medical training. By 1870 he had returned to New York where he established his own medical practice, specializing in the treatment of eyes and ears. In 1874 he married Rose Fridenberg, however the marriage would not last long. In 1876, at the age of 21, the young Mrs. Gruening died of typhoid fever. Four years later Emil would marry Phebe, one of Rose's sisters, and from this union would come Ernest Gruening who was born on February 6, 1887.

Ernest's father was Jewish and his mother adhered to the Protestant faith. Regardless of the theological difference that existed between his parents Emil and Phebe, the Gruening children were raised in the Christian faith having moral values instilled into them relating to honesty and integrity from a very early age. Additionally, the Gruening children were taught to immerse themselves in public service. Emil did more than verbally encourage his children to serve their fellow citizens and their community; he actively demonstrated it for them through membership and involvement in several professional and benevolent organizations. He

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discouraged his children from involvement in either the military or patriotic societies, which he argued fostered militarism that could lead to illogical and reckless behavior.

Ernest's father established a very successful medical practice and was in a position to take good care of his family. Growing up in an upper middle class family afforded Ernest the opportunity to attend private schools where he performed well academically. At the age of fifteen Ernest graduated from Sachs Preparatory School and would move on to another institution as he readied himself for college. Fearing that his son was not completely ready for the rigors of Harvard, Emil sent the younger Gruening off to Hotchkiss where he would receive an additional year of training. This was an odd place to send Ernest in light of the fact that it was a feeder/prep school for Yale and not Harvard where Emil would send his son. Given the nickname "mouse" due to his small stature Ernest never really felt comfortable at Hotchkiss believing that the institution placed too much emphasis on athletics and not enough on academics, but he was able to handle his studies. Problems for him came in the area that his father had feared the most, in the social realm. Being away from his parents' watchful eye Ernest got involved with pranksters from the school and participated in ransacking one of the teacher's rooms. Unfortunately for him it became known that he was one of the culprits. As a result he was banished from the main dormitory and exiled to a little cottage at the far end of the campus which was referred to as the penthouse. It was here that he would reside for the remainder of his time at Hotchkiss.

In the fall of 1903, at the age of 16, he entered Harvard University and by 1907 had earned a Bachelor of Science degree. While a student at Harvard he frequented the Memorial Union Addresses given by some very prominent individuals such as William Jennings Bryan and Theodore Roosevelt. Devoting a considerable amount of time to extra-curricular activities

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hindered Gruening's academic performance. During the course of his freshman year he was placed on academic probation for an unsatisfactory midyear record—at the time of the progress report he was earning three D's and two F's. Desirous to assist his son and see him succeed, Emil hired a tutor to help Ernest develop study skills and to master his subjects. Due to his hard work Ernest's sophomore year began with him coming off of probation, but he managed yet again to jeopardize the continuance of his studies because of the fifty-five absences he accumulated during the year. Although Ernest would take his education more seriously during his third and fourth years at college, primarily because he did not want to disappoint his father, he still experienced some difficulties. Fortunately none of them were great enough to keep him from graduating and moving on to medical school.

The fall of 1907 Gruening entered Harvard Medical School and was able to obtain his medical degree by 1912. Entering medical school was not really what he wanted, but what he felt he needed to do to please his father. Although he truly sought to dedicate himself to his studies, the allure of a variety of other interests such as literature and contemporary issues was just too strong for him to completely overcome. Even before working on his medical degree, Gruening developed an interest and passion for journalism. While an undergraduate Gruening had become good friends with Earl Biggers—author of the Charlie Chan mysteries—and John Walsh, both of whom served on the editorial boards of the *Harvard Advocate* and the *Lampoon*. Each encouraged Gruening to contribute satirical pieces to these periodicals which helped develop his writing skills and moved him closer to his personal dream.

An opportunity for him to become immersed in journalism presented itself during his third year of medical school. Earl Biggers, his good friend, had taken a position as the drama critic for the Boston Traveler. On occasions when he was unable to write a needed piece—

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which seemed quite frequently—he would ask Ernest to cover for him. Things really seemed to come together for him professionally in the late spring of 1910 when he was able to get a job at the Boston America. Still unable to inform his father that he did not want to be a doctor, he returned to medical school in the fall of 1910. Toward the completion of his medical degree Ernest finally got up enough nerve to inform his father that he would not be working as a doctor. Meeting with his dad at the family homestead in New York, the young Gruening said that he had undertaken studies in medicine merely to fulfill his fathers yearning to have a son who was a medical doctor. He further informed the senior Gruening that he would no longer seek to live his fathers dream but rather begin fulfilling his own personal desires. Unwilling to completely walk away from what he started—to finish what he invested so much time and energy in—Ernest would put his own dreams and desires on hold until he finished medical school, but only until then. Upon graduation he would not practice medicine but rather become a full time journalist.

During his career as a journalist, Gruening worked for the Boston American, Boston Herald, Boston Evening Herald, Boston Journal, the Boston Traveler, and the New York Morning Sun. While working for both the Boston Journal and the Boston Traveler, Gruening served as the managing editor for the periodicals. During his tenure at the Boston Journal he met and began to court Dorothy Elizabeth Smith. The future Mrs. Gruening had been raised in Northwood Massachusetts and had graduated from Vassar College in 1909. Ernest and Dorothy had initially met while Ernest was playing tennis at the North Scituate's Hatherly Club. Watching the young Ernest with keen interest, she caught both the bachelors' eye and his heart. On November 19<sup>th</sup>, 1914 the two were wed at the bride's home in Norwood.

While working for the New York Morning Sun, Gruening was offered the opportunity to help organize the Bureau of Imports of the War Trade Board. This was the beginning of

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Gruening's career in government service, which with some interruption, would span fifty years. After only a brief involvement with the World Trade Board, specifically making sure that the Bureau of Imports was well organized and running smoothly, Gruening enlisted in the U.S. military. A motivating factor in his decision was the accusations that he was a German sympathizer and that he was un-American and unpatriotic. When the allegations surfaced, prior to his departure from the WTB, he was suspended pending an investigation into whether he was or was not a loyal American citizen. The investigation found no credible basis for the accusation and lifted the sanctions. Gruening, however, felt as though more needed to be done to demonstrate his dedication to America and so he turned from his fathers' instruction concerning the military and enlisted in the armed forces.

Initially he was offered a commission with the U.S. Sanitary Corps. The offer had been extended to him due to his medical knowledge and skills. Preferring combat, Gruening opted instead to attend a newly formed field artillery officers' camp—Camp Zachary Taylor—located near Louisville Kentucky. Gruening's involvement with the U.S. military was interrupted when he was offered the position of managing editor for the New York Tribune. While at the Tribune Gruening was accused of being anti-American for the second time. The New York Journal broke the story claiming that it possessed evidence that the Attorney General of the United States was in the process of investigating Gruening as a possible German spy. Claims that he was a spy stemmed from both the content that he sought to include and keep out of the paper and the people with whom it was alleged he was associated. As a result Gruening lost his job at the Tribune. Even his dismissal from the Tribune itself would bring controversy. Quietly it was stated that Gruening had been let go because he was difficult to work with and had made life for the employees at the paper miserable. More than ever Gruening felt the need to enter the

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military in order to prove that he was a red blooded patriotic American and so he proceeded to Camp Zachary Taylor on November 11, 1918 as had been planned prior to his being side tracked by the Tribune. It should be noted that not long after Gruening arrived to begin his military service, the war officially ended.

The principles taught him by his father at a young age—to become involved in professional and benevolent organizations and with what was going on in the community—served as a springboard launching Ernest into still greater involvement, beyond the local level, to issues spanning the country and even the globe. Moving from the Tribune, Gruening became the business manager for La Prensa, a Spanish-language daily in New York and then on to The Nation as managing editor. When serving as editor for The Nation, Gruening developed an interest in Latin America and in December of 1922 resigned his position and traveled to Mexico. During his time in Mexico, he met many political leaders, government officials, businessmen, writers, reporters and peasants. His experiences inspired him to write a book on Latin America. As he worked on his manuscript, he once again spent time as the managing editor for various publications. Gruening became increasingly involved in political issues, challenging the influence of power companies and thus, lobbying the U.S. government to discontinue involvement in Latin American countries. From early in his career in journalism, he focused on world issues and abuse of their influence by those in positions of power.

Shortly after Franklin D. Roosevelt assumed office of the president on March 4<sup>th</sup>, 1933, Gruening began visiting the nation's capital on a regular basis to check on the new administrations progress and write editorials for The Nation. It was at this time that F.D.R. took notice of Gruening and called him to his office in the White House for a visit. After both men shared superficial pleasantries, Roosevelt got to the point and asked Gruening what he thought of

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the political unrest and subsequent events taking place in Cuba. Roosevelt was seeking Gruening's counsel on this matter because he had been told by Felix Frankfurter that Gruening had become quite educated about Cuba. Gruening's knowledge of Cuba came as a direct result of his study of Mexico and various other Latin American countries including Haiti, Santo Domingo, Nicaragua and Cuba. Because of Gruening's continued studies of the Latin American countries and his extensive insight into their culture and values, F.D.R. had Harold Ickes Secretary of the Interior, offer Gruening the directorship of the office of Territories and Island Possessions. Gruening's responsibilities included oversight of Alaska, Hawaii, the Virgin Islands and Puerto Rico. Out of these four territories Gruening had spent only one day in Puerto Rico at a training conference and no time in any of the other three. He felt inadequate to do the assignment, but he was determined to give it his best effort.

Tension between Gruening and Ickes began shortly after Gruening assumed his position and continued to escalate for numerous reasons over the course of their working relationship. However it escalated beyond the point of reconciliation when Gruening informed F.D.R that he did not have the authority to adequately deal with Puerto Rico's economic and reconstruction problems. F.D.R. increased Gruening's power by giving him sole control of the Puerto Rican Reconstruction Administration (PRRA) which empowered Gruening to have ultimate say in both financial and political policy. Ickes was unhappy with F.D.R's decision and Gruening in particular for many reasons. The most significant was Ickes' belief that Gruening sought to gain more power for himself and that he had gone around Ickes to obtain it. Believing he should have named the head of the PRRA, Ickes looked for reasons to have Gruening removed from his position asserting that the economic situation had deteriorated under Gruening's leadership. In November, 1936 F.D.R issued an executive order which placed the PRRA under the direct

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supervision of Ickes once more, but it did not relieve Gruening of his duties. Still not satisfied, Ickes later sent Gruening a memo demanding his resignation, but Gruening did not respond.

Ickes informed Gruening that if he did not resign he would be relieved of his duties.

F.D.R., who for some reason liked Gruening, indicated to Ickes that he would be willing to send Gruening to Alaska as a territorial governor. So in 1939 when the governor of Alaska John Troy resigned, it opened the position for Gruening. Although not pleased with this option, Ickes accepted it because he had come to the conclusion that F.D.R. was not going to fire Gruening. Gruening did not welcome this appointment, but after some delay accepted it. Thus on September 2<sup>nd</sup>, 1939 Gruening was officially appointed as the territorial governor of Alaska.

Gruening was not positively received by the people of Alaska when he first arrived. Like the territorial governors from the past twenty-five years, he was an outsider. He was not born in Alaska nor had he lived there prior to serving as governor. Because of the efforts of Gruening on behalf of the Alaskans, their mind set toward him would change over the course of time. Some of these efforts included strengthening the economic base of Alaska, enhancing Alaska's educational system, pursuing Federal help in developing highways, airports and defense systems and ultimately in gaining statehood for Alaska.

Alaska's economic development was not easy for Gruening because he had to contend with powerful fishing, lumber and mining companies in order to enhance Alaska's economic base. These companies, whose headquarters were located for the most part in Seattle Washington, were extracting large quantities of fish off of Alaska's coast, taking lumber from Alaska's rich forest land or mining valuable minerals while paying minimal taxes to Alaska. Additionally, no portion of the profits made from these enterprises were reinvested in Alaska. Gruening saw so many financial needs in Alaska that he believed could be taken care of if only

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these companies were required to pay their fair share of taxes and were encouraged to reinvest some of their profit in the areas they were working. Armed with that belief and a desire to develop and implement an F.D.R. type New Deal in Alaska, Gruening opened the 1941 legislative session with the longest speech made to date by an Alaskan governor, a speech which focused on the great things that could happen in the territory if everyone would work together. He called for a variety of social and educational legislative initiatives, focusing on specific reforms in the Alaskan revenue policy which would fund needed internal improvements.

When Gruening initially suggested to the territorial legislature that increased taxes be levied against businesses, he met stiff resistance. Lobbyists for the companies launched campaigns to scare the native Alaskans, telling them that if the taxes were raised they would lose their jobs. Beyond the lobbyists members of the territorial legislature had a financial interest in the various companies. One such individual was Cap Lathrop of Fairbanks. In resisting the financial reforms, specifically the tax initiative, he stated that the increase would impact his own business and that if it were to pass he would sell off some of his operations and trim back on whatever workforce he retained in order to avoid paying taxes. Surprising no one, this first legislative session ended in failure for Gruening. Demonstrating the tenacity that had been a part of his life from his early days as an editor and that would also be evident during his career as a U.S. Senator, he did not give up on his plans. Going straight to the people, he delivered a public address that was highly critical of the legislators “who unabashedly and quite shamefully served the private interest that had hired them” and not the interests of the people who had elected them. He also criticized the representatives who had aligned themselves with the “nay-sayers” who were either misled, misguided, misinformed, intimidated or tricked into opposing his revolutionary program. Once on the trail, he did not stop lobbying for the passage of his agenda.

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Using the power of rhetoric he continued to address the issue in public forms. Realizing that the power of the print media was a strong medium he also sought to have more newspapers developed throughout the territory and then he used them as a second means for getting his message out. Finally, after almost nine years and many battles Gruening was able to get tax laws passed on April 24<sup>th</sup>, 1949 that required these extracting companies to pay increased taxes.

Once the tax revenue was raised Gruening was able to take actions to enhance the public education system in Alaska. Because the budget had been tight for so long there were several elementary and secondary school buildings in need of repair. There was also the need to build additional buildings and give the teachers pay increases. Inability to pay teachers well hindered Alaska's ability to draw educators and had created a short fall in the Alaskan school system. Gruening not only targeted K-12 grade, he also sought to give needed financial help to the University of Alaska. Like the primary and secondary schools system, the University had buildings that needed to be repaired. The University also needed to erect new buildings, develop new programs and give pay increases to teachers who were being grossly under paid. A majority of these needs were met as a result of the tax levy fought for and won by Gruening.

Prior to winning the tax levy battle and extending well beyond it, Gruening had fought the Federal government over bolstering and maintaining Alaska's defenses against enemy invasions. As Claus Naske, Gruening's principal biographer writes: "Gruening was quite aware of the role that had been played by American Armed Forces and also of the complete and total unpreparedness of the territory for handling any armed conflict." U.S. military forces had governed and controlled the territory from 1867—shortly after the Civil War—to 1877. Then from 1879-1884 the American naval forces found themselves responsible for protecting the area until the Army returned in the 1890s during the various gold rushes. Since the late 1890s there

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was no real U.S. military presence in Alaska. When war broke out in Europe in 1939, the only military installation was a remnant from the gold rush period known as Chilkoot Barracks, located at Haines on Lynn Canal, with fewer than three hundred soldiers and eleven officers” occupying the facility. “...They were armed with pistols and old Springfield rifles” which were inefficient to say the least. “There was not one anti-aircraft gun” for utilization against air attacks “nor were the troops very mobile” as their only means of transportation consisted of an old tug named Fornance. Naske concludes “essentially the territory was undefended.”<sup>2</sup>

As WWII intensified, Gruening became concerned that if the U.S. were drawn into war the North American continent would be invaded through Alaska. As early as 1938, while Gruening was continuing to serve as the Director of the Division of Territories and Island Possessions he conversed with General George Marshall over the necessity of having an Army Base in Alaska. His concern was prompted by a second visit to the territory, a visit that opened his eyes to its vulnerability. Gruening pointed out that Alaska’s vulnerability necessitated a strong military base. Anchorage, in his personal opinion, would be the best location for such a military installation. Shortly after U.S. entry into the war, the Federal government began extending to Alaska the help that the governor had been calling for and established a strong military position in Alaska.

Arguably the greatest contribution that Gruening made to the people of Alaska was helping their territory become a state. Accomplishing this was not easy. He spent many hours battling not only federal officials who did not want the U.S. government becoming totally responsible for Alaska, but also members of Alaska’s legislature who did not want the federal government overly involved in the affairs of Alaska. Agents of the Federal Government did not relish statehood for Alaska because it meant that it would be entitled to the same benefits as all

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<sup>2</sup> Naske, Ernest Gruening: Alaska’s Territorial Governor p. 51-59.

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other states, which would increase the cost of some federal agencies. Alaskans who were against statehood held this position primarily because they did not want to be bound by federal laws and regulations. Gruening's ultimate rationale for bringing Alaska formally into the Union was based on equality of assistance. Alaska had been under the care of the United States for many years and yet the people of the state did not enjoy adequate roads, airfields, dependable shipping or the ability to gain a legal document from the federal government for the land they were living on. Reference to Alaska being a territory of the United States under its protective watch was not enough. Gruening believed that attention needed to be given to the needs of the Alaskan people. The only way to achieve this would be through statehood which brought representation in both Houses of Congress.

Previous attempts had been made to bring Alaska into the fold yet none had been successful primarily because territorial politicians and business interests kept the idea from progressing, mainly by keeping the Alaskan people in the dark about what statehood would mean. Determined not to allow the opposition to remain victorious and to see the territory brought into the union, Gruening sought to educate the people about statehood and why it was so important for Alaska to obtain. Through the distribution of pamphlets, letter-writing campaigns and other types of advertising, Gruening and those who supported the idea of Alaskan statehood were able to gain the support of a majority of the people as demonstrated through a referendum vote in 1946. As a result of this vote, Gruening pushed for the formation of the Alaska Statehood Association. Beyond seeking to garner the support of the indigenous Alaskans, Gruening appealed to members of the Senate Public Land Committee. Additionally a statehood bill was introduced in April 1948 by Bob Bartlett (one of Alaska's first Senators), whom Gruening had encouraged to sponsor such legislation; however it became held up in committee

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and was not voted on that year. Determined to make statehood a reality Gruening was instrumental in forming the Alaska Statehood Committee in 1949 which intensified the efforts to make Alaska a state. At Gruening's prompting the organization sought the support of both local and national labor organizations, newspaper editors and state governors. In doing this he broadened the fight from one that was localized to one that was national. Because of the support that Gruening had mustered at the local and the national level, Congress took the issue more seriously. A bill for Alaskan statehood was presented and passed in the House of Representatives by a vote of 186-146 in the winter of 1950, but failed in the Senate. In spite of the setbacks, Gruening would not allow Alaska to be denied. Continuing to rally the people of Alaska a concerted effort was made to sway Congress. In 1954 President Dwight D. Eisenhower in his state of the union address spoke favorably about the admission of Hawaii into the union but said nothing about Alaska. It has been suggested that the Republican president and Republican members of Congress did not what to see Alaska gain statehood because they believed that it was a Democratic state that would tip the scales in favor of the Democrats. Unhappy by the attempt of Eisenhower to bring Hawaii statehood and leave Alaska out only intensified the efforts of Gruening and those who supported the idea. In response to Eisenhower's and other national politicians efforts to sidetrack statehood, a constitutional convention was called, of which Gruening was one of the keynote speakers, and by 1956 a constitution for the territory had been written and adopted. Additionally the Tennessee plan had been invoked by which two unofficial/unseated senators and one congressman were sent to Washington. Gruening and Bartlett, two of the three, would spearhead the continued lobbying of both congressional houses and in the end gain the support of the Speaker of the House Sam Rayburn (Democrat-Texas). By January of 1958 Eisenhower indicated that he would support

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Alaskan statehood, congress voted 217-127 in the affirmative and the Senate voted 64 to 20 to make Alaska a state. On January 3, 1959 Gruening enjoyed victory as the president signed the official declaration which made Alaska the forty-ninth state.

Statehood allowed the Alaskans to enjoy all of the benefits provided by the federal government just as Gruening had indicated. These benefits included the development and maintenance of U.S. highways, federal dollars for education and representation in the Federal Government. Alaskans rewarded Gruening's hard work by electing him to be one of their first senators and would re-elect him to a second term four years later. While serving in the senate, Gruening would deal with many issues affecting the state of Alaska and the U.S. The most significant issue however was the Vietnam War.

Wayne Morse, the Democratic Senator from the State of Oregon was the other prophetic dissenter who openly shared his views regarding American military involvement in Vietnam.<sup>3</sup> Like his colleague Ernest Gruening he never wavered or backed down from his opposition. Morse's background was more modest than that of Gruening and his origins were Midwestern and agrarian, while Gruenings were from the urban East Coast.

Wayne Morse was born and raised on a farm in Wisconsin. His grandfather John W. Morse was actually the one who brought the Morse family west migrating from Pennsylvania on a prairie schooner. John Morse was looking to claim a farm and homestead for himself and his family. In 1848 he found what he believed was a good piece of land, 320 acres, a place that he would call home. It was located 10 miles west of what today is Madison, Wisconsin.

Wilbur, Wayne's father graduated from high school and then spent several years on the farm in Wisconsin planting some crops—mainly for use in feeding the animals—and raising

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<sup>3</sup> Unless otherwise indicated, the material on Morse is drawn from the following sources; Mason Drukman, Wayne Morse A Political Biography (Organ: Oregon Historical Society Press, June 1997), p. 28-250 Robert Smith, A Tiger in the Senate Garden City, New Jersey: Doubleday, 1962), p. 30-300

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livestock. Growing up on a farm, Wayne was taught the importance and value of hard work. Each morning, from the time that he was little he had to arise early and help in feeding and tending to the livestock. Carrying various grains to feed troughs, ensuring that the water troughs were full, cleaning out the stables, making sure that there was adequate hay/straw to keep the animals warm—in the winter—and milking the cows were all a part of Wayne's daily routine. Close proximity to various forms of livestock and working with them on a daily basis fostered a passion in his heart for animals which would follow him for the remainder of his life.

Once reaching school age the young Morse was sent first to a one-room school house a half mile from the family homestead and then on to Madison City Schools where he received his primary and secondary education. Because there was no public transportation at the time Wayne would make the trip—11 miles one way—on horse back. Years later he would say during those long rides he was able to memorize his multiplication tables and other various school lessons. Academically the future senator had little trouble. History was by far his favorite subject but he preformed well in all academic areas. Occasionally his quick intellect and competitive nature would get him into trouble, just as it would many years later when he served as Senator. Many times he would master his lessons long before his classmates and become impatient with them when they were still seeking to finish their work. At times when a fellow student would be struggling young Wayne would not seek to be helpful but rather call them out and publically chastise them for their inability to catch on to the subject at hand as quickly as he had, demonstrating a lack of patience which would follow him from an early age.

At Central High School Wayne performed quite well although he did experience difficulties in some subjects most notably languages. History, still his passion came easy as did other components of social studies. Not prone to fail, Wayne sought to bluff his way through

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Latin class, which earned him the nickname “bluff” among his fellow classmates; however, it did not work and he failed the course, but eventually passed both Latin I and II with much hard work. While a student at Madison High, Wayne was a “Big Man on Campus.” He got involved in student government, played basketball and baseball, was a member of the faculty-student discipline committee, appeared in several plays and served as an officer in several clubs and societies. Wayne took his participation in each activity and group seriously. For example, the serious manner in which he took his role as Junior Class President was made evident on the first day of school when he interrupted the principal during his convocation speech. This interruption was born out of a burning question. Challenging authority as he would do so many times throughout his career Wayne wanted to know why the principal was interfering in student affairs, why he had taken it upon himself to impose unfair restrictions on student government. His argumentative spirit also manifested itself as a member of the school debate team, which brought him more recognition than any other activity. Many people from the area would come to observe Wayne and his fellow teammates take on opposing schools. Although Wayne may have had some natural talent which enhanced his ability to be a great debater, the influence of his mother served to sharpen his oratory and debate skills.

Jesse White Morse, Wayne’s mother, grew up on a farm outside of Madison just like her future husband Wilber. In fact Myron Reynolds White, Jesse’s father, owned and operated a farm next to where Wilber grew up. Jesse was always energetic and craved both knowledge and open discussion. After graduating from high school in 1890, she left the family farm and headed off to Downer College, a two-year normal school in Milwaukee. After graduating she returned to her family homestead and soon after married her childhood sweetheart. Jesse would take up residence on his farm and from there, at the age of eighteen, begin performing the duties of a

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wife while at the same time starting a family. Mabel, Wayne's older sister, was born in 1896 followed in 1893 by his two older brothers Grant and Harry both who would remain on the farm and work there for the rest of their lives. After Wayne's birth in 1900, Caryl came along in 1901.

Ambition was not something lost by Jesse when she took up being a homemaker. She moved through each day at a break neck speed giving the impression that her feet never hit the floor from the time she got up in the morning until she would retire at night. This was a characteristic that Wayne would inherit and that would be a part of his life until the end. A major outlet for her incredible energy was the home based business she started. Establishing a specific route and customer base, she would prepare and deliver smoked hams, dressed poultry, butter, eggs and various baked goods. Profits generated from this business went to purchase books, sheet music and a piano. Cultural refinement was high on her priority list. Each evening the family would gather in the parlor and either listen as she would read to them, join in singing around the piano or continue with the philosophical debate begun at the dinner table. On many occasions all of these activities would be utilized to fill the evening hours.

Wayne thus learned to argue and participate in lively debate. Concerned that her boys be intellectually stimulated as much as possible so they would grow to be intelligent men led Jesse Morse to initiate meal time colloquiums and then to lead conversations on deep topics such as farming techniques, crop conditions, animal husbandry, horsemanship, education and educational reform, religion and politics. Politics was the one topic that generated the most discussion and could lead to heated debate among the siblings. During these conversations the Morse children were not expected to simply soak in everything that Jesse was saying to them, but rather challenge her point of view and to argue with her if they disagreed with what she was

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propagating. They were expected to keep on track and to not make attempts to change the subject. Serving as chief moderator Jesse would re-center the discussion if any one had altered the focus and would interrogate them to ensure that the children had a solid basis for their positions. If any of the children were unable to support their beliefs or offered weak facts to back up their position she would give them a thorough scolding. It was during these meal times that young Wayne learned to challenge what he was being told and to argue his case. This ingrained characteristic would be a trait that would follow Morse throughout his career in both the field of education and in the Senate.

Concern that her boys grow intellectually also led Jesse to push them all to attend college. She helped Morse gain entrance into the University of Wisconsin where he pursued courses in political science and oratory and eventually took a M.A. degree in Speech. Her help was more verbal—giving him encouragement, stating that he could get into the University and that he was smart enough to make it through—than financial. Upon heading off to Madison Wayne's parents gifted him with \$165.00, which was a significant amount for a struggling farmer. Because of his limited financial resources Morse was not able to fully immerse himself into university life his first two years. He attended classes and studied but beyond that he had to work in order to make enough money to pay the bills and so he could not become involved in any extra-curricular activities. Once he had exhausted what he made during the summer he would find personal belongings to sell.

When he started his junior year he was in a much better financial position. "His poultry business had improved and his usual source of income—selling off possessions—was also augmented by him giving talks on public affairs to local men's clubs and business associations." These speeches netted him a minimum of ten dollars a piece. In a few cases much more than that

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was given to young Wayne for his public speaking efforts. This allowed him the opportunity to become immersed in extracurricular activities, namely student government, something that he truly enjoyed. That fall he ran for a seat on the student senate and won. He also found himself embroiled in a heated controversy over the reasonableness of a long standing campus tradition. This practice subjected freshman to several minor and not-so-minor indignities. One such hazing ritual involved taking a dip in the waters of Lake Mendota. Morse joined with those students seeking to bring the hazing to an end. He made his presence immediately felt. He was able to move an anti-hazing resolution through the Senate and then get the approval of necessary university officials. According to Morse's biographer Mason Drukman, this was not the only issue that Morse found himself involved in that year, nor was it the only issue he faced that would demonstrate his willingness to go against the status quo. A dispute arose over whether or not freshman should be made to wear green caps—the infamous beanies—while in their first year at the institution. There was no choice for freshman over wearing the hats. One caught out around the campus without their beanie was subject to additional hazing by a group of sophomore beanie police. Many students, Morse included, thought that the freshmen still needed to wear the hats, but Morse argued that the freshman themselves should monitor the wearing of beanies and determine the punishment for being hatless. When the issue came to a vote, Morse stated, as he would so many times during his career in the U.S. Senate, "I refuse to vote against my convictions."<sup>4</sup> The eventual solution for which Morse did cast his vote was very similar to what he had advocated.

After completing his academic career at the University of Wisconsin, earning both a bachelors and masters degree, Morse attended the University of Minnesota where he worked on a law degree and assisted the debate team coach. He then went on to Columbia University where

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<sup>4</sup> Drukman, Wayne Morse: A Political Biography p. 41-42.

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he would earn a doctor of jurisprudence degree in 1932. While still seeking to complete his program, he received an offer from the University of Oregon Law School to come as an assistant professor and teach courses on property law. He was to begin his career as a professor in the fall of 1929. Morse was not content to remain a low-ranking academician and thus took steps to be appointed associate professor and then dean of the law school. At the age of 31 he was the youngest dean of any law school accredited by the American Bar Association. It was a school with problems; as Drukman writes: “Morse had become dean of a financially strapped law school that was part of a university desperately short of funds, in a relatively poor state under siege by the depression.”<sup>5</sup>

Demonstrating the fiery disposition instilled in him by his mother, Morse stood up to both Jasper Kerr, the president of Oregon State University and Roscoe C. Nelson, the head of the state board of higher education, who wanted to merge the University of Oregon and Oregon State. Attempting to save money and reduce the over-all state budget, which had also been severely impacted by the financial crisis of the early 1930s, officials at the state capital in Salem had cut the higher education budget to a bare minimum. The lion share of the funds remaining in the education portion of the budget was allocated for Oregon State University located in Corvallis. In an effort to supposedly alleviate the economic situation, an initiative calling for the merger of the two institutions was put before the Oregon electorate by a group from Corvallis.

Feeling Kerr and Nelson were not being fair or honest with the public about the University of Oregon—that it was a viable institution—led Morse to organize opposition to a consolidation. Morse had students work with the print media of the state in an effort to inform and alert the people about what was really happening and how the proposal in the end would be more harmful than beneficial. He also recruited both current and former students to travel

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<sup>5</sup> *Ibid.* p. 66-67.

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throughout the state assigning them the responsibility, at least in part, of swaying Oregonians to vote against the initiative. Personally, he got involved by speaking out publicly. Although abrasive, Morse was an honest man and gained a reputation with the people of Oregon for his integrity and strong convictions. This helped him in bringing about the defeat of the initiative. He also gained a following in the state of Oregon that would benefit him in the future. Although he would be able to enjoy a big sigh of relief, there would be no real celebration for Morse. Kerr, the very instigator in the merger, had obtained the position as state chancellor of education and would wield a great deal of power over Morse and his colleagues at the University of Oregon.

Like Gruening, Morse was drawn into government service during the New Deal. While serving as Dean Morse was appointed as the Pacific Coast arbitrator of maritime disputes by Labor Secretary Frances Perkins. His clear understanding of the law, strong convictions pertaining to right and wrong, authoritative manner and overwhelmingly decisive nature had drawn Perkins to select him for this position. Perkins had also been attracted to Morse because of the way that he had handled a touchy situation in Portland, Oregon between the Ferryboatmen union and management. Serving as arbitrator of a waterfront labor dispute, he was able to assist in settling the main cause for disagreement while at the same time helping resolve a number of peripheral issues in a manner that was acceptable to both sides. Officially Morse was “named the Pacific Coast Arbitrator of all disputes between the ILUW and the WEA.”<sup>6</sup> His primary responsibility was to oversee arbitrations occurring in any port of call along the west coast. According to Charles Larrowe, as cited in Mason Drukman’s work *Wayne Morse: A Political Biography*, this made Morse “a kind of one-man long-shore industry supreme court.”<sup>7</sup>

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<sup>6</sup> *Ibid.* p. 92-99.

<sup>7</sup> *Ibid.* p. 92-99.

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In 1939, while handling one particularly difficult negotiation between the longshoremen and the steamship lines, Morse was able to resolve the situation by getting Harry Bridges, the representative of the Longshoremen, to negotiate reasonably and not demand his way on everything. Asserting that negotiations were going nowhere, the ship clerks' union set up a picket line around a Panama Pacific Freighter on October 6, 1939, which brought unloading of the ship to an immediate halt. Arguing that their personal safety would be in danger if they crossed the picket line and unloaded the ship, the longshoremen refused to take the cargo off of the vessel. While seeking to deal with the new development, Morse found out that Bridges knew that a picket line was going to be established by the clerks. In fact it came to light that he had even been consulted about its establishment and had a hand in setting it up. Morse made it very clear that what had taken place was collusion and the longshoremen needed to go back to work while negotiations were underway because no ones safety was in jeopardy.

Initially it was indicated that the dock workers would not serve as strike breakers, that they would not violate their union brothers and cross the picket line that had been established. The labor president was in a difficult position. Morse had been involved in several different labor disputes by this time and was seen as reasonable to work with, finding in favor of both labor and management. At times he even granted labor more than they were asking for especially if he felt that management had mistreated the union and its members. Disobeying an edict from Morse could lead to problems for the union which in fact it would do. Morse informed Bridges that he was no longer going to serve as the arbitrator for their dispute with the shipping company's management, he was walking away from the negotiation table. What made this most problematic was that Morse's reputation for fairness had preceded him and he held the trust of many longshoremen. Also, if he were to walk, the next arbitrator might be more prone to

find in favor of the shipping companies and less likely to be fair. Morse' intent to walk away motivated Bridges to change his stance and have the longshoremen unload the vessel and any others that came to port while negotiations were underway, even if the clerks established a picket line. After gaining this concession, one more would be demanded by Morse. Everything he asked had to be abided by whether it was liked or not. This requirement was also agreed to by the union president.<sup>8</sup> While serving in this position, the future Senator would handle business in the same way he had in the past, as well as in a manner indicative of the way he would deal with things in the future, with fairness, conviction, firmness and a resolve that could not be bent or altered, regardless of opposition or popular opinion.

Morse's success gained the attention of President Franklin D. Roosevelt who asked him to serve on the newly created War Labor Board (WLB), which consisted of twelve members, representing labor, industry-management, and the general public. Morse had been asked to serve as a part of this last group. The WLB was to serve as an arbitration committee ensuring that both labor and management worked together to provide the country with materials necessary for waging war. While America was embroiled in World War II there was to be absolutely no strikes or any lockouts, especially in manufacturing. Roosevelt had established this organization but gave its members little direction. Members of the WLB were left to formulate their own policies and procedures as they pursued their objective. "To say that Morse was the most powerful figure on the WLB would be a gross understatement" according to Drukman.<sup>9</sup> William H. Davis who had formerly served as the head of the National Defense Mediation Board was the official chairman of the WLB, but Morse—by virtue of his experience, personality, intellect, energy, drive and determination—took over the board's most significant

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<sup>8</sup> *Ibid.* p. 89-99.

<sup>9</sup> *Ibid.* p. 103-116.

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work and made it his own. During his tenure on the WLB he would write three times the number of decisions penned by any other member. Beyond writing opinions, he served as the compliance officer bearing the responsibility for enforcing the decisions made by the board. He also headed up a traveling panel that toured the country hearing appeals that had arisen from cases originating from the boards regional offices. When public statements were made by the WLB, it was typically done in a fashion that reflected the influence of Morse. Likewise, when he spoke to the general populace about actions taken by the board or any of its business he did so with a majority of his colleagues in support of his leading.

While serving in this capacity, Morse held his ground and influenced WLB policy. A stark example of this involved what came to be known as “Membership Maintenance.” The concept arose from Morse’s concern regarding employers using circumstances of wartime to engage in blatant acts of union busting. As a mechanism to protect unions from this and to reward them for their “no strike restraints during war” pledge, Morse felt they should be granted “membership maintenance.” The term was really a euphemism for an arrangement that equated to a union shop. Under the arrangement purposed by Morse if a majority of the employees at a given institution elected to establish a union then the facility would become the exclusive work place of dues paying union members for the duration of the contract.

This practice was established in the 1942 case involving international Harvester, a giant producer of defense materials. Morse penned a ruling on behalf of the WLB that required International Harvester to accept “membership maintenance” as a component of a contract with its various unions. All members of the board who represented labor were firmly behind him. Additionally, he had the support of the members at large. Those representing business interests were vehemently opposed to this proposal and sought to delay the WLB ruling. Having put up

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with the delaying tactics for an extended period, Morse sought to get things moving by turning to a tactic which he had used in the past. If the opinion was not put forth in the fashion he had written, he would resign and then issue a public statement explaining in exacting detail why he had been forced to leave the WLB. Working to perfection as Morse had hoped, those who were against “membership maintenance” withdrew their opposition and his opinion passed. Made public, the International Harvester decision was handed down and official government policy declared “membership maintenance” which would remain in effect until the end of World War II. The position that Morse took in many of these negotiations endeared him to organized labor and would be one catalyst which served to propel him into the U.S. Senate.

By the end of 1943 Morse began to investigate the idea of running for the “U.S. Senate in the Republican primary against incumbent Rufus Holman.”<sup>10</sup> As he sent out feelers to friends, he expressed concern fearing that if he came up short he would severely damage his future political career. It was only after he ascertained how much opposition there was to Holman, that he decided to officially enter the political ring. In January 1944 he made his candidacy known to the people of Oregon. His ascent to the United States Senate was greatly assisted, as he had determined earlier, by the fact that many Oregonians had come to see the incumbent as an embarrassment to their state. Mason Drukman points out that Holman was characterized in editorials as “rattling, raucous, roaring, raving or the right honorable Rufus” which were not endearing terms. Morse was also aided by the fact that the Oregon Democratic Party was in complete disarray at this time becoming split and thus anemic over issues involving such things as public power. In addition he was helped by the trade unions which for the most part voted Democrat, but had sided with the Republicans during the 1930’s and 1940’s. Gaining a slim majority, just enough votes to take the primary was accomplished by Morse through his ability to

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<sup>10</sup> Ibid. p. 121.

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appeal to all people, by projecting that he was a middle of the road Republican who at times leaned to both the left and the right. After defeating Holman, Morse turned his attention to the general election and his Democratic opponent Edgar W. Smith. The only real concern that Morse had during the general election campaign was the possibility of two independents entering the contest and diluting the votes. Unhappy with his loss to Morse, Holman gave serious consideration to running as an independent. Members of the GOP who themselves were not pleased with Morse also gave serious consideration to finding a more suitable candidate to run as an independent. Morse was able to quell the threat of independent spoilers and able to turn his attention toward building a large support base. Morse won the general election decisively by a vote of 269,095 to 174,140 over Smith.

While serving as Senator, Morse would take actions that he believed to be important regardless of the affect on his political career. One such move that hurt him politically, at least to some degree, was the change from affiliation with the Republican Party to his declaration of being an Independent. There may have been many factors which led Morse to make this decision; however two, according to A. Robert Smith, one of his biographers, seem to stand out. The first has been labeled the “Salem Rebuff.” In 1952 Morse along with several other key Republicans where elected as delegates to the party’s convention. Morse desired to serve on the events platform committee; however, his behavior in the Senate during his first term had been displeasing to several key Republicans from Oregon and as a result they were determined to keep him off of this prestigious body, in their minds he had given “Oregon a black eye.” What was most disconcerting to his colleagues was his defense of President Harry Truman’s seizure of the country’s steel mills. When the delegates came together at the Senator Hotel in Salem, to vote on the make-up of the various committees, Morse would be excluded. Losing the position on the

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platform committee by a vote of 15-5 to Mark Hatfield, he was relegated to merely attending the convention and casting an electoral vote. This event made it painfully evident to Morse that he did not have the backing and support of the G.O.P. He also interpreted what happened to mean that those who controlled the party did not want him involved in or playing any kind of key role in the party; they just wanted to use him to their advantage.

A second event which facilitated his declaring himself an independent involved the Republican convention of 1952. Besides the sting of not being a part of the platform committee, Morse endured the perceived humiliation of having no voice in selecting the party's Vice Presidential Candidate, a few "movers and shakers" would make that determination. Morse wanted an open convention format used to determine who would be the V.P. His choice for Eisenhower's running mate was Senator Leverett Saltonstall (Republican-Mass). He desired an opportunity to nominate Saltonstall. A. Robert Smith indicates that while his intent may have been to propel his colleague onto the Republican ticket, it may also have been his plan to project his own oratorical skill. It is not at all unlikely that he entertained visions of "thunderous acclaim, of a convention being swept off of its feet." An opportunity to make this speech was not granted and by the end of the convention Wayne Mores was on his way out of the Republican Party.<sup>11</sup>

In giving his rationale for becoming an independent, Morse stated that he could no longer support the position of the Republican Party, which in his opinion no longer looked out for the concerns of the common man but rather the interests of big business and the wealthy. Additionally he believed that the Republicans were pushing an agenda to make the Federal Government too big. Deep down, it would seem, he left because he had come to believe that he was no longer respected or needed by the party, that his opinion no longer counted, that those in

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<sup>11</sup>Smith, A Tiger in the Senate p. 186.

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charge were only interested in his thoughts if they would benefit the party. Ultimately it may have been about power. Many times throughout his career Morse had made demands and threats, but these tactics were not going to work in this situation and left him no choice but to abandon the Republican Party.

Another move that hurt him involved his accusation that President Eisenhower had been dishonest with the American people over whether South Korea was considered within the U.S. defense perimeter. While campaigning in Detroit, Eisenhower made remarks that were critical of the Truman Administration specifically regarding events that had led up to the Korean War. Eisenhower stated that he would go to Korea insinuating that he would have a firm and resolute foreign policy that would bring the conflict taking place there to an end. Morse heard the speech and was incensed and determined to take action. On the next day the Senator from Oregon phoned President Truman and asked him if he was aware that the presidential candidate had misrepresented the facts.

As a member of the Armed Services Committee, he knew that General Eisenhower was one of the key military leaders who had called for the U.S. military to be pulled out of South Korea in the period before the North Korean attack. Informing Truman of the existence of a document outlining such a position, Morse encouraged him to get his hands on it and use it against Eisenhower. Furthermore he asked the President to make the document available to him and authorize its use in a speech that he would be giving in Minneapolis. Receiving permission Morse openly accused Eisenhower of telling a lie when he blamed the State Department for placing South Korea “outside of the defensive perimeter in the Far East.”<sup>12</sup> Morse claimed that although Eisenhower said Korea was important, he did not plan to maintain a strong military presence in that part of East Asia. His calling Eisenhower a liar did not win Morse friends

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<sup>12</sup> *Ibid.* p. 139-159.

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within the Republican Party who had mixed feelings about his departure, or among the many Americans who saw Eisenhower as a hero.

A third act which hurt him was his shift from being an independent to his becoming a Democrat. Morse had started out opposed to F.D.R.'s New Deal and the precepts of the Democratic Party, then he left the ranks of the Republicans and became a self declared Independent. At first glance it would seem that he had obtained a status appropriate for his temperament. When the leaders within the Senate openly discussed the difficulties of coordinating the efforts of the two well-entrenched parties Morse announced quite proudly that he had no such troubles as the leader of the Independent party. There where, however, problems which Morse would experience while enjoying his membership in a party of one. First, where should an Independent sit? Senate organization places the Republicans on the right side and the Democrats on the left with one aisle down the middle. Upon arrival his first day as an independent, he entered the Senate chamber with a folding chair declaring that he would sit in the aisle between the two groups. Before he could establish himself in the center, he was persuaded to take his former seat on the Republican side which he would do until early in the session when he asked to be removed to the Democratic side, for unexplained personal reasons. Second was his unexpected removal from the two highly coveted committees that he served on while a Republican, Labor and Armed Services. Desperately seeking to retain his committee assignments Morse discovered that his move to independent status had "placed him in the unhappy circumstances of Edward Everett Hale's man without a country, eternally sailing to and fro, denied the privilege of disembarking on either party's shore." To be sure, declaring himself independent of either party fit both his personality and his temperament. However, the declaration of independency—of being a third party—was unsuitable to almost all if not all

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members of the Senate. According to Morse biographer A. Robert Smith when it comes to the selection of committee members each party takes care of its own. Senator Morse for his part was not going to seek or accept any proffered committee assignments from either side of the aisle. He demanded that he be given committee assignments as a member of a minority party. This was not going to happen and as a result Morse was removed from both committees. Losing his positions reduced Morse to very humbling circumstances, placing him at a level similar to the newest freshman in the Senate.

Having been unseated Morse was quick to blame everyone but himself for his temporary political demise. As for the Republican Party, they had worked to remove him from Labor and Armed Services because he had taken a stand against them—they were seeking to punish him. Liberal Democrats were blamed by him for not protecting minority rights which was something they were to do, it was a part of their platform. Members of the press also received blame because they did not represent his position adequately: actually he accused them of misrepresenting his position, and by doing so made it easy for the two major parties to push him to the background.<sup>13</sup> Worse than losing his positions on the two committees, Morse was denied what he most coveted, a show of public indignation over his plight. He had stood by his convictions and had not been rewarded for it as he had been in the past. Additionally, he had lost his temper during the committee assignment process which cost him dearly in the relational credit bank—of human relations—he would need to be an effective politician and member of the Senate.

By 1956 Morse realized that he could no longer hold to his claim as an Independent. Facing formidable opposition in the state of Oregon by both Republicans and Democrats and

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<sup>13</sup> Drukman, Wayne Morse: A Political Biography p. 190-191, p. 213, p. 216-218.

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realizing that if he were going to retain his seat in Congress, he would have to align himself with one party or the other, led him to declare membership in the Democratic camp, to move into the very group that he had spoken so harshly about just a few years earlier. His opponents would use this to question if Morse really knew what he believed and if he really stood for something or just said what needed to be said to get elected. Morse's behavior demonstrated his maverick spirit, a spirit that would be present throughout his career, especially when he dealt with issues that he disagreed with and felt very passionately about. In actuality, Gruening and Morse both had this maverick spirit which came out as they struggled with U.S. involvement in Vietnam. They both vehemently opposed United States participation in Vietnam and made it a major objective of their careers to extricate America from Vietnam.

It is interesting to note that neither Gruening nor Morse paid much attention to what was going on in Vietnam prior to 1964. Gruening in his autobiography Many Battles states that he knew there were some U.S. military advisors in Vietnam. He also knew the U.S. was sending financial assistance to Vietnam because he had voted on appropriation bills placed before the senate calling for the U.S. to give more money than had been budgeted to South Vietnam. Beyond this he claimed that he really did not know how deeply involved the U.S. had become in Vietnam. Morse also indicated that he was somewhat blind to the true nature of American involvement in Vietnam. Like Gruening he knew there were some U.S. military advisors there and he knew the U.S. was sending both finances and military equipment to Vietnam. Both Senators began to educate themselves about the true role of the U.S. in Vietnam and subsequently called for the U.S. to discontinue its involvement there in August of 1964 after the occurrence of the Gulf of Tonkin incident.

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As a result of this Tonkin Gulf incident a resolution came before the Senate asking that as a body it gave President Johnson support to take needed action in Vietnam to protect America and its interests. As noted earlier, J. William Fulbright, the chairman of the Senate Foreign Relations Committee, led the resolution through the Senate, arguing that as Commander in Chief, the president needed to be supported when the U.S. came under attack. Throughout the debates that took place in the Senate, Fulbright took command in addressing the questions raised by those who questioned the resolution

Morse and Gruening called for voting down the resolution. They argued that the U.S. had taken actions that provoked both the attacks on the U.S. Naval vessels. Morse believed that the U.S. naval patrol of the Gulf of Tonkin during military operations could have led the North Vietnamese to think that the U.S. Navy was either directly involved in the military action with the South Vietnamese or that they were present to give direct aid to the South Vietnamese Navy in their attack or retreat. Whatever the case, Morse believed that the American presence in the Gulf stimulated the attack. Seeking to help his fellow senators understand how the North Vietnamese might have felt, he shared the following analogy. “What if the Cubans were attacking Florida and the Russians were patrolling just off of our coast? Understanding that the Cubans and Russians were allies, would we not feel anger, see the Russian presence as a direct threat to our national security, and have a strong desire to remove them even though they may be patrolling in international waters?”<sup>14</sup> Morse rightly argued that the U.S. would see the actions of the Soviets as a direct threat and that the U.S. would take swift action if necessary to remove them.

Additionally, in argument against the resolution, Morse and Gruening questioned whether the second attack on the two U.S. naval vessels was premeditated, or rather a spontaneous

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<sup>14</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 20936.

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reaction to events that had taken place earlier. It would have been impossible for the North Vietnamese to have known the location of the U.S. Naval vessels present in the Gulf of Tonkin. This assertion was verified by the fact that when the North Vietnamese made the attack on August 2<sup>nd</sup>, their P.T. boats were given wrong coordinates for the location of the U.S. ship. The North Vietnamese did not know the ships' locations, and the U.S. naval vessels' pattern of patrol was inconsistent and sporadic so, Morse argued, the North Vietnamese could not have predetermined the August 4th attack. Additionally, Morse argued that if the attack had been preplanned, the element of surprise would have been greater, or ships that could compete with destroyers would have been sent out to face the U.S. ships. Hence, there could be no way that the attack was premeditated and thus was not a valid reason for escalating American involvement in the Vietnam War.

The United States did not need to retaliate for the attacks. In the case of the first attack, the U.S. Navy had not only repelled the attack with just one bullet hole from a 14.5mm gun, it had inflicted heavy damage on the North Vietnamese ships. During the second attack the U.S. ships did not take any hits, but reported that they had hit and sunk at least three North Vietnamese vessels. The senators believed that the North Vietnamese Navy had been sufficiently punished and no further military action was necessary. They also believed that after this strong showing by the U.S. Navy, any other country would think twice before it would dare to attack the U.S. Navy.

Gruening and Morse also opposed the resolution because they felt that the U.S. had violated the Geneva Accords of 1954. At Geneva it had been determined that Vietnam would be separated temporarily into "zones"—what became North Vietnam and South Vietnam—at the 17<sup>th</sup> parallel. The North would be ruled by Ho Chi Minh and his Democratic

Republic of Vietnam colleagues while the South would be led by a non-communist Democratic government directed by Bao Dai and Ngo Dinh Diem. In 1956 the country was to be reunified and elections held to determine who would lead the country. President Eisenhower and U.S. leaders were certain that Ho Chi Minh and the communist party would win the elections, which meant that Vietnam would become communist. The United States did not formally adhere to the Geneva Accords. Thus many American leaders did not feel responsible to allow the elections to take place and instead gave financial and military support to Diem so that he could retain his power in South Vietnam. Senators Morse and Gruening both asserted that the U.S. had no business interfering in Vietnam because it violated a key principle of American foreign policy: that of self determination for all people.<sup>15</sup> If the Vietnamese citizens overwhelmingly wanted to become communist, it was not the place of the U.S. to tell them otherwise. Both of these senators believed that if the U.S. had adhered to the Geneva Accords, the U.S. ships would not have been attacked and that ultimately there would be no war in Vietnam.<sup>16</sup> Based solely on the fact that the U.S. had not followed the Geneva Accords, it was wrong to have any involvement in Vietnam and thus the resolution could not be approved.

The United States had also violated the United Nations Charter and for this reason too the two dissenting senators believed that the resolution should be voted down. The United Nation Charter Agreement stated in article 2 section 4 that “All members shall refrain in their international relations from the use of force against the territorial integrity or political independence of any state or in any other manner inconsistent with the purposes of the United Nations.”<sup>17</sup> Further, in article 37 of the charter it states that “Should the parties to a dispute of the nature referred to in article 33 fail to settle it by the means indicated in the article, they shall

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<sup>15</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. P. 18133ff.

<sup>16</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18133ff.

<sup>17</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18133ff.

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refer it to the security council.”<sup>18</sup> During the debate of August 5<sup>th</sup>, Morse pointed out that the U.S. had not formally sought to handle its grievance with North Vietnam through negotiations, mediation, arbitration or in any other conciliatory manner required of members of the United Nations.<sup>19</sup> Morse went on to point out that the United States had also failed to go before the U.N. Security Council which was the step required before a member nation was to allow conflict to escalate into war. By failing to follow these procedures, the U.S. had indeed violated the U.N Charter Agreement.

The dissenting senators also believed that there was a proper procedure to follow within United States politics if America was to become involved in a war and that the resolution would preempt that process. Citing President Roosevelt’s handling of the Japanese attack on Pearl Harbor, Morse stated that the President needed to go before Congress and give a reasoned argument for why U.S. forces would need to take action. After the attack by the Japanese, Roosevelt did not ask for a resolution to support retaliatory strikes with a clause included that would enable him to take further action against the Japanese if he deemed it necessary.<sup>20</sup> Roosevelt simply went before Congress and asked that it declare war on Japan.<sup>21</sup> Gruening and Morse believed that the resolution that Johnson proposed removed Congress from the process and gave too much power to the office of the president

They would further dissent on this vote because they believed that the United States was being drawn into a conflict in which it had no business. Vietnam had not been attacked by some outside force such as the Soviet Union or China. What was taking place in Vietnam was an internal revolution that was supported by a large segment of the people living in both North and

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<sup>18</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18136ff.

<sup>19</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18135-18139.

<sup>20</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18445.

<sup>21</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18445.

South Vietnam. Having experienced oppression at the hands of the Chinese and the French, the Vietnamese were demonstrating that they wanted self rule, which was what Ho Chi Minh and the Communist led Viet Minh were fighting to obtain.<sup>22</sup> If the people in South Vietnam did not want to come under the control of Ho Chi Minh and the Vietcong, then they needed to fight their own battle and not depend on the United States to do it for them. Likewise, they believed that the U.S. needed to curtail its support of General Khanh who had come to power after a coup had overthrown Diem and another had overthrown General Minh. Gruening and Morse saw Khanh as a dictatorial puppet of the United States government and not as an individual that the South Vietnamese people wanted as a leader.<sup>23</sup> Lack of enthusiasm and tenacity on the part of both the South Vietnamese military and people led these senators to believe that they were not greatly opposed to being governed by Ho Chi Minh. Those in the countryside and villages of South Vietnam were supportive of him.<sup>24</sup> It was mainly politicians and the elite who stood to lose prestige or finances who were opposed to Ho Chi Minh and wanted the war to be fought. Morse and Gruening believed that while the United States might not like the choice of the Vietnamese people, the United States needed to allow them to make their own decision and settle their own dispute.

The dissenting Senators believed that the resolution could be used as a way to validate military involvement in other areas in Southeast Asia. Under the SEATO agreement it could be argued that the U.S. was responsible to look after and assist other member nations if their security was threatened.<sup>25</sup> Morse and a few others believed that the United States had an obligation to any of the SEATO members only if the attack on them was a direct threat to

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<sup>22</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18133-18139.

<sup>23</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18133-18139.

<sup>24</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18419ff.

<sup>25</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18419ff.

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America or American interests.<sup>26</sup> The resolution would give the president the authority to step in and assist any of the members of the SEATO alliance whether or not a majority of Americans agreed with the action. After all, the resolution stated that the president could take action to protect the American military or any ally that was facing a military threat.<sup>27</sup> If at all possible, the United States needed to avoid further entanglements and if involvement was necessary, then it should be Congress that would make the decision to get the country involved.<sup>28</sup>

Finally, Morse and Gruening argued against the resolution because they did not believe that military action was appropriate in Vietnam; neither did they believe that the U.S. could win the war. Furthermore, continued involvement in Vietnam would cost the lives of even more U.S. service personnel and would cost the U.S. more tax dollars than the country could afford to spend. Considering the overall situation at home, there was a need to financially support President Johnson's "Great Society" plan which was meant to address the burgeoning social needs. The purchase of military equipment and supplies would only divert funds away from where they were needed the most. Over the course of a ten year period, France had spent significant amounts of money on the war in Vietnam and had sacrificed over two hundred thousand lives and still lost their hold on the country. Morse and Gruening believed that the U.S. needed to pursue the option of negotiation.

While Gruening and Morse were seeking to make a case that the resolution needed to be voted down, little attention to the vote itself or the pleadings of the two dissenters was given in the media. Most all of the media outlets including the New York Times, the Washington Post, The Nation, Time Magazine and Newsweek focused on the Gulf of Tonkin incident itself providing detailed accounts of how the United States navy had been attacked by the communist

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<sup>26</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18419ff.

<sup>27</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18419ff.

<sup>28</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18419ff.

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forces of North Vietnam. For their part the New York Times, Washington Post, Time Magazine and Newsweek all keyed in on how the United States had been unjustly attacked, how Communism was indeed a serious threat to democracy and the United States and on how well President Johnson and Congress had handled the situation. Additionally in the articles printed right after the attack(s) these sources focused on Communism and suggested that the spread of Communism needed to be stopped. Only the Nation indirectly sided with both Gruening and Morse. Although it did not quote them in any articles, right after the attack(s) and vote on the resolution, it did articulate some of the same arguments that had been voiced by these two senators.

Out of the remaining news outlets the New York Times did specifically mention and even quote both Gruening and Morse in relation to their position on the Tonkin Gulf Resolution. Although the other venues may include quotes by these two individuals this author was unable to find any. What was mentioned in the New York Times basically portrayed both Gruening and Morse as either off base or in a negative light. For instance, in an article entitled “Senate Vote is 88 to 2 After House Adopts Measure, 416-0” printed on August 8 1964, E. W. Kenworthy stated that both Gruening and Morse were incorrect in their assertion that the resolution was unconstitutional. Kenworthy stated that several members of the Senate agreed the president did not even need the resolution because as the Commander in Chief he had the right to take whatever actions he deemed necessary to protect the United States and its interests.<sup>29</sup> In another article that appeared the same day, entitled “Senate Nay-sayer Wayne Morse”, the author pointed out that the dissent by the Senator from Oregon was nothing new, that Morse was brilliant but a cantankerous individual who found reasons to oppose most legislation. To make his point, he

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<sup>29</sup> E.W. Kenworthy, “RESOLUTION WINS,” By Special to The New York Times *New York Times (1857-Current file)*; Aug 8, 1964; ProQuest Historical Newspapers The New York Times (1851 - 2006), pg. 1.

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provided the reader with several examples of such behavior from Morse. Another article printed on that day described the resolution and debate that followed. The author of this piece provided insight into the position of Morse stating that Morse was wrong in arguing that the resolution gave the president a blank check to wage war.<sup>30</sup> Four days later, in an article by Arnold Lubasch, which focuses on the actual signing of the resolution, the author gives a passing mention to the position of both these senators, but only in a cursory manner. Attacking the pleas of Gruening and Morse, State Department Official Roger Hilsman, in an article in the Times entitled “Plea for Realism in Southeast Asia” states that the pleadings of two dissenters propagate unrealistic and dangerous concepts that have no merit.<sup>31</sup> Additional articles contained in the Times, from August 30<sup>th</sup> through November 17, 1964, indicated that Gruening and Morse referred to the resolution as disregarding the United Nation Charter Agreement and the Geneva Accords, that the whole truth had not been told when the resolution was presented and that the United States should turn the situation in Vietnam over to the United Nations. Even though some of the articles present just what Gruening and Morse said, many of them painted both Senators as “loose cannons” who were advocating ideas that were detrimental to the country.

During the days that the U.S. Senate debated the Gulf of Tonkin Resolution, many dynamics came to play as each senator sought to determine how he or she should vote. With the perfect vision of hindsight it is easy for historians who evaluate this particular incident and the subsequent events relating to the Vietnam War to state what should have been the response of the U.S. Senate. Looking back at the arguments made by those both for and against the resolution, it does appear that the senators who argued against the resolution made the stronger case. It

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<sup>30</sup> “Senate Nay-Sayer” Special to The New York Times *New York Times (1857-Current file)*; Aug 8, 1964; ProQuest Historical Newspapers The New York Times (1851 - 2006), pg. 2

<sup>31</sup> “Roger Hilsman, “Plea for 'Realism' In Southeast Asia” The New York Times *New York Times (1923-Current file)*; Aug 23, 1964; ProQuest Historical Newspapers The New York Times (1851 - 2006), pg. SM26

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appears that America provoked the attack, violated both the Geneva Accords and the United Nations Charter agreement, became involved in a civil war and violated the principle of self determination. It may never be known whether voting down the resolution would have made any difference regarding the outcome of America's involvement in the war; however, it is a fact that America was unable to win the war and keep communism out of Southeast Asia.

The arguments of Gruening and Morse underlined their concerns about the abuse of presidential power. In their criticism of Johnson's retaliation and the violations of the Geneva Accords and the United Nations Chapter, they were warning their colleagues and Americans generally about what Arthur M. Schlesinger would later label the "imperial presidency." Most importantly, they saw this as undermining the constitutional system of "checks and balances" when it came to war making. Out of all the arguments Gruening and Morse used in their attempts to extricate the United States from Vietnam, it was their claim that Congress and not the President had the power and was to declare war against another nation which was most frequently articulated. Concerned over how the Tonkin Gulf Resolution could be used and subsequently over actions taken by the president, these two senators called for Congress to assert itself and take measures to reverse the legislation and stop continued military action in Vietnam. Believing what was taking place in Vietnam was more than a police action or steps to ensure America's safety and security, they called for either a complete withdrawal or a declaration of war against North Vietnam. In making their case they pointed out that the Constitution clearly made Congress responsible for determining if the country should go to war. They also would point out that by abdicating war power to a president the Congress was allowing, and even encouraging, the balance of power established by the founding fathers and codified in the Constitution to shift in favor of the president. Since many of the arguments they made were

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rooted in the Constitution, a treatment of roles and responsibilities regarding war making as outlined in it will be covered in the following chapter. Additionally consideration will be given to the precedents established by other presidents who either intentionally or unintentionally wrestled war making power from Congress, congressional reaction to this action and the over all impact this made on Gruening and Morse's arguments for the restoration of balance in relation to war making power.

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**CHAPTER THREE:**  
**THE HISTORICAL CONTEXT OF DISSENT: CONGRESS, THE PRESIDENT AND**  
**WAR MAKING: CONSTITUTIONAL ROLES AND RESPONSIBILITIES OF WAR**  
**MAKING**

A reading of the United States Constitution makes it clear the Founding Fathers wanted to establish a national system of governance that would accomplish two things. They wanted to generate for current and future governmental leadership organized guidelines for overseeing the basic needs of the country, including freedom of speech, freedom of the press, freedom of religion and common defense.<sup>1</sup> Second, and very important to the Founding Fathers, they wanted to establish a system that would theoretically assure that no single person or group of people could gain so much power they would be able to assume the role of a dictatorial monarch.<sup>2</sup> Both Edwin Corwin and Arthur Schlesinger, Jr. point out that it was very important to the individuals debating and writing the United States Constitution because many of them had either come from Great Britain and had lived under the rule of a monarch or they had experienced the domination of living under the rule of a King during the early years of their residence in the colonies.<sup>3</sup> Many of these individuals knew first hand what it was like to be politically dominated, to live under the yoke of tyranny, and to have little voice in how they would be governed. As a direct consequence they did not want to experience it again.<sup>4</sup> This led the Founding Fathers to develop a system of governance consisting of an executive, legislative and judicial branch; each having specific responsibilities and the ability to check the power of the other branches. Regardless of the system put in place to keep the government balanced, there have been times when either the executive or the legislative branch have taken actions that have altered this relationship.

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<sup>1</sup> Arthur Schlesinger Jr., The Imperial Presidency (New York: Houghton Mifflin Company, 1973), 1ff.

<sup>2</sup> Schlesinger, The Imperial Presidency 1ff.

<sup>3</sup> Edward S. Corwin, The President: Office and Powers, 1787-1984 (New York: New York University Press, 1984), 3ff.

<sup>4</sup> Schlesinger, The Imperial Presidency 1ff.

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On many of these occasions, Presidential/Congressional tug-of-wars over war-making have been the source leading to conflict between the two branches. This was certainly the case throughout U.S. involvement in Vietnam, specifically during the Johnson Administration—when the president gained the upper hand through the Tonkin Gulf Resolution. From 1964 until their deaths both Ernest Gruening and Wayne Morse vigorously sought not only to bring American involvement in Vietnam to an end, but also remove what they believed to be excessive war-making power gained by the president, subsequently returning balance to the Presidential/Congressional relationship. This chapter examines the constitutional roles assigned Congress and the President and the struggle between the two branches over war making. Specific examples of the various struggles will demonstrate the efforts made to shift power and gain the upper hand. Finally, an examination of the stance taken by Gruening and Morse and past members of Congress will take place in an attempt to determine any similarities between their arguments and their predecessors when seeking to wrestle war power from a sitting president.

Although interpreted in many ways by several presidents over the years Article II section 1 and 2 of the Constitution makes the intentions of the Founding Fathers quite clear, specifically as they relate to the war-making power of the Executive branch of the Government. This clause states that the president is responsible to be...

The Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual service of the United States; he may require the Opinion in writing, of the principle Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Offices, and shall have power to Grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

He also is granted the...  
power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint ambassadors, other

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public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The framers of the Constitution, it would seem, were determined to deny the president what William Blackstone, the English jurist and professor whom they had relied on as a guide in drafting the Constitution had afforded the British King: the sole prerogative to wage war or make peace. Blackstone had embraced the concept that the King was “the generalissimo, or the first in military command, who had the sole power of raising and regulating fleets and armies.”<sup>5</sup> It was the Founding Fathers belief that the executive was to direct a war once it was authorized or had begun. In one of the early drafts of the Constitution the president was not given the power to make or prosecute war once it was underway. James Madison and Elbridge Gerry, believing the clause as proposed limited the ability of the president to take action if the country were attacked, suggested that the word “declare” be inserted for “make” rendering it constitutionally possible for the executive to repel sudden attacks. Roger Sherman of Connecticut opposed the change in wording as did George Mason. Neither believed that the President should be given any form of war-making power, that an executive could not be trusted with such responsibility. As debate over the issue continued, Mason would come to accept the change in verbiage; however, he did not think that by doing so he was helping to place power in the hands of the president.<sup>6</sup>

Throughout the debate that took place it seemed “that no one wanted to deny the President the power to respond to” acts of aggression “or to give the Executive” power to initiate hostilities. Regarding the first aspect; the acknowledgement that an executive may at times be put into a position to begin a defensive war without prior congressional consent seemed to

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<sup>5</sup> *Ibid.* p. 3-4.

<sup>6</sup> *Ibid.* p. 4.

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represent a potential breach in the congressional position and would have a most profound impact on the future of the country. It was the proposal of the later aspect, however, that gained the most attention and brought significant relief while debate over presidential powers took place. Once completed the Constitution presupposed what the histories of all governments throughout time had demonstrated: that the Executive would be the branch of power most interested in war and thus prone to engage in it. Engaging in hostilities with an enemy therefore would require that certain steps be adhered to and since the president had not been specifically mentioned in connection with war powers he did not have the legal authority to involve the country in war. Clearly the process outlined in the Constitution was meant to keep any one individual from having the ability to wage war.<sup>7</sup>

“At the very same time the Constitution vested the command of the Army and Navy in the President,”<sup>8</sup> and thus the intent of the framers was simple, or so it would seem. Once war had been declared by the legislative branch the President as Commander in Chief had the power to oversee and direct military operations. Arthur Schlesinger in his work *The Imperial Presidency* points out that “as Commander in Chief the President had no more authority than the first General of the Army or the first Admiral of the Navy would have had as professional military men.” Providing the President with the sole ability to prosecute war would allow for clarity of purpose. Having the Congress actively direct any war that the country may become involved in could lead to the development of multiple goals, a variance in opinions and strategies on how to wage war and ultimately a fracturing of the legislative branch. All of this would be disastrous not only for the military fighting the war, but also for the country as a whole. Besides making single-mindedness during conflict possible, the Founding Fathers also had taken actions

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<sup>7</sup> *Ibid.* p. 4-8.

<sup>8</sup> *Ibid.* p. 5.

that would ensure the military would remain in the control of civilians and not in the hands of high-ranking generals.<sup>9</sup>

Beyond conferring command of the Armed Forces, the Constitution provided the president with the power to receive foreign envoys, appoint Ambassadors and broker treaties with the advice and consent of the Senate. Outside of these specific duties, the framers of the Constitution penned nothing specific about the role or authority of the president in relation to foreign affairs or regarding the protection of the country if an attack were to take place. Having been influenced by John Locke, the British political philosopher, they embraced the concept of prerogative as penned in chapter 14 of his book *Second Treatise of Government*. According to Locke, members of society were to live by a social contract. Its primary focus was on the reciprocal obligation that existed—both the ruler and those being ruled—were to live within the framework of the law. Also, the authority of the government was to be limited. However, if an emergency were to arise, responsible government officials could resort to the use of extraordinary power. Large bodies such as the legislative branch were both too large and too slow to effectively deal with crisis situations; “moreover, they were unable to foresee and write laws to provide for all accidents and necessities.”<sup>10</sup> It was highly possible that “on occasion a strict and rigid observation of the law may do more harm than good” ultimately bringing about more distress for the people than would be generated by the ruler asserting un-granted power—if quick decisions regarding defense were necessary. Because this was the case, there could be times when the law itself should give way to executive power.<sup>11</sup>

Boiled down to its simplest form, prerogative, as advocated by Locke was the exercise of the law of self preservation. Basically it amounted to the people granting their rulers the right

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<sup>9</sup> *Ibid.* p. 5-7.

<sup>10</sup> *Ibid.* p. 8-9.

<sup>11</sup> *Ibid.* p. 8-10.

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to take actions of their own volition, especially in areas where the law was silent and also on occasions against the mandate of the law, for the good of the public and as a result of their acquiescence when such was done.<sup>12</sup> According to Schlesinger several of the framers of the Constitution thought this concept was quite dangerous and as a result wrestled with how to deal with it.<sup>13</sup> According to Locke it was a concept that should not be problematic. If the emergency prerogative were abused, the citizens would protest and even rebel, but if used for the over-all good of the people, it would be accepted by them regardless of whether it was or was not a lawful act. Putting it in more democratic terms, Schlesinger encapsulates it in the following manner, “when the executive perceived what he deemed an emergency, he could initiate extralegal or even illegal action, but that he would be sustained and vindicated in that action only if his perception of the emergency were shared by the legislature and by the people.”<sup>14</sup>

For his part Louis Fisher would take exception to this notion that the Founding Fathers agreed so wholeheartedly with Locke. The men who constructed the Constitution were afraid of prerogative power. Fisher points out that as the Founding Fathers struggled over how to structure the government they did agree to assigning limited military power to the Chief Executive, but only in cases involving direct self defense—United States territory had come under attack.<sup>15</sup> Regardless of how the Framers of the Constitution may have felt, what they intended and what they established as law through the Constitution, presidential prerogative was born out of the document they authored. This may indeed be due to the imprecise nature of the document coupled with its vagueness, impracticality and inconvenience. What can be said is this prerogative did enable the president to take actions on his personal belief that there was an

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<sup>12</sup> *Ibid.* p. 8-12.

<sup>13</sup> Schlesinger, *The Imperial Presidency* 1ff.

<sup>14</sup> *Ibid.* p. 8-12.

<sup>15</sup> Louis Fisher, *Presidential War Powers* 3ff.

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emergency; that the security of the country was in jeopardy. Whether or not he read the situation correctly and made the right decision was to be determined not by him but rather by the nation as a whole.<sup>16</sup>

A detailed examination of the Constitution makes it clear that Locke's concept of prerogative was not a part of the presidential powers outlined in the document. To be sure, the Founding Fathers had lived in a constant state of emergency and understood full well what it took to deal with such situations. Ultimately there is reason to believe, however, that prerogative was in the back of their minds. Convention delegate Alexander White of Virginia stated that "it would be better for the president to extend his power on some extraordinary occasion, even where he is not strictly justified by the constitution, than that the legislature should grant him an improper power to be exercised at all times."<sup>17</sup> White, expressing the sentiment of other members of the Constitutional Convention was basically stating that "the legal order would be better preserved if departures from it were frankly identified as such than if they were anointed with a factitious legality and thereby enabled to serve as constitutional precedents for future action."<sup>18</sup> This doctrine of emergency prerogative carried with it two consequences; first the president took actions at his own peril—he would either be hailed as a savior or referred to as a goat—and second, having taken action that he realize he must report to Congress who would serve as the judge and jury of the action that he took.

Providing presidents with this unwritten unauthorized power to defend the country if attacked was not without precedent. Several of the fledgling state governments had explicitly given to their governors' broad power over the militia-powers channeled toward self defense.

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<sup>16</sup> *Ibid.* p. 8.

<sup>17</sup> *Ibid.* p. 9.

<sup>18</sup> *Ibid.* p. 9.

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One such state was New Hampshire whose constitution, written in 1784, provided that the governor of the state...

shall have full power to lead and conduct military forces, to encounter, expulse, repel, resist and pursue by force of arms, as well as by land, within and without the limits of the state; and also to kill[,] slay, destroy, if necessary, and conquer by all fitting ways, enterprise and means, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprise the destruction, invasion, detriment, or annoyance of the state; and to use and exercise over the army and navy, and over the militia in actual service, the law-martial in time of war, invasion, and also in rebellion, declared by the legislature to exist.<sup>19</sup>

The words contained in this clause make it clear that what executive powers, regarding the military, afforded to the state's top official was meant to be limited to defensive operations in response to an invasion or rebellion.<sup>20</sup> Written or not, this seemed to be the intent of the Founding Fathers and subsequent members of Congress since the founding of the country.

In Great Britain executives were given power to grant letters of Marque and Reprisal, meaning they could authorize private citizens to wage war on other countries helping to quickly bolster the nation's army and navy and ensure a quick response to emergencies and threats. As Louis Fisher writes this phrase letters of marquee and reprisal came to refer to any use of force short of a declared war.<sup>21</sup> Unlike Blackstone who believed that the King should and did have the power to issue letters of marquee and reprisal, the delegates to the Constitutional Convention held that such power should not be granted to the chief executive. Framers of the U.S. Constitution placed that responsibility squarely on the shoulders of Congress and equated it with the power to declare war. Quoting from the relevant portion of the document; Congress is given the power "to declare war, grant letters of Marque and Reprisal, and make rules concerning

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<sup>19</sup> Fisher, Presidential War Power (Kansas: University Press of Kansas, 1995), p. 5.

<sup>20</sup> Ibid. p. 5.

<sup>21</sup> Ibid. p. 3.

Captures on Land and Water.”<sup>22</sup> Quite clearly then any initiation of hostile acts or war “whether by declaration or by marquee and reprisal was to be reserved for the Congress.”<sup>23</sup>

Examining what had been incorporated in Article 1 section 8 of the Constitution seems to make it clear that both general warfare and conflicts of a limited nature were to fall under the jurisdiction of the representative branch of the government—except in cases of attack in which the president could take immediate defensive action and then seek the support of the legislative branch through a declaration of war. According to Fisher in his work *Presidential War Power* Thomas Jefferson confirmed this assumption. In 1793, while serving as Secretary of State, Jefferson indicated that marquee, reprisal and waging war were all inter-related. “Making of reprisal on a nation, he said, is a very serious thing...when reprisal follows, it is considered an act of war, and never yet failed to produce it in the case of a nation able to make war.”<sup>24</sup> According to Jefferson, if it did become necessary to invoke this particular power, “congress must be called on to take it; the right of reprisal being expressly lodged with them by the constitution, and not with the executive.”<sup>25</sup>

Further support for this assertion is found in the various components of this section of the constitution. The relevant portion states that congress is...

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

To declare war, grant letters of marquee and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

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<sup>22</sup> *Ibid.* p. 3.

<sup>23</sup> *Ibid.* p. 3.

<sup>24</sup> *Ibid.* p. 6-8.

<sup>25</sup> *Ibid.* p. 6-8.

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To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions;

To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States...<sup>26</sup>

Seven other distinct clauses from article I, Section 8 of the Constitution, which are listed above, also clearly vest war powers in the Congress. Situated at the top of the list is clause 10 which empowers the Congress to define and punish piracies and felonies committed on the high seas as well as providing the legislative branch with the authority to take action against offenses contrary to the law of nations. According to this section, it is Congress who determines when American economic interests are in jeopardy. Attacks perpetrated against U.S. vessels on the high seas presents issues demanding both attention and action. Overlooking such behavior would not only be economically detrimental, it would also encourage continued acts of aggression against American ships and make the U.S. appear weak in the global community. Even so, according to this portion of American law, it was not the place of the president to react to such events. Additionally, the legislative branch is the entity to determine when American lives are being unjustly threatened and the country's over-all national security put at risk. When American ships are captured by pirates, the lives of U.S. citizens are put at risk; however discretion may be

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<sup>26</sup> Terry J. Jordon, The U.S. Constitution and Interesting Facts About It (Oak Hill Publishing Company; 7 edition, December 31, 1998). p 35-40.

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needed to ascertain whether those caught recklessly placed themselves in harms way or were the unsuspecting victims of wanton aggression. Regardless of the circumstances, again it is clearly the responsibility of Congress to determine exactly what has occurred; its implications for U.S. national security and what response is appropriate not the chief executive.<sup>27</sup>

Clauses 12 and 13 were designed by the founders to empower Congress with the ability to raise and support armies and to also provide and maintain a navy. Presidents could as indicated direct military forces but according to the Constitution they could not construct the countries armed forces. Raising an army, either by encouraging individuals to enlist or through conscription was the responsibility of the Congress. Likewise, determining pay for military personnel and appropriating funds to meet the needs rested in the hands of the legislative branch. Responsibility residing with Congress regarding the country's military did not end with personnel; it also extended to the realm of equipment. Because they controlled the nation's purse strings, Congress ultimately was the entity that would make funds available to purchase all needed military stores including naval vessels. Separating responsibility, keeping the executive from being able to raise, develop, equip and continuously supply an army would in the minds of the authors of the Constitution lessen the chance that the president could put together an entity that would be at his disposal and that could be used to impose his will on the nation.<sup>28</sup>

Finally, clauses 14, 15, and 16 authorize Congress to develop and implement rules for the governance and regulation of both the land and naval forces, to call into service the countries militia and to provide for the organizing, arming and discipline of the military. Again, through this section of the Constitution the authors make it clear that governmental power was to be

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<sup>27</sup> Fisher, Presidential War Power p. 7.

<sup>28</sup> Ibid. p. 7.

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diversified. Congress, not the president, was to provide direct oversight over the structure of the military and the manner in which it would operate. Legislatures were seen as the ultimate authority over all military personnel even though most officers were on a path to serve in the military for their entire careers and members of Congress could be voted out of office. Although this could be very discouraging to members of the officer corps and potentially lead to a disjointed military run in an inconsistent manner, it would keep ultimate power out of the hands of strong military leaders as well as out of the hands of the president.<sup>29</sup>

Once finished, the Constitution which had been so painstakingly crafted proved to be an extraordinary document. However, even with all of the strategic planning that went into its construction and its ratification by the states, it was still nothing more than a document. What it really meant in the practice of governance only utilization and time would reveal. As the first government that would serve under the direction of the Constitution would soon discover, it was a piece of work calling for the exploration of its possibilities on a daily basis. Effort would also have to be made to reconcile the contradictions that had not been eradicated during its construction and omissions never fully dealt with would need to be addressed. Dealing with these housekeeping details would occur from the very outset of George Washington's presidency which would also mark the beginning of the presidential-congressional power struggle.

Alexander Hamilton had argued—during the constitutional convention—for the implementation of guidelines which would make it possible for the office of the president to be guided by a very high level of energy. Thomas Jefferson through correspondence with his colleagues had lobbied for just the opposite, a low keyed rather limited presidency. A stark realization that the office would need to consist of a mixture of these characteristics opened the

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<sup>29</sup> *Ibid.* p. 7.

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door for the power struggle that would ensue from the early days of the government. Foreign affairs and how to handle them, or rather who should be in ultimate control of them, was an initial area that would lead to a shift in the balance of power and become controversial throughout the history of the country.

Tools used by sitting presidents to wrestle power from Congress in regards to foreign affairs have included their powers of receiving ambassadors, participating in the negotiating of treaties and executive agreements, enforcing the laws of the land and protecting the country when danger seemed imminent. The most important advantage derived from control of information pertaining to global problems. Presidential activity, which led to Congress being left out of the treaty making process, seemed to go against the intent of the Constitution yet was really quite a simple process. The Constitution clearly states that the president “shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.”<sup>30</sup>

As originally conceived by the authors, the Senate was to play an important role in dealing with foreign dignitaries. In particular, the Senate was to give advice and consent to any treaties brokered between the president and foreign countries. Disagreement over exactly what this meant and how it should work reigned among many of the delegates to the Constitutional Convention as well as among several early politicians. Some held to the notion that the “advise and consent” clause meant nothing, while others believed it made clear the president and the Senate were to go over treaties line-by-line and clause by clause to ensure that the document was acceptable prior to it being signed by the executive. Several presidents have embraced the former view while clearly discarding the latter. Some have indeed sought to strike a

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<sup>30</sup> Louis Fisher, Constitutional Conflicts between Congress and the President (Kansas: University Press of Kansas, 2007), p. 220-226.

compromise. In reality, however, most executives have simply cut the Senate out of the treaty making process.<sup>31</sup> The Senate, however, does have the power to approve—ratify—treaties that have been negotiated by the President, the Constitution specifies that this requires a two-thirds majority.

A prime example of the difficulty of involving the Senate in treaty-making can be seen in the actions of the country's first president, George Washington. Washington sent a message to the Senate on August 21, 1789 indicating that he desired to meet at 11:30 the following day, in the Senate chambers “to advise with them” on the terms of the treaty that would be negotiated with the Southern Indians. Washington intended to share his plans with members of the Senate, receive some advice and then depart to take care of business with the Indians. What happened was not what had been expected by the hero of the Revolution. Having shared his plans, the Senate did as it would so often do throughout its history: refer the matter brought forth to a committee. This forced the president to make a return trip. On this particular occasion not only was Washington embarrassed and angered, he learned to refrain from seeking Senatorial advice regarding treaties at least from the group as a whole. To be sure, the first president continued to seek senatorial advice; he did so, however, by other less conspicuous means.<sup>32</sup>

Following the precedent established by Washington, presidents have negotiated treaties on their own accord. To avert the requirement of Senatorial ratification, presidents turned to the practice of executive agreements which did not require two-thirds support from the Senate.<sup>33</sup> Presidential scholars Glen S. Krutz and Jeffrey S. Peake point out that presidents' not only do

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<sup>31</sup> *Ibid.* p. 220-226.

<sup>32</sup> *Ibid.* p 220-226.

<sup>33</sup> Glen S. Krutz and Jeffrey S. Peake, Treaty Politics and the Rise of Executive Agreements (Ann Arbor: University of Michigan Press, 2009), p.2.

this when their party is weak in the Senate but also when the their own party holds the dominate position in Congress.<sup>34</sup> Out of the “15, 894 international agreements completed by the United States between 1946 and 1999, only 912, or just 5.7 percent, were formal Article II treaties.”<sup>35</sup> According to their argument both the Executive and the Legislature benefit from executive agreements. Executives benefit because the “agreements they make are completed more quickly and with less interference from the Legislature.”<sup>36</sup> Congress also benefits when a president resorts to the use of executive agreements which help to keep the “Senate’s agenda free from the hundreds of agreements that are completed outside of the formal treaty process.”<sup>37</sup> In addition if the Senate was opposed to the presidential use of executive agreements, it could refuse to fund the accompanying provisions, forcing the president to employ the treaty.<sup>38</sup> Finally, “executive agreements provide an important role for the House of Representatives in diplomacy” because many of them are authorized by law or require a positive vote in both chambers.”<sup>39</sup> Congress has thus allowed executive agreements to be utilized by various presidents. Although somewhat different from a treaty, they still carried international obligations for which the United States would be responsible. Removing the Senate from the treaty making process and embarking on executive agreements altered the balance of war making power in favor of the president. Confirmation of this assertion may be found in various presidential dealings yet none seem to be quite as egregious and blatant as what happened in Vietnam.

Case in point: when discussing with the Senate Foreign Relations Committee U.S. involvement in Indo-China, Secretary of State Dean Rusk stated that America had become

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<sup>34</sup> *Ibid.* p. 53.

<sup>35</sup> *Ibid.* p. 2.

<sup>36</sup> *Ibid.* p. 49.

<sup>37</sup> *Ibid.* p. 49.

<sup>38</sup> *Ibid.* p. 57.

<sup>39</sup> *Ibid.* p. 57.

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involved not only because of its responsibility under the South East Asia Treaty Organization agreement or through congressional authorization granted by the Tonkin Gulf Resolution, but also as a result of assistance agreements made between the various presidents and the South Vietnamese government.<sup>40</sup> Responding to the comments made by Rusk, Senator J. William Fulbright retorted that as far as he knew, none of the so called bilateral assistance agreements referred to had ever been submitted to Congress let alone passed by its members. Fulbright went on to ask whether it was possible for unknown agreements of this type to really be deemed as national commitments requiring the use of the military in Vietnam.<sup>41</sup> Arthur Schlesinger Jr. points out that every time a high ranking member of the presidents' administration traveled to Southeast Asia, new commitments were made. Vice President Hubert Humphrey, after the Honolulu conference between President Lyndon B. Johnson and South Vietnamese President Marshall Ky in 1966, described the agreement there as a direct pledge of America as a whole and to the country's posterity to crush aggression, defeat communism and to build strong political entities around the globe that were able to take care of themselves. Humphrey's statement is a clear demonstration of how presidential commitments turn into national obligations without the collaboration of Congress.<sup>42</sup>

Claiming the need to protect the country and American citizens from external danger has been another tool used by various presidents to wrestle power, particularly war making power away from Congress. Millard Fillmore used this rationale, specifically the lives of shipwrecked U.S. sailors who had been treated by the Japanese like they were atrocious animals, to justify sending Commodore Perry to Japan. Fillmore's real intent was to open Japan to American trade. Treatment of U.S. seamen was a concern, however, it was not really of primary importance.

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<sup>40</sup> Schlesinger, *Imperial Presidency* p. 201.

<sup>41</sup> *Ibid.* p. 201.

<sup>42</sup> *Ibid.* p. 201.

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Seeking to obtain his goal(s) the president sent Perry and a small but powerful armada to the Asian islands in 1853 armed with a letter addressed to the Shogun demanding trade relations and better treatment of castaways. Japanese officials were both impressed by the size of the guns and the steam powered ships and bewildered at the same time. Seeing Admiral Perry's fleet in Tokyo Bay led the Japanese to feel utterly defenseless against the forces of the United States.<sup>43</sup>

Perry's instruction from Fillmore was to present the letter outlining the demands and then seek to obtain compliance from the Shogun. If all possible means of argumentation were to become exhausted and persuasion prove to be ineffective and the Commodore was unable to obtain assurances of humane treatment of U.S. seamen, he was to then change his tone and inform the Japanese that "if any acts of cruelty should thereafter be practiced upon the citizens of this country, whether by the government or by the inhabitants of Japan, they would be severely chastised." The U.S. emissary went on to state that "the president has no power to declare war his mission is necessarily of a pacific character, and will not resort to violence unless in self defense."<sup>44</sup> The mission fulfilled the goals of Fillmore and without the shedding of blood on either side. Suppose, however, that the Shogun had resisted the un-friendly overtures of the Americans, stating that all castaways would be treated as prisoners and that America was not welcome to refuel and supply in Japan nor would trade relations be established. Would Perry then have struck back in "self defense?"

Another tool used by sitting presidents to alter war making power is information regarding foreign affairs. Presidents not only acted as the primary channel of communication between the United States and foreign countries, they also possessed a distinct advantage regarding the acquisition of information. The executive branch, often through cooperation with

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<sup>43</sup> *Ibid.* p. 54-57.

<sup>44</sup> *Ibid.* p. 54-57.

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other governments, was able to gather vital facts and sensitive data about international developments, thus enabling it to speak with “authority” on foreign problems. Congress, for the most part, lacked such information.

Presidents have at times worked diligently, whether intentionally or not, to tip war making power in their favor. The legislative branch for its part has allowed this to happen on several occasions, at times unwillingly. Lack of adequate insight and information, fear of challenging the president, an inability to unify and assert power in the area of war making along with concern over how constituents would react to their challenging the Commander and Chief are just a few of the reasons Congress has allowed the balance of power to be altered. Congress has taken actions to re-assert itself and restore the balance of power.<sup>45</sup> A couple of mechanisms used by members of Congress in an attempt to regain equilibrium in war making power have included tightly controlling the nations finances and gaining increased knowledge regarding various countries and world events.<sup>46</sup>

As noted, prior to the Vietnam War, most presidents were able to maintain a distinct advantage in the realm of information. Staffing size has been cited as being a key component in elevating the president’s stature in the foreign affairs and has aided in keeping the balance of power tipped in his favor, in relation to war making. Prior to the early 1970s, both Senators and members of the House of Representative had relatively small staffs. Staff members worked on routine matters and even major committees—such as the Senate Foreign Relations and the Senate Armed Services—yet they were dreadfully undermanned. Like many individual Congressman these units did not have people available to perform in-depth research and provide the members of the committees with the information needed to make well informed decisions.

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<sup>45</sup> Thomas Franck and Edward Weisband, Foreign Policy By Congress (New York: Oxford University Press, 1979), p. 227-244.

<sup>46</sup> Ibid. p. 227-244.

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Beyond handling the scheduling of meetings, taking minutes, distributing needed materials and corresponding with the various members of the committee(s) the assistant(s) had little time for anything else.<sup>47</sup>

Lone congressional staff members may have squeezed out the time necessary to contact the White House and ask for insight regarding issues at hand but would have found themselves turned away empty handed. Most presidents, under the guise of maintaining national security would not release reports even if the material specifically pertained to issues these senators/committees were dealing with. They claimed that sensitive information, if leaked could be either dangerous or rather embarrassing to the United States

Exclusive access to information was not the only advantage held by the president. Concern over challenging the Commander in Chief, especially in a crisis or once a military conflict had begun paralyzed members of Congress into leaving the Chief Executive take any actions he deemed necessary to protect the United States and its interests. Challenging the president and being wrong could be quite detrimental. This fear was reinforced by Congress' relative ignorance about the details of political and military offices.

A fourth component, which has allowed war making power to reside in the hands of the president has been the inability of Congress to develop and stand firmly behind a unified position. Part of the problem in this regard relates to the sheer numbers that make up the House and the Senate. With so many different members—435 in the house and 100 in the Senate during the Vietnam War—each representing divergent views it was almost impossible for a unified position to be obtained. In many conflicts and crises, some members held beliefs very similar to the president and thus were willing to support his actions. Other individuals may have had their own ideas about what actions should and should not be taken. Although a few may

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<sup>47</sup> *Ibid.* p. 227-244.

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have been willing to compromise, many were not and thus the power to hold the president in check was greatly diminished. Besides, partisan politics and ideological differences hindered the capacity of Congress to hold the Commander in Chief in check.<sup>48</sup>

Regardless of other factors concern over how constituents would respond to their opposing the Chief Executive kept many members of the legislative branch from openly challenging his actions. As previously indicated, the President as commander in chief could deploy the military anywhere he deemed to be a threat to the United States. Once deployed, the only recourse the legislative branch had to arrest the actions of the chief executive was to withhold funds necessary for supplying the military forces. Doing this could place the military in harm's way and would not be well received by Americans as a whole. Thus fear over how Americans would react to their attempts to rein in the president led many members of Congress to not only refrain from taking actions to cut off military spending but also from seeking to equalize and balance out congressional/presidential war powers.<sup>49</sup>

The Vietnam War led to Congress' attempt to close the information gap. After the Congressional Budget and Impoundment Act of 1974, the General Accounting Office, known as GAO, became an investigative unit for congress. Although the GAO rejects the notion that it is the investigative arm of the legislative branch, wishing instead to be identified as management consultants it does provide reports for congress as a whole. The GAO also "assists congress with surveys, reviews, and studies mandated by legislation or requested by Congressional Committees or individuals."<sup>50</sup> Beyond the GOA, Congress now has access to the Congressional Research Service and the Congressional Budget Office, both of which help find needed information and

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<sup>48</sup> *Ibid.* p. 210-214.

<sup>49</sup> Fisher, *Presidential War Powers* p. 12-14. Schlesinger, p. 3.

<sup>50</sup> Franck and Weisband, *Foreign Policy By Congress* p. 242-245.

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who generate reports for individual congressmen, committees and the legislative branch.<sup>51</sup>

Broadening the responsibilities of the GOA and developing the other two entities helped Congress bring back balance between itself and the president at least in relation to information and access to it.<sup>52</sup>

The Vietnam War also led to Congress exercising its powers of the purse, although it was limited and late. A case in point would be President Richard Nixon and his attempts to aid the South Vietnamese Government. Believing that military action needed to take place in Cambodia, as a mechanism to stop the passage of weapons and other war stores from traveling from North Vietnam to the South, President Richard Nixon ordered certain targets in Cambodia bombed and later ordered U.S. troops to invade Cambodia. When Congress became fully aware of what was going on, direct actions were taken to bring a halt to Nixon's order. This action came in the form of the Cooper-Church amendment to the Foreign Military Aid Bill. Named for the two senators who sponsored the bill in December 1970—John Sherman Cooper (Republican-Kentucky) and Frank Church (Democrat-Idaho)—this legislation restricted the use of funding already allocated for military spending from being used for the introduction of any more U.S. troops into Cambodia. Accusing Congress of taking away his power as Commander in Chief and of tying his hands, Nixon criticized the Cooper/Church amendment stating that it was hindering the war effort and harming an ally. Regardless of his complaints, the amendment passed. This particular amendment is regarded by many scholars as the first congressional action taken during a war to limit the power of a sitting president. Since 1970, Congress has entertained over 21 bills each meant to severely restrict or completely cut off finances for American military activities occurring on foreign soil. Out of the 21, five gained a majority of votes, bringing military

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<sup>51</sup> *Ibid.* p. 242-245.

<sup>52</sup> *Ibid.* p. 242-245.

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actions to a conclusion in such places as Vietnam (1973) and Somalia (1993).<sup>53</sup> By taking firm control of the nation's purse strings, Congress has re-established its position in the war making process and has brought some balance back to its relationship with the president—at least in regards to war making.

The dilemmas faced by Congress concerning war making powers did not begin forty years ago. Throughout the course of American history a struggle between the president and the legislative branch has existed. More times than not, the executive branch has strengthened its power by controlling events or by focusing on past precedents. A careful examination of five key conflicts makes it clear that presidential action has been based on controversial assumptions and actions.

Advisors to many chief executives have argued that as Commander in Chief, the president has the ability and even the right to involve the country in undeclared wars. They have for the most part based their claims on previous incidents such as the “quasi war” with France. The State Department, in 1966, sought to defend the legality of the actions taken by the president during the Vietnam War. In a quest to win its case, the spokesman for the department made the following statement: “Since the Constitution was adopted there have been at least 125 instances in which the President has ordered the armed forces to take action or maintain positions abroad without obtaining prior congressional authorization, starting with the undeclared war with France.”<sup>54</sup> According to Louis Fisher, the preeminent scholar on presidential/Congressional relations(*Constitutional Conflicts*), claims made in this particular instance about presidential action were quite false. Before outlining what nullifies this argument, some background

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<sup>53</sup> *Ibid.* p. 18-19.

<sup>54</sup> Herring, George, *From Colony to Superpower: U.S. Foreign Relations Since 1776* (New York: Oxford University Press, 2008), p. 81-82.

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information about the conflict over war making itself—situated within the quasi-war with France—will be provided.<sup>55</sup>

The Quasi War fought between the United States and France from 1798-1800 was an undeclared war. In the United States this conflict has been labeled many things including the Franco-American War, the Undeclared War with France, the Pirate War, and the Half War.<sup>56</sup> During the American Revolution France had been a strong supporter and major ally signing a treaty of alliance with the United States in 1778. Seeking to bring ongoing military conflict with Great Britain to an end, the American leaders signed the Jay Treaty in 1795 which resolved many points of contention that existed since the official conclusion of the Revolutionary War. George Herring has pointed out that once France became aware that the United States had negotiated a truce with Britain and had declared neutrality in the conflict that existed between Great Britain and France that France became angry and outraged. He goes on to state that for France discontent over the Jay Treaty was as much a pretext as a cause for conflict between the two countries.<sup>57</sup>

Responding to the actions taken by the American government, French leaders issued orders to capture U.S. merchant ships. President John Adams sent a team of representatives to restore peace and harmony between the United States and France. Chosen for this most important diplomatic mission were Elbridge Gerry, Charles Cotesworth Pinckney and John Marshall, but upon their arrival in France they were denied a meeting with the Foreign Minister, the Marquis de Talleyrand. Instead the American representatives were approached by several intermediaries, Nicholas Hubbard (known as W), Jean Hottinger (X), Pierre Bellamy (Y) and

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<sup>55</sup> Fisher, Presidential War Powers p. 23-26.

<sup>56</sup> Ibid. p. 23.

<sup>57</sup> Herring, From Colony to Superpower p. 81-82.

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Lucian Hauteval (z), who demanded among other conditions a substantial bribe paid to Talleyrand.<sup>58</sup>

This “XYZ Affair” provided the grounds for Adams’ preparation for War. French military vessels were inflicting considerable damage on the U.S. shipping industry. On June 21<sup>st</sup> 1797, Secretary of State Timothy Pickering informed Congress that the French had captured over 300 American merchant ships during the past 11 months. The increased attacks by the French Navy and privateers set the stage for Congress’ authorization of the U.S. navy. On July 7<sup>th</sup> 1798, Congress indicated that it would no longer honor its treaty with France. This date is often considered as the semi-official start of the Quasi-War with France. Two days later, this act was followed by Congressional authorization of attacks on French ships that were a threat to U.S. vessels.<sup>59</sup>

Patrolling the southern coast of the United States and the Caribbean Islands, the U.S. Navy sought out French privateers. By the fall of 1800 the U.S. Navy, working in conjunction with the British Royal Navy, had substantially reduced the activity of the French privateers. The Convention of 1800, which was signed on September 30<sup>th</sup> 1800, brought an official end to the Quasi War between France and America.<sup>60</sup>

Using what happened prior to and during this conflict as a basis for justifying the expansion of presidential war making power was—and continues to be—misguided. During the tense days leading up to the military conflict, Congress openly debated the possibility of war and even entertained a number of bills that would help America prepare for a possible conflict. Contrary to what the State Department officials and members of the Johnson administration argued one hundred sixty years later, President Adams did not believe that he had the right to

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<sup>58</sup> *Ibid.* p 84-88.

<sup>59</sup> *Ibid.* p. 85.

<sup>60</sup> *Ibid.* p. 89-90.

lead the country to war. Arthur Schlesinger Jr. states that Adams's, following what he believed to be constitutional protocol, sent a message to Congress and encouraged them to prepare the country for war and that Congress debated and adopted many of Adams' proposals to support military action. Schlesinger also points out that Congress exceeded his requests passing some twenty laws that were meant to encourage the President to take action and actually wage war.<sup>61</sup> Herring provides for his readers a list of items debated in Congress and ultimately approved during the Congressional debate. These included an increase in the number of ships, approval of a new regiment of naval personnel, reinforcing of port defenses, empowering the president to raise a provisional army, and ultimately the authorization for him to order the seizure of French ships—which he would do.<sup>62</sup>

War in this particular case was never formally declared. Even so there was little doubt that Congress had taken the appropriate steps to authorize it. Fisher points out that “during the debates in 1798, Edward Livingston (Democrat-New York) considered the country now in a state of war; and let no man flatter himself that the vote which had been given is not a declaration of war.”<sup>63</sup> Charles Lee, who was serving as Adams' attorney general, stated that in light of the actions taken by Congress there existed not only a maritime war between America and France but one that had been clearly authorized by the Congress. Consulting with Secretary of State John Marshall on September 4, 1800, Adams asked if he needed to seek a formal declaration of war against France. In Adams mind and according to the opinion of the Supreme Court justices, war had already been declared in accordance with the Constitution and no further action was needed.<sup>64</sup> If this was not reason enough, by allowing and even encouraging the Barbary Pirates

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<sup>61</sup> Schlesinger, *Imperial Presidency* p.21.

<sup>62</sup> Herring, *From Colony to Superpower* p. 87-88, Fisher, *Presidential War Powers* p. 23-26.

<sup>63</sup> Fisher, *Presidential War Powers* p. 23-26.

<sup>64</sup> *Ibid.* p. 23-26.

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France had been making war on the United States which gave Adams the rationale to take needed action.

Alexander Hamilton who was fiercely protective of executive authority came to understand the constraints of presidential power in limited wars. When Congress adapted legislation on May 28<sup>th</sup> 1798, giving the chief executive power to take control of French ships, he asked what the commanders of U.S. ships could do before the passing of that legislation. “Hamilton was not ready to say that [the president] had any other power than merely to employ ships with authority to repel force by force (but not capture), and to repress hostilities within our waters including a marine league from our coasts.”<sup>65</sup> Any actions that went beyond these came under the concept of reprisals and clearly—according to Hamilton—would require input and even the sanction of the entity which was to declare and make war, the Congress.<sup>66</sup>

Because the undeclared war with France led to many court decisions, the prerogatives of Congress, according to Francis D. Wormuth, over war making and the direct use of military force was clearly defined. After providing the opinions of the court he goes on to write that in 1800 and 1801 the Supreme Court made it clear that Congress could approve of hostilities in two ways: either by a formal declaration of war or by statutes that authorized an undeclared war, as had been done against France.<sup>67</sup> Use of the armed forces could be done in a variety of ways including limited engagement, partial or imperfect involvement, none requiring Congress to formally declare war. Echoing the latitude given to Congress by the Founding Fathers in declaring war Schlesinger indicates that war can be either “perfect” or “imperfect.” War could be declared “and involve the whole nation”—a perfect war—or it could be entered into “without

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<sup>65</sup> Ibid. p. 24-25.

<sup>66</sup> Ibid. p. 25.

<sup>67</sup> Francis D. Wormuth, The Vietnam War: The President Versus the Constitution (A Center Occasional Paper), Volume 1, Number 3, p. 7-9.

a formal declaration and involve limited acts of defense and reprisal, an “imperfect” war”<sup>68</sup>

Regarding limited war, Justice Samuel Chase stated “Congress is empowered to declare war, or Congress may wage a limited war, limited in place, in objects, and in time...Congress has authorized hostilities on the high seas by certain persons in certain cases. There is no authority given to commit hostilities on land.”<sup>69</sup> In the second instance, John Marshall wrote on behalf of the Court that “The whole powers of war being, by the constitution of the United States, vested in Congress, the acts of that body can alone be resorted to as our guides in this inquiry”<sup>70</sup> regarding engagement in partial war.

These particular cases in no way suggest that once Congress authorized war that the “president has the right to chose the time, location and degree of military activity.” In giving assent to the country going to war, Congress may define what the chief executive may and may not do. A major component of the legislation of 1798-1800 gave the Commander in Chief the right to seize ships that were heading toward France. Adams went beyond the authority granted him by calling for the capture of vessels traveling to and from French ports. One particular U.S. naval captain followed the order of the president, seizing a Danish ship sailing from France. The Danish government sued him and the case made its way to the Supreme Court. Chief Justice John Marshall, spoke for the high court, stating that the case was very troublesome. “He confessed that the first bias of his mind was pretty strong in favor of the opinion that although the instructions from President Adams could not give a right, they might yet excuse [a military officer] from damages.”<sup>71</sup> Fisher says that in Marshall’s mind:

...the singleness of military hierarchy clearly justified the behavior of Captain Little... Yet after giving more consideration to the situation Marshall determined

<sup>68</sup> Schlesinger, *Imperial Presidency* p. 21.

<sup>69</sup> Fisher, *Presidential War Powers* p. 25-26.

<sup>70</sup> *Ibid.* p. 25-26.

<sup>71</sup> *Ibid.* p. 25-26.

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that the Captain could be sued for damages: I have been convinced that I was mistaken, and I have receded from my first opinion. I in that of my brethren, which is, that the instructions [by Adams] cannot change the nature of the transaction, or legalize an act, which without those instructions, would have been a plain trespass.<sup>72</sup>

What Chief Justice Marshall was saying in his written opinion was that congressional legislation takes priority over any orders given by the president or military actions which are contrary to those stated statutes. Orders issued by the Commander in Chief, in the opinion of Marshall, were subject to restrictions imposed by Congress and that if the “presidents’ instructions collided with the act of Congress, they were illegal...”<sup>73</sup>

In regards to Captain Little, Congress had made the determination that he should not be punished for the actions that he had taken, for doing what he had been ordered to do. After all, in 1789 Congress had encouraged all military officers to “observe and obey the orders of the president of the United States.”<sup>74</sup> Furthermore, in 1799 they enacted legislation which made clear that officers “who shall disobey the orders of his superiors...on any pretense whatsoever shall be subject to death or other punishment.” It would not be until 1800 that Congress changed the responsibility of military officers. No longer were they to blindly follow the commands given them by the chief executive. In fact, they were “strongly encouraged: to not adhere to or execute “unlawful orders given them by superiors.”<sup>75</sup>

Adams was well aware and even fervently believed that he needed the authorization of Congress to wage war against the French. Congress for its part also embraced the notion that they bore responsibility for U.S. military action. As a result the legislators discussed the purposed action the president requested to take and subsequently offered their support. Two

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<sup>72</sup> *Ibid.* p. 25-26.

<sup>73</sup> Wormuth, *The Vietnam War* p. 9.

<sup>74</sup> Fisher, *Presidential War Powers* p. 24-26.

<sup>75</sup> *Ibid.* p. 24-26.

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specific actions or the lack of one particular action served to tip the balance of power regarding war making in favor of the president. First, Congress did not formally or officially declare war on the French, rather it gave its consent for the Commander in Chief to take actions he deemed necessary to end aggression directed toward American ships. Second, the president expanded on what Congress indicated it would support. He took matters into his own hands and Congress did nothing to rein him in and redirect military action to adhere to what they had authorized.

This particular conflict was not the only one that facilitated a swing toward the president in relation to war making power nor has it been the only one that has been used as a rationale for expanded presidential actions regarding war making. The Mexican War was another controversial conflict, one that has been used as a basis for expanded presidential actions concerning war making as well as an event that has strengthened the position of the Chief Executive in his ability to wage war independent of congressional action. Fisher writes: “The power of Commander and Chief is at its low point when there is no standing army because a president cannot deploy troops until Congress raises them. But when a standing army does exist, ready to move at the President’s command, the balance of power can shift decisively. Such was the case with the Mexican War.”<sup>76</sup>

Prior to 1836 the territory of Texas had been under the jurisdiction of the Mexican Government. From 1836 on it sought to solidify its position as an independent Republic by establishing diplomatic ties with Britain, France and the United States. Since a majority of those living in the region had migrated from America, many Texans were in favor of annexation by the United States. Approaching President Andrew Jackson, leaders of the fledgling Lone Star State openly asked to be in-grafted into the nation to their north and thus to become a recognized state. Fearing this step could lead to a full blown military conflict with Mexico and believing that a

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<sup>76</sup> *Ibid.* p. 39.

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war should be avoided, Jackson turn down the request. During the administration of John Tyler, Texas was offered admission into the Union as a state. Texan leaders readily accepted the proposal as the joint resolution of Congress annexing the territory was signed into law by the President on March 1<sup>st</sup> 1845.<sup>77</sup>

Mexican leaders had warned the United States against annexation. Mexico had never recognized the independence of Texas, which it viewed as a rogue territory that would be retaken in the future. When statehood was conferred on Texas by the United States in 1845, Mexico broke off diplomatic relations.<sup>78</sup>

Tensions were not only exacerbated by American recognition of Texas, but also over the official boundaries of the territory. For its part America supported Texan leaders who asserted that the southern boundary was the Rio Grande River, while Mexico said the boundary was marked by the Nueces River. Additionally, Polk had his eye on California, territory occupied by both Mexican and American settlers who were resistive under the Mexican government. This was also quite disconcerting to the Mexican officials.<sup>79</sup> Determined to stand up to for Texas against Mexico, Polk sent a military expedition to the disputed area. In June 1845 General Zachary Taylor was sent to the region and by October of that year there were over 3500 troops located in the area along the Nueces River. It was their task to defend the territory and all Texans from a Mexican attempt to retake the disputed land.<sup>80</sup>

Trying to achieve a peaceful settlement, Polk sent John Slidell on a secret mission to Mexico. Slidell's mission, however, failed as Mexico rejected his offer to forgive the debt owed to American citizens for the damages caused during the Mexican War of Independence and to

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<sup>77</sup> Herring, From Colony to Superpower p. 194-206.

<sup>78</sup> Ibid. p. 194-206.

<sup>79</sup> Bradford Perkins, The Cambridge History of American Foreign Relations, Volume I: The Creation of a Republican Empire 1776-1865 (Cambridge: Cambridge University Press, 1993), p. 187.

<sup>80</sup> Herring, From Colony to Superpower p. 194-206.

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the promise of an additional 25-30 million dollars for California and New Mexico which was seen as a bribe that would blemish the country's national honor. Slidell returned to the United States and encouraged the President to take actions against Mexico.<sup>81</sup>

Polk ordered General Taylor to take his command south to the Rio Grande, the area that was seen by the Mexicans as rightfully belonging to them. Once Taylor and his men were situated on the banks of the Rio Grande, the Mexican military approached and demanded that they leave at once. Seeing that their admonitions were not heeded, the Mexicans prepared for war. On April 25<sup>th</sup> 1846, a Mexican Cavalry unit numbering just over 2000 strong descended on and attacked a 63 man patrol that had been sent into the contested area. Outnumbered and outgunned the confrontation quickly turned into a rout of the Americans who lost 11 soldiers killed.<sup>82</sup>

When Polk received word of the attack he was incensed. The act of "aggression" coupled with the ill treatment of Slidell and the rejection of his offers led Polk to believe he had a strong rationale to declare war on Mexico. Addressing Congress on May 11<sup>th</sup> 1846, he stated that Mexico's army had crossed into the U.S., had invaded America and "had shed American blood on American soil."<sup>83</sup>

Polk told Congress that war existed between the United States and Mexico. Senator John Calhoun was not so sure there needed to be a war and sought to slow the rush in Congress to speed "blindly and mechanically toward a declaration of war, as though all other options had been removed by Polk."<sup>84</sup> He stated that...

I agree...that the President has announced that there is war; but according to my interpretation, there is no war according to the sense of our Constitution. I

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<sup>81</sup> Perkins, The Creation of a Republican Empire 1776-1865 p. 188.

<sup>82</sup> Fisher, Presidential War Powers p. 41.

<sup>83</sup> Herring, From Colony to Superpower p. 199.

<sup>84</sup> Fisher, Presidential War Powers p. 41.

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distinguish between hostilities and war, and God forbid that, acting under the Constitution, we should ever confound one with the other. There may be invasion without war, and the President is authorized to repel invasion without war, but it is our sacred duty to make war, and it is for us to determine whether war shall be declared or not. If we have declared war, a state of war exists, and not till then.<sup>85</sup>

Bradford Perkins points out that Calhoun's motives were not all pure; he did not have the interests of the Constitution or the Mexican people at heart. His real concern was the ethnicity of those who would be made citizens once Texas was brought into the United States. Calhoun stated that "more than half of the Mexicans are Indians, and the other composed chiefly of mixed tribes...I protest against such a union as that! Ours, sir, is the government of a white race."<sup>86</sup> According to Schlesinger, in 1847 John Quincy Adams desired to know if the country was indeed involved in war, if a declaration of war had been made or whether a state of war existed, or both. Most important, if a declaration of war had been issued he desired to know how that could be considering the fact that Congress had not voted for a declaration of war. The Constitution, according to Adams, placed the power to declare war only in the hands of Congress.<sup>87</sup> There were other congressmen who were troubled by what had happened. Senator John Middleton Clayton spoke out against the actions taken by the president stating "I do not see on what principle it can be shown that the president, without consulting Congress and obtaining its sanction for the procedure, has the right to send an army to take up a position, where as it must have been foreseen, the inevitable consequence would be war."<sup>88</sup> Points along very similar lines were put forth during the discussion that took place in the House of Representatives. Representative Isaac E. Holmes stated that members of Congress knew little about what had

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<sup>85</sup> *Ibid.* p. 41.

<sup>86</sup> Perkins, *The Creation of a Republican Empire 1776-1865* p.174.

<sup>87</sup> Schlesinger, *Imperial Presidency* p. 41.

<sup>88</sup> Fisher, *Presidential War Powers* p. 41.

taken place. All they knew was the U.S. and Mexican armies had clashed in disputed territory. Holmes went on to state that he denied “war was absolutely necessary as a result of it.”<sup>89</sup>

Sharing their thoughts regarding presidential war making powers, the Supreme Court issued the following statement: “As Commander in Chief, he is authorized to direct the movements of the naval and military forces placed by law at his command, and employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy.”<sup>90</sup> Fisher calls attention to the language contained in the statement made by the Supreme Court. He points out that it indicated the president could use the military in the manor granted him by law: “the power of the Commander and Chief; necessarily broad, must adhere to the policy declared by congress.”<sup>91</sup> Seeking to defend the actions taken by the president Representative, Robert Rhett stated that Polk had not engaged in war and furthermore he had not recommended that war should be entered into. Continuing to make his case he also said that no state of war existed, but rather a state of hostilities.<sup>92</sup>

Even though there were differing opinions about what took place and how the U.S. should respond and continue to respond, a declaration of war was adopted first by the House of Representatives, on May 11th (174-14) and by the Senate on May 13<sup>th</sup> (40-2). A declaration of war by Congress did not necessarily mean that all legislators agreed that the country should go to war with Mexico. More specifically it did not mean that they supported the actions taken by Polk which directly led to military hostilities. According to Schlesinger, in 1848, while the war was still raging, House doves managed to tack “onto a resolution honoring General Taylor a declaration that the war had been unnecessary and unconstitutionally begun by the President of

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<sup>89</sup> Ibid. p. 42.

<sup>90</sup> Ibid. p. 44.

<sup>91</sup> Ibid. p. 44.

<sup>92</sup> Ibid. p. 42.

the United States.” This particular reprimand passed by a narrow margin in the House, but was struck down in the Senate.<sup>93</sup> Censure of the President did not come quick in this case, but it did occur. Dealing with the situation in 1848, the House of Representatives took actions to do so on the basis that war had been unnecessarily and unconstitutionally begun by the President of the United States. The censure document was approved by a vote of 85-81.<sup>94</sup> Abraham Lincoln, then serving his one term in the House of Representative who voted for censure would later tell a friend:

Allow the president to invade a neighboring nation, whenever he shall deem it necessary to repel invasion, and you allow him to do so, whenever he may choose to say he deems it necessary for such purpose-and you allow him to make war at pleasure...This, our Convention understood to be the most oppressive of all Kingly oppressions; and the resolved to so frame the Constitution that no one man should hold the power of bringing the oppression upon us.<sup>95</sup>

Actions taken by Polk which altered the balance of power in his favor involved the preliminary movements of the U.S. military. Congress, for its part allowed its sense of patriotism and emotions to be played by the president and subsequently rushed into a decision without giving full consideration to what had taken place. Precedent which would be used by future presidents was established as a result of what happened leading up to and during the Mexican War.

Another conflict that helped to swing the balance of power away from Congress and toward the president was the Boxer Rebellion. Actions taken by the Chief Executive during this conflict would be used as an impetus for justifying actions taken by future presidents.

Throughout the twentieth century presidential force was used as a means to settle conflict with non-governmental entities.<sup>96</sup> China, according to Arthur Schlesinger Jr., was yet another

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<sup>93</sup> Schlesinger, *Imperial Presidency* p. 42.

<sup>94</sup> Fisher, *Presidential War Powers* p. 43.

<sup>95</sup> Wormuth, *The Vietnam War* p. 11.

<sup>96</sup> Walter LaFeber, *The Cambridge History of American Foreign Relations*, Volume II *The American Search for Opportunity, 1865-1913* (Cambridge: Cambridge University Press, 1993), p. 177.

country to be subjected to bolder action by America's Chief Executive as he sent the military to engage in warfare without a formal declaration of war from Congress.<sup>97</sup> The two catalysts leading to U.S. intervention were persecution of missionaries/businessmen and the Boxer Rebellion. As for the mistreatment of American missionaries; many men, women and children sought to bring the gospel to the Chinese people whom they believed were backward heathens in need of the saving message of Jesus Christ. Warren Cohen points out that these people gave up the comforts of family and familiar surroundings going off to face unfamiliar dangers as a means to answer the call of their God. Cohen goes on to say that the Chinese had not asked the missionaries to come and were not overly excited about them being in their country. The missionaries "had been among the principle purveyors of Western ideology in China unconsciously working to destroy traditional Chinese society through the introduction of subversive ideas and as such contributed to the unrest that existed in China during the 1890s." Even though the motives of the missionaries may have been pure, a very real problem for them—besides their religious attacks on Chinese custom—came from the fact that they functioned as part of the unequal treaty/trade system.<sup>98</sup>

Although there had been numerous internal wars as different individuals and factions fought for the right to rule China and the country experienced domination by the Mongols, it had for the most part been able to keep foreign powers from encroaching on its territory and establishing settlements until the mid-nineteenth century when Japanese influences, foreign businesses and the influx of western missionaries threatened Chinese culture and sovereignty. As for foreign businesses, the Chinese market place was determined to be very profitable; something that America and many European countries did not want to lose access to.

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<sup>97</sup> Schlesinger, *Imperial Presidency* p. 89.

<sup>98</sup> Warren I. Cohen, *The Cambridge History of American Foreign Relations*, Volume IV *America in the Age of Soviet Power, 1945-1991* (Cambridge: Cambridge University Press, 1993), p 44-45.

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As a mechanism to keep trade relations accessible the “Open Door” policy was thrust on China. This basically gave open trade access to several European powers as well as America. Many Chinese resented the presence of foreigners on their soil and wanted them to leave and to discontinue exploiting China.<sup>99</sup>

These attitudes, concerns and events led to the formation of anti-foreign imperialists groups. One such group was the Society of Righteous Fists. In its attempt to rid the country of any vestige of outside domination or influence, the group adapted the slogan Support the Qing, Destroy the Foreign. In 1898, Boxers, as this group became labeled, began attacking mission compounds across the country. They not only destroyed property and killed missionaries, they also took the lives of any national who claimed to be a Christian and who would not recant. As the persecution of missionaries took place, the United States, along with several other European nations, “demanded that the Chinese government put an end to the outrages against the missionaries and their converts.” Early in the conflict some attention was paid to the demands of the western powers however, according to Cohen, “the success of the Boxers in Shantung and Shansi brought confidence that foreign influence could be purged from China forever. China had suffered enough, all foreigners would die, and there would be an end once and for all to imperialist encroachment and subversion.”<sup>100</sup>

In June of 1900 a significant number of Boxers, both armed and unarmed, came together in Peking to take control of the foreign embassies.<sup>101</sup> Before the siege could take place a conservative faction of the imperial court persuaded the Empress Dowager, who ruled in the name of the emperor, to declare war on the foreign powers that occupied the embassies and who had diplomatic recognition in Beijing. Yielding to the admonition of the anti-imperialists and

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<sup>99</sup> LaFeber, *The American Search for Opportunity* p. 172-173.

<sup>100</sup> Cohen, *America in the Age of Soviet Power* p. 46.

<sup>101</sup> Herring, *From Colony to Superpower* p. 229-236.

demonstrating support and solidarity with the Boxers, the Empress did in fact authorize war to be waged against all foreigners and Christians, sending the army to assist the Boxers in the conflict. The Boxers along with the national army headed to Peking where they would seek to massacre all foreigners including the entire diplomatic community. Several diplomats, foreign civilians, soldiers and a few Chinese Christians fled to the Legation Quarter which became an “embattled fortress subject to incessant attack, cut off from outside contacts” for more 55 days.<sup>102</sup>

Foreign media outlets of the time sought to describe in detail what was taking place in Peking including the alleged torture and murder of foreigners. Thousands of Chinese Christians were massacred during this event yet most of the stories printed in world newspapers of the time focused only on the murder of men, women and children who had been a part of the legation. Because of these reports, a tidal wave of anti-Chinese feelings swept over Europe, the United States and even Japan. In the United States, President William McKinley believed that he had a clear mandate. There was incredible concern for the safety of the Americans trapped in Peking and thus “participation in the relief expedition” would meet, “therefore, with general approval.”<sup>103</sup> McKinley was quite aware that involvement in Chinese hostilities beyond seeking to free those trapped by the Boxers might bring a negative response from the American people. Cohen writes: “in sum, the administration recognized that public interest in China was superficial, that it was neither broad enough nor deep enough for the government to be able to muster the support it would need to become involved in power politics on the Asian mainland.”<sup>104</sup>

The poorly armed Boxers and the Chinese military were ultimately unsuccessful in their attempts to break into and overrun the legation compound, although they were able to keep the

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<sup>102</sup> Cohen, America in the Age of Soviet Power p. 45.

<sup>103</sup> Ibid. p. 48.

<sup>104</sup> Ibid. p. 48.

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relief expedition at bay for a considerable period of time.<sup>105</sup> A first attempt to relieve the penned up garrison was undertaken on June 10<sup>th</sup> unfortunately the force sent was no match for the Boxers and their allies, Chinese irregulars and governmental troops. As a direct result of this first failure the allied nations took the steps necessary to increase their numerical strength. This newly reinforced international coalition, under the command of British Lieutenant General Alfred Gaselee numbered 55,000. Gaselee's troops reached Peking on August 14<sup>th</sup>. Because of the United States presence in the Philippines—both ships and troops had been deployed there since the conclusion of the Spanish-American War—America had been forced to play a secondary but still somewhat significant role in suppressing the Boxer rebellion.

At the time of this crisis Congress was in recess. Determining that the lives of American citizens needed to be protected, President McKinley sent 5000 troops to join an international coalition, military personnel that he would leave in place even after the conflict had been resolved.<sup>106</sup> When McKinley took actions he deemed necessary to protect American lives and interests in Peking, the Philadelphia Times labeled his action as “an absolute declaration of war by the executive without the authority or knowledge of Congress, and that it was without excuse because it was not necessary.”<sup>107</sup> Walter LaFeber points out that after the war McKinley's private secretary stated that...

the Civil War and the 1898 War had shown that the presidency had become neither more nor less than elective monarchy, limited as to duration, and regulated as to finance, but otherwise nearly unfettered...the formless people when excited always hunger for a leader, and they get one. In the China crisis, the elective monarchy's power further expanded.<sup>108</sup>

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<sup>105</sup> Herring From Colony to Superpower p. 331-336. [www.history.navy.mil/faqs/faq86-1.htm](http://www.history.navy.mil/faqs/faq86-1.htm)

<sup>106</sup> LaFeber, The American Search for Opportunity p. 177.

<sup>107</sup> Fisher, Presidential War Powers p. 58-59.

<sup>108</sup> Cohen, America in the Age of Soviet Power p. 177.

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Responding at the time to the notion that the president had taken actions that were illegal and unconstitutional, Elihu Root, Secretary of War “stated that no law forbade the president to send troops into any country where he considered it to be his duty as Commander in Chief of the army to send them, unless it be for the purpose of making war for which he was not authorized.”<sup>109</sup> In this case the president had not made war; rather he took actions to protect United States citizens which he was bound by the virtue of his office to do.

Once Congress reconvened, McKinley laid before the members the actions he had taken and sought to make it clear that his actions “involved no war against the Chinese Nation.” Louis Fisher provides more insight into the rationale used by the Chief Executive. He points out that McKinley made the claim that “troops were used to rescue Americans from the imperial legation, obtain redress from wrongs committed, secure the safety of American life and property, and prevent a spread of the disorders or there recurrence.”<sup>110</sup>

Unlike the Senate which as a whole did not seem to object or really care about what had happened, the United States court system spoke out in opposition to what had taken place, not buying the argument that America was acting defensively and not at war. Fred Hamilton, a member of the U.S. military was accused of murder and subsequently found guilty by a military court. The basis for his trial was rooted in the 58<sup>th</sup> article of war which required that a general court martial occur during war when crimes had been committed.<sup>111</sup> If the United States was not at war, then why had Hamilton been brought before a military tribunal and court-marshaled? When asked to provide input into whether the United States was at war with China, a circuit court in Kansas stated that because Congress had increased the pay of military personnel engaged in conflict in China to the amount paid in times of actual combat it would seem that the

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<sup>109</sup> Schlesinger, *Imperial Presidency* p. 90.

<sup>110</sup> Fisher, *Presidential War Powers* p. 58-59.

<sup>111</sup> *Ibid.* p. 58-59.

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country was indeed at war.<sup>112</sup> Based on that particular legal finding, regarding the occupation of Chinese territory by the American troops and the various military conflicts that existed in China “a condition of war, within the spirit and intent of the article of war”<sup>113</sup> did exist in that Asian country. Again, according to Fisher, McKinley sought to justify his actions but in the end was guilty of overstepping the bounds of his authority.<sup>114</sup> Congressional reaction to what had taken place only served to tip the balance of power in relation to war making away from Congress and in favor of the President.<sup>115</sup>

A fourth conflict which helped solidify presidential initiative and the execution of continued military actions either in times leading up to or during war itself occurred during World War II. The behavior of Franklin Delano Roosevelt prior to and throughout this conflict directly aided the cause of future presidents in justifying military actions they would take that involved the country in war.

During the 1930s the leaders of Germany, Italy and Japan all sought to achieve their expansionist goals. At the same time President Roosevelt was “trying to navigate between a peace movement that wanted Washington to remain neutral and a growing belief that the national interest required the U.S. to give aid to allies.”<sup>116</sup> The biggest problem for Roosevelt was that; with the memory of W.W.I still fresh on the minds of many people there was a lack of desire to give any type of war assistance to other nations.<sup>117</sup> While Hitler’s army consumed more and more territory in Europe and Japan devoured East Asia the president sought to nudge a reluctant nation toward supporting allies threatened by aggression.

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<sup>112</sup> *Ibid.* p. 58-59.

<sup>113</sup> *Ibid.* p. 58-59.

<sup>114</sup> *Ibid.* p. 58-59.

<sup>115</sup> *Ibid.* p. 58-59.

<sup>116</sup> Gillon and Matson, *The American Experiment: A History of the United States, Volume II* (Boston: Houghton Mifflin Company, 2006), p. 1011-1012

<sup>117</sup> Robert Dallek, *Franklin D. Roosevelt and American Foreign Policy, 1932-1945* (New York: Oxford University Press, 1979), p. 102.

Symptomatic of the mood throughout the 1930s, Congress passed three major Neutrality Acts. In 1935 a non-negotiable embargo was placed on the sale of arms and ammunition to any country at war. One year later congress placed a ban on loans to any faction engaged in hostile activities. In May 1937 Congress, focused on what had taken place between 1914-1917, enacted laws to keep American ships from traveling in to war zones, to prohibit Americans from traveling on foreign ships, and to extend the embargo to include not just military armament but also the oil, steel and rubber needed for war machines.<sup>118</sup> Foreign governments could secure these materials only if they paid for them on a “cash and carry” basis. These particular acts were borne out of a pacifistic desire of many Americans to stay out of war and to diminish the likelihood of engaging in actions that had pushed the country toward W.W.I. By using strong legal words, which were the equivalent of strong cords, observed David Kennedy, Congress had put in place restraints that made the United States essentially powerless in the face of the global conflict that was about to take place.”<sup>119</sup> Roosevelt for his part did not like the laws that had been enacted and had even threatened to veto them, although he did not take that action. He believed in his heart that America would be forced to take action against Berlin and these particular pieces of legislation would make it very difficult for him to do what he felt would need to be done.<sup>120</sup>

In late 1939, after war had begun in Europe and Asia, United States support was with the Allies. Many Americans held to the belief that Britain and France could take care of themselves without assistance and that Hitler could be contained. Those notions were dispelled by a German offensive that took place in April 1940. On April 9<sup>th</sup> Hitler’s military invaded Denmark, and then German troops stormed into Norway, the Netherlands, Luxembourg, Belgium and on into

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<sup>118</sup> Dallek, Franklin D. Roosevelt and American Foreign Policy p. 101-110, 137ff. 200ff.

<sup>119</sup> Gillon and Matson, The American Experiment p. 1015.

<sup>120</sup> Dallek, Franklin D. Roosevelt and American Foreign Policy p. 102.

France.<sup>121</sup> When France fell F.D.R. gave up any pretense he had maintained regarding neutrality and committed the United States to a policy of all aid to the allies short of war. Over the course of time, Congress would approve “Roosevelt’s request for 8 billion in funds to rearm the nation and it would also approve a one-year draft, the first peace time draft in American history.”<sup>122</sup> One significant act taken by the president was providing “the British fifty World War I vintage destroyers in exchange for leases to eight British military bases.”<sup>123</sup>

Britain had not been the first to request the use of older destroyers to bolster its naval forces. Prior to their appeal France had asked President Roosevelt if the Americans would make some of its older ships available for their use in the Mediterranean Sea. Roosevelt stated that he did not have the constitutional authority to authorize such an action. He indicated that “any exchange for American destroyers was probably unacceptable because of the enormous sea area which must be patrolled by America; we needed all of our ships. Additionally it would require Congressional action which might be very difficult to get.” The old destroyers could not be sold as obsolete as proved by fact since “all of them are now in commission and in use or are in process of being commissioned for actual use.”<sup>124</sup> Although Roosevelt made it clear to France that no deal could be achieved, rumors suggesting that such action was being considered by FDR led Congress to pass legislation on June 28<sup>th</sup> 1940, that prohibited any U.S. ship being loaned “unless the Chief of Naval Operation or the Chief of Staff of the Army first certified that such material was not essential to the defense of America.”<sup>125</sup>

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<sup>121</sup> Robert Divine, The Reluctant Belligerent: American Entry into World War II (New York: John Wiley and Sons, Inc, 1979), p. 86-87.

<sup>122</sup> Ibid., p. 90.

<sup>123</sup> Schlesinger, Imperial Presidency p. 105-110.

<sup>124</sup> Fisher, Presidential War Power p. 76.

<sup>125</sup> Divine, The Reluctant Belligerent p. 93.

Desperate and unwilling to take no for an answer, Prime Minister Winston Churchill pushed very hard to get the president to make destroyers available to Great Britain. Although sympathetic to Churchill's plight Roosevelt, in the words of Robert Dallek;

...saw insurmountable legal and political barriers to such a sale. The argument that Britain could legally purchase old destroyers because it would strengthen rather than weaken American defenses left Roosevelt un-persuaded. He saw recent Congressional restrictions on transferring war material as a complete prohibition against selling destroyers, and even if it were not, he believed that Congress was in no mood at the present time to allow for any sale.<sup>126</sup>

Herring indicates that Roosevelt was initially "aware that the destroyer for bases deal would stretch the Constitution to the limit and as a result he is said to have feared impeachment."<sup>127</sup>

Roosevelt, according to Schlesinger, knew in his mind that "a step of this kind could not be taken without the specific authorization of Congress."<sup>128</sup> Louis Fisher points out that Roosevelt took the request to his cabinet and that while the request was being discussed several ideas were suggested for transferring the ships without going to congress for authorization. Having been ...

...persuaded by prominent jurists that the Executive could act without congressional action, Roosevelt cabled Churchill that he thought it possible to supply Britain with at least fifty destroyers, twenty torpedo boats, and ten modern planes. Roosevelt based his actions, providing Britain with needed war materials on the fact that such actions would enhance the "defense and security of the United States."<sup>129</sup>

In return Churchill had to provide the United States with leases to several naval bases that could be used by the U.S. Navy as a means of protecting the mainland from attack. Giving up over-aged destroyers in return for highly valuable bases would certainly be something that the American people and Congress could embrace.<sup>130</sup> In order to sell the idea to the American people the administration tapped into the popularity of General John J. Pershing, having him

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<sup>126</sup> Dallek, *Franklin D. Roosevelt and American Foreign Policy* p. 244.

<sup>127</sup> Herring, *From Colony to Super Power* p. 524.

<sup>128</sup> Schlesinger, *Imperial Presidency* p. 105.

<sup>129</sup> Dallek, *Franklin D. Roosevelt and American Foreign Policy* p. 245.

<sup>130</sup> *Ibid.* p. 245.

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make a formal request that the United States provide both England and Canada with fifty destroyers of World War I vintage. Once Pershing had paved the way, FDR indicated that an agreement had been reached that called for the exchange of 50 “over-aged destroyers with Britain in return for the right to use bases on British islands in the Atlantic and Caribbean.”<sup>131</sup> This deal was not presented to Congress, nor was there any intention to do so; it was negotiated as an executive agreement, meant to circumvent Congress.<sup>132</sup>

Indeed, destroyers for bases” seemed like a good “bargain.” Jean Edward Smith writes in his biography of Roosevelt:

Public reaction was overwhelmingly favorable. On Capital Hill criticism was muted. The transaction was so manifestly to America’s advantage that even the most ardent isolationist found it difficult to find footing. Litigation brought by individual citizens to challenge the constitutionality of FDR’s actions was routinely dismissed by federal district courts because plaintiffs lacked standing to sue.<sup>133</sup>

Seeking to defend the constitutionality of this agreement, Attorney General Robert Jackson stated that Roosevelt as Commander in Chief was obligated to use the authority provided him by the Constitution to see that the country had “adequate bases and stations for the utilization of naval and air weapons of the United States in our defense.”<sup>134</sup> Many legal experts did not agree with Jackson’s argument. One such individual stated that “The destroyers have by now been transferred; but let no one say that it was accomplished legally. The supplying of these vessels by the United States Government to a belligerent is a violation of international law.”<sup>135</sup>

Schlesinger indicates that thirty years later this particular deal was often cited by members of Congress as an “instance of indefensible presidential activism.” “Senators Church and Fulbright

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<sup>131</sup> Fisher, *Presidential War Power* p. 76.

<sup>132</sup> Schlesinger, *Imperial Presidency* p. 105.

<sup>133</sup> Jean Smith, *FDR* (New York: Random House, 2007), p. 472.

<sup>134</sup> Fisher, *Presidential War Power* p. 76-77.

<sup>135</sup> *Ibid.* p. 76-77.

said that Roosevelt in sending the destroyers through executive agreement usurped the treaty power of the Senate.”<sup>136</sup> The Constitutional scholar Edwin S. Corwin took Jackson to task for his assertions regarding the destroyer deal stating that it was indeed an invasion of “congress’s power to define for the United States the requirements of international law respecting neutrality and an invasion of Congress’s constitutional power to declare war.”<sup>137</sup> Presidential Scholars Glen S. Krutz and Jeffrey Peake point out that many political scientists also believe that in negotiating the deal Roosevelt ran roughshod over Congress.<sup>138</sup>

What was presented to Congress, in March 1941 became known as the Lend-Lease Act. According to George Herring, this was a very “cleverly packaged piece of legislation known as the Bill to Promote the Defense of the United States.” It gave to “the president unprecedented authority to sell, transfer, exchange, lease, lend and otherwise dispose of any war material to any nation whose protection was deemed vital to the defense of the United States.”<sup>139</sup> What this legislation did do was skirt the “cash-and-carry” provisions of the Neutrality Act.<sup>140</sup> Regardless of how Roosevelt went about accomplishing Lend-Lease it enjoyed the support of a majority of the American people and was approved by a substantial majority in Congress.

Another situation, one that involved direct military involvement and that also served to swing the balance of power toward the president in relation to war making power was the Korean War. Through Truman’s actions, the U.S. became involved in a war without congress making a formal declaration or authorization of any type.

In January 1950 when Dean Acheson outlined the defensive perimeter the United States would seek to guard and protect in Asia he failed to mention Korea, but he did indicate that an

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<sup>136</sup> Schlesinger, *Imperial Presidency* p. 105.

<sup>137</sup> Fisher, *Presidential War Power* p. 76-77.

<sup>138</sup> Krutz and Peake, *Treaty Politics and the Rise of Executive Agreements* p. 39.

<sup>139</sup> Schlesinger, *Imperial Presidency* p. 524.

<sup>140</sup> Herring, *From Colony to Superpower* p. 524.

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attack there would be referred to the United Nations.<sup>141</sup> When the Second World War came to a conclusion the U.S. and Soviet Union temporarily divided Korea, which had been occupied and controlled by Japan, at the 38<sup>th</sup> parallel. Cold War tensions began to escalate from even before the conclusion of the war. These tensions directly hindered any thought let alone attempt to reunify the country. Kim Il Sung was placed in charge of the North by the Russians and Syngman Rhee who was a conservative nationalist was selected by the Americans to rule in the South. Even though the United States was involved in dividing Korea and seeing that a non-communist was placed in charge of the southern portion of the country, Korea was not high on the American priority list. As further proof, in June 1949 the U.S. military was pulled out of the country.<sup>142</sup>

Priority within American foreign policy interests however was greatly altered when on June 25, 1950 110,000 North Korean troops crossed the 38<sup>th</sup> parallel and attacked South Korean forces—sending them on a rather hasty retreat. Events leading up to and during the early phase of the invasion seemed to be unclear, but documents held within “the Soviet archives, made available to historians at the end of the Cold War,” indicate that it was the North Koreans and not the Soviets, that called for and pushed the invasion. U.S. officials, led by President Truman, viewed the situation in a completely different way. Truman saw the invasion as a carefully planned and Soviet engineered assault that perhaps marked the beginning of a much broader Soviet attack on America and its global allies.<sup>143</sup> Memories from World War II, particularly western appeasement of Hitler was still quite fresh in Truman’s mind and thus he immediately

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<sup>141</sup> Gary Hess, Presidential Decisions for War: Korea, Vietnam and the Persian Gulf (Baltimore: Johns Hopkins Press, 2001), p. 12.

<sup>142</sup> Ibid. p. 13ff.

<sup>143</sup> Alonzo Hamby, Man Of The People: A Life of Harry S. Truman (New York: Oxford University Press, 1995), pp. 536-537.

ordered U.S. air and naval forces into the region to provide support for the South Koreans.<sup>144</sup> In his memoirs Truman wrote, “if this was allowed to go unchallenged it would mean a third world war, just as similar incidents had brought on the second world war.” On Sunday June 25<sup>th</sup> 1950, the United States requested that the United Nations Security Council label North Korea as the unjustified aggressors and place them under sanctions.<sup>145</sup> On June 27, the United States asked that a coalition force be sent to South Korea to help protect it from further destruction and ultimate defeat. Those resolutions passed because the Soviet Union, which had the power to use its veto to defeat the measure, was boycotting the United Nations. Defense of South Korea was theoretically thus a United Nations undertaking, but in all reality it was the United States who provided the largest force, over half of the United Nations ground troops and a vast majority of the air and sea power.<sup>146</sup>

Although he sought the support of the United Nations, Truman was not willing to wait for his allies to move and as a result took matters into his own hands sending United States Military personnel to Korea prior to the passage of the resolution.<sup>147</sup> If this were not bad enough, it was not until June 27<sup>th</sup>, that Truman met with Congressional leaders. Instead of asking for the support of Congress and then taking action he took action, informed Congress and then was given their support.<sup>148</sup> Congressional reaction toward Truman’s behavior leading up to and during American involvement in Korea was for the most part either supportive or passive. Senator William Knowland, (Republican-California) informed his colleagues that the President had the necessary authority under the Charter and under his powers as Commander in Chief to

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<sup>144</sup> Gary Hess, *Presidential Decisions for War* p. 9.

<sup>145</sup> Schlesinger, *Imperial Presidency* p. 131.

<sup>146</sup> Herring, *From Colony to Superpower* p. 633.

<sup>147</sup> Hess, *Presidential Decisions for War* p. 22.

<sup>148</sup> Schlesinger, *Imperial Presidency* p. 131.

take the actions he did in Korea.<sup>149</sup> Attempting to justify the steps taken by the president some members of the State Department indicated that “history will show that on more than 100 occasions in the life of this Republic the President as Commander in Chief has ordered the fleet or the troops to do certain things which involved the risk of war without seeking Congressional consent.”<sup>150</sup> Louis Fisher notes that “this list of alleged precedents for unilateral presidential action contains not a single military adventure that comes even close to the magnitude of the Korean War.”<sup>151</sup> Edwin Corwin points out that the list referred to primarily includes “fights with pirates, landings of small naval contingents on barbarous or semi-barbarous coasts, the dispatch of small bodies of troops to chase bandits or cattle rustlers across the Mexican border and the like.”<sup>152</sup>

Some members of Congress desired that Truman seek a formal declaration of war and argued that he should have come to congress before taking initial action to stabilize the situation. Representative Vito Marcantonio (ALP-New York) adamantly stated that “when we agreed to the United Nations Charter we never agreed to supplant our Constitution with the United Nations Charter. The Power to declare war is vested in the representatives of the people, in the Congress of the United States.”<sup>153</sup> Senator Robert Taft (Republican-Ohio) pointed out that when the United States became a member of the United Nations a new system for dealing with certain situations such as conflict was created. He went on to say, however, that did not provide justification for the actions that the president was taking in Korea. Taft stated that involvement in the United Nations did not create an environment giving the Commander in Chief permission

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<sup>149</sup> Ibid., p. 132.

<sup>150</sup> Fisher, Presidential War Power, p 100-101.

<sup>151</sup> Ibid., p. 100-101.

<sup>152</sup> Edwin S. Corwin, “The President’s Power” The New Republic, January 29, 1951.

<sup>153</sup> Fisher, Presidential War Power p. 100-101.

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to enter into war without the consent of Congress.<sup>154</sup> To make his case he cited section 6 of the United Nations Participation Act pointing out that “no special agreement had ever been negotiated by the Truman administration and submitted to Congress for its approval.”<sup>155</sup> Senator H. Alexander Smith (Republican-New Jersey), following suit with Taft, stated that the president should have requested a joint resolution. Another concerned Senator, Kenneth Wherry, also believed that the president should not have acted without Congressional authorization.<sup>156</sup>

Close to one year after the war had started, several Senators engaged in a debate which completely destroyed the Truman Administrations rationale for U.S. participation in the conflict. Critics charged that the manner in which Truman used troops in Korea was a clear cut violation of the United Nations Charter, the United Nations Participation Act and the repeated utterances of Dean Asheson and other top governmental officials that such actions would not be taken. “Truman used Military force before the second security counsel resolution.”<sup>157</sup> Regardless that the White House claimed the event taking place in Korea was a “police action” and not a war; it was not even a bonafide United Nations action.<sup>158</sup>

While certain members of Congress were criticizing Truman key individuals from the academic community were coming to his support. The historian Henry Steele Commager in an article published on January 14, 1951 remarked that objection to the course of action taken by Truman “had not support in the law or history.” Unfortunately for both Commager and Truman, his rationale was rather weak. Seeking to make his case he stated that...

...it is an elementary fact that must never be lost sight of that treaties are laws and carry with them the same obligation as laws. When the Congress passed the United Nations Participation Act it made the obligations of the charter of the

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<sup>154</sup>Hess, Presidential Decisions p. 25-26; Schlesinger, p. 132.

<sup>155</sup> Fisher, Presidential War Power p. 101-102.

<sup>156</sup> Hamby, Man of the People p. 538; Schlesinger, p. 132.

<sup>157</sup> Fisher, Presidential War Power p. 101-102.

<sup>158</sup> Hess, Presidential Decisions p. 27ff.

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United Nations law, binding on the President. When the Senate ratified the North Atlantic Treaty it made the obligations of that treaty law, binding on the President.

Both of these famous documents require action by the United States which must, in the nature of the case, be left to a larger extent to the discretion of the Executive.<sup>159</sup>

Reviewing the statement of Commager makes it clear that he sought to inflate the power of the President under the Mutual Defense Treaty while at the same time ignoring the legislative text and history of the United Nations Participation Act.

The historian Arthur Schlesinger Jr. also defended the actions taken by Truman in Korea. He publically challenged the statement made by Senator Robert Taft which in essence indicated that President Truman “had no authority whatever to commit American Troops to Korea without consulting Congress and without Congressional approval and that by sending troops to Korea he simply usurped authority, in violation of the laws and the Constitution.”<sup>160</sup> Louis Fisher points out that Schlesinger responded to the remarks made by Taft indicating that they were “demonstrably irresponsible.” Focusing on American history and specifically the Jefferson Administration he pointed out that the president had used ships to discourage the actions of the Barbary Pirates. Continuing to make his case, Schlesinger asserted that throughout the course of American history Chief Executives had “repeatedly committed American naval forces abroad without prior Congressional consultation or approval.”<sup>161</sup>

The problem with Schlesinger’s argument was that it failed to acknowledge that Jefferson himself pointed out to Congress that he was not authorized by the Constitution to take such actions without its consent—that went beyond defending the borders of the country. An examination of the constitution makes it clear that congress is the entity to authorize offensive

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<sup>159</sup> Henry Steele Commager, “Presidential Power The Issue Analyzed,” *The New York Times*, *New York Times (1857-Current file)*; Jan 14, 1951; ProQuest Historical Newspapers The New York Times (1851 - 2006), pg. SM6

<sup>160</sup> Hess, *Presidential Decisions* p. 26; Fisher *Presidential War Power* p. 102-103.

<sup>161</sup> Fisher, *Presidential War Power* p. 102-103.

actions taken by the United States. Regarding the Barbary Pirates, Congress gave consent—through the passage of ten statutes—and supported the actions taken by both Jefferson and Madison in defending American interests from the Barbary Pirates. In making his case—to defend the actions of the Commander in Chief, Schlesinger did not utilize an example of presidential action that was even remarkably similar to that taken by Truman in Korea. According to Fisher “years later he (Schlesinger) expressed regret that in calling Taft’s statement irresponsible, he had responded with a flourish of historical documentation and, alas, hyperbole.”<sup>162</sup>

During America’s involvement in Vietnam both Commager and Schlesinger publicly apologized for the ringing endorsements that they had given to presidential war powers. Sickened by what was going on in Vietnam, Schlesinger called for something to be done so that Congress would have more say in the country’s future direction regarding foreign policy. He also called for this to be something done on an ongoing basis not just as a means to address what was happening in Vietnam.<sup>163</sup> By 1973 Schlesinger indicated that the concept of “prerogative was not part of Presidential Powers as defined by the Constitution, although it remained in the back of [the framers’] mind[s].<sup>164</sup> As for Commager, in 1967, while addressing the Senate he stated that there was a definite need for the presidential/legislative relationship regarding foreign affairs to be reexamined and readjusted. Additionally, in 1971, while again before Congress, he indicated that there was without a doubt a great need for stronger congressional checks on presidential war powers.<sup>165</sup>

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<sup>162</sup> Ibid., p. 103-104.

<sup>163</sup> Arthur M. Schlesinger, Jr. and Alfred de Grazia, Congress And The Presidency: Their Role In Modern Times (Washington D.C.: American Enterprise Institute for Public Policy Research, 1967), p. 27-28.

<sup>164</sup> Schlesinger, The Imperial Presidency p. 9.

<sup>165</sup> Fisher, Presidential War Power p. 103-104.

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Both Schlesinger and Commager may have been correct, there may have been a need for stronger congressional checks on the president. After all, as a direct result of the actions taken by Truman during the Korean War the ability for presidents to take bolder actions either leading up to or during times of military conflict had grown. The balance of power was not only continuing to shift in favor of the president, it was becoming firmly affixed to the responsibilities and duties of the Chief Executive.

Utilizing the precedent established by these and other examples Lyndon Baines Johnson further involved the United States in what would become known as the Vietnam War. Attempting to strip Johnson and the office of the president of its expanded war powers, two senators argued that the various precedence being relied upon were faulty and misconstrued. These two argued that first and foremost it was Congress which had the constitutional authority to declare war and that no military actions short of repelling an invasion of the home land should supersede that mandate. Once war had been declared, it was the constitutional role of the president to prosecute the war—to direct the actions of the military. Making repeated attempts to reorder the balance of power and extricate the United States from the War in Vietnam, Senators Ernest Gruening and Wayne Morse relied on the following institutional arguments—which again came from the conflicts previous outlined—to make their case and demonstrate that presidents had indeed superseded their powers and had taken actions that instigated war,

During the Quasi war with France, President Adams had indeed requested Congress's permission to take action against French ships that were attacking American ships. Congress debated the request and determined that any ship heading into a French port could be stopped, searched and even attacked if necessary. Adams was given the freedom to take limited actions. Expanding on what Congress authorized, he ordered the attack of any ship entering or leaving

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French ports as well as on any French vessels sailing the high seas—also on any ship not flying a French flag that looked suspicious. As indicated he took actions that had not been sanctioned. When brought before the Supreme Court, it was determined that Adam’s actions were unconstitutional, that to wage a full fledged war, as he was doing, he needed a congressional declaration of war, a determination by Congress that war was necessary and a formal sanction of military activity. Alexander Hamilton representing the Congress and John Marshall the Supreme Court both voiced this sentiment.

During debate on the Tonkin Gulf Resolution on 6-7 August, Gruening and Morse sought to build on the arguments made by their predecessors.<sup>166</sup> They each stated, as their forerunners had pointed out, that it was unconstitutional for the president to involve the country in war, only Congress could do that. Also, Congress had to be the arm of government to take action and declare war on an enemy, whether limited, partial or all out in nature, just as Alexander Hamilton and John Marshall had stated regarding the undeclared Naval War with France. Although there is no clear evidence to suggest that either Gruening or Morse used this particular event from United States history to bolster their argument, it is clear that they adopted some of the same arguments. Passing the resolution before the Senate would give a “blank check” allowing the president to take whatever actions he desired. Much like Adams during the quasi war, he could involve the U.S. more deeply than desired by Congress and subsequently Congress would have little recourse to stop him. Using this resolution Johnson, like Adams before him, took the country to war. It was up to Congress to establish the parameters from which the President as Commander in Chief could work. For his part the president was not to supersede the directives

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<sup>166</sup> The following references to the Gruening and Morse’s’ position on Vietnam comes from their comments during the Tonkin Gulf Resolution debate found in the Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964, pp. 18130-18560.

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of Congress. Boundaries needed to be tightly controlled by Congress to ensure that the actions being taken were acceptable to both Congress and the American people. Congress according to the Constitution needed to be the organism deciding when the country should go to war and subsequently to declare it.

Not only did Gruening and Morse passionately state that Congress was the body to declare war, they also pointed out—much like Abraham Lincoln had in 1848—that the actions of the president brought on war and as such the U.S. should refrain from further involvement. Harking back to the Mexican War, a few senators believed from early on that Polk had taken actions to bait the Mexicans into firing on America soldiers. Members of the Senate at the time also doubted the truthfulness of the statements made by the president. In particular they were not really sure that the soldiers who were fired on were located on American soil. These Senators believed that the U.S. military personnel were on disputed or even Mexican soil. If the American forces were indeed on disputed soil or in Mexican territory they could have been viewed as a hostile force and subsequently fired on by the Mexicans who were seeking to defend their territory. Congressmen such as Lincoln believed that Polk knew this would be the outcome. Beyond the concerns just articulated those who had reservations about going to war with Mexico thought that more information was needed and attempts at negotiation attempted prior to engaging in war with their southern neighbors.

Again there are some stark similarities between the concerns voiced by those who had reservations against American participation in the Mexican War and Gruening's and Morse's opposition to U.S. involvement in Vietnam. While doing research for this particular project, there was no evidence uncovered to suggest that when speaking out against U.S. involvement in Vietnam, either senator pointed to the actions of Polk in regards to the Mexican War. Morse was

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a constitutional scholar who taught Constitutional Law at the University of Oregon prior to his becoming a U.S. Senator. Because of his background, it would seem likely that he was well aware of the previous actions of Chief Executives—such as Polk—which led the country into war. Regardless of any direct knowledge of these past events, both senators echoed the institutional arguments that had been made from year to year in the nation's history. Following suit with John Middleton Clayton, Isaac E. Holmes, John Quincy Adams and Abraham Lincoln, they argued that the U.S. should not become further involved in Vietnam and should even extricate itself because war in the small Southeast Asian country was not necessary. The basis for this argument—much like the one made during the Mexican war—focused on the fact that the Senate did not have enough information to justify declaring war. Gruening and Morse also argued, with stark similarity to Isaac E. Holmes, that all avenues of diplomacy had not been exhausted and most importantly along a similar vein with Lincoln—that the North Vietnamese had been baited into war. It was this final argument which bore the closest parallel to the concerns voiced against going to war with Mexico. While addressing the Senate, both Gruening and Morse called into question what had happened in the Tonkin Gulf. Like Lincoln in the case of Mexico they believed that the North Vietnamese had been provoked and that the President was not being completely honest about what had taken place on August 2<sup>nd</sup> and 4<sup>th</sup> 1964. Was the destroyer Maddox on routing patrol minding its own business as Johnson argued or had it been a part of military raids involved in attacks on North Vietnamese facilities? Gruening and Morse would argue that it was the latter and as such that President Johnson had drawn the North Vietnamese into war.

As they continued to make a case against the passage of the Tonkin Gulf Resolution and further U.S. involvement in Vietnam, Gruening and Morse stated that American lives would not

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have been in harm's way if not placed there by the president. They also pointed out that actions taken prior to the incidents in the Gulf had been done without congressional support—which was required. Arguments made by these two were stark similarities to those made against the actions taken by President McKinley during the Boxer Rebellion. McKinley justified his behavior initially by stating that American lives were in danger and that force needed to be taken to protect the U.S. citizens living abroad. Although there is some divergence in relationship to this particular argument, there is also considerable overlap. The major difference here was United States civilians had become involved in business in China and were living there on their own accord. Neither McKinley nor any other president had asked them to go and establish businesses on the Asian continent. This is where the similarity in argumentation converged. Like the American citizens located in China, military personnel in Vietnam were being attacked. These unprovoked attacks would be used as a justification for increased involvement in Vietnam from 1964-1967 just like the aggressive acts of the Chinese were used to rationalize American military involvement in the Boxer rebellion. Both Gruening and Morse would argue that if Americans had not been sent to Vietnam, there would have been no reason to become involved there militarily. Furthermore, they argued, as members of Congress had during the Boxer rebellion, that removal of the Americans was the course needed, not an offensive war. McKinley was not just seeking to save American lives, he along with his allies desired to subjugate China and open it up to trade and exploitation.

McKinley also stated that since congress was out of session, he had no choice but to take action as required of the Chief Executive of the United States. He behaved independently of Congress and he did not recall them for an emergency session; neither did he request a formal declaration of war. When it reconvened Congress showed little interest in the actions taken by

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McKinley and thus did not hold him accountable for leading the country to war without a congressional declaration. Unlike Congress, the Supreme Court did weigh in on what had transpired. While dealing with a court case that emerged as a result of the conflict, it held that the United States had indeed been at war and that McKinley by virtue of his actions had violated the Constitution. Following suit with the Supreme Court, both Gruening and Morse argued that the actions of the president in Vietnam, acting independently of Congress, were unconstitutional and that he alone had led the country into an unnecessary war. Unlike McKinley, Johnson had done this while Congress was in session.

Incorporating one of the very same arguments that the muffled dissenting senators used in 1940, Gruening and Morse stated that the president could not take unilateral actions, that he had to consult with Congress, and that if he wished war to be waged against another nation he had to get a formal declaration from congress. As previously noted, FDR was greatly concerned that Britain was not going to be able to survive without the direct aid and intervention of the United States. He also felt that he could not get the support necessary to formally provide Britain with the assistance that was so desperately needed. An increasing number of American people were beginning to see the need for the United States to become involved in world affairs, specifically in the conflict that was occurring in Europe, but a sizable and vocal minority of isolationists gave priority to avoiding war. Roosevelt took actions to thwart Congress and provide the assistance he believed would help Britain continue fighting. Although the dissenting Congressmen were mostly low key in their accusations that Roosevelt had over stepped the bounds of his authority, they did none the less voice their concerns.

Using the same institutional yet muffled argument that had been articulated in 1940, Gruening and Morse stated that the president, in this case Johnson, could not just take actions

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that he deemed necessary to defend another country without the consent of Congress or without a declaration of war, even if he believed that inaction would lead to the spread of communism throughout Asia. Much like the destroyer-for-bases deal, placing the Maddox and the C. Turner Joy in the Tonkin Gulf—in the minds of these Senators—was an action on the part of the president that he was not constitutionally allowed to take, primarily because it was provocative in nature. They saw his actions slowly drawing the country into war—in much the same way dissenters of Roosevelt's actions saw his behavior. Like the Congressmen who saw FDR's actions as dangerous and unconstitutional, Gruening and Morse believed that Johnson was putting the United States military in harms way, usurping power that belonged to Congress and leading the country down a dangerous path. Because they shared the beliefs of those who had served earlier in the Senate, they used some of the very same arguments in an attempt to arrest the actions of President Johnson and restore balance to war making powers.

When North Korea attacked South Korea and President Truman deployed the U.S. military, he did so under the proviso that the United States belonged to the United Nations and thus the country was obligated to offer its assistance and send manpower to defend the country's ally. As U.S. military personnel were being deployed, several congressman voiced their displeasure stating that American involvement in the United Nations usurped the constitution which clearly mandated that congress declare war. The president could use troops to protect America and to deal with emergency situations but he could not wage war indefinitely without congressional support. U.S. troops could not be used at the sole discretion of the president or the United Nations. Beyond this particular argument and even more important, members of Congress accused Truman of violating both the United Nations Charter and the United Nations Participation Act. Regarding the former, Truman had authorized sending air and sea support to

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the South Korean Government and granted General MacArthur permission to begin sending military supplies to the Korean peninsula. The problem with these particular actions revolved around the fact that they came prior to the passage of a United Nations resolution calling for such measures to be taken. Years after the fact Dean Acheson, admitted that U.S. intervention in Korea had begun prior to the U.N. Security Council voting and before the U.N. had formally declared what course of action would be taken. As for the latter, according to the United Nations Participation Act, Truman could only join forces with the United Nations once he gained the consent of Congress. When he had placed U.S. military equipment and personnel in Korea, he had violated this vital piece of legislation. His disregard for following both the U.N. agreement and the U.N. Participation Act led some Senators to question the legality of American involvement in Korea.

Following very similar lines, Gruening and Morse would argue that Johnson had violated the United Nations Charter Agreement, specifically by not following proper procedure in leading the U.S. to war in Vietnam. Like Truman's Congressional detractors, these two senators argued that before military action could be taken the United Nations needed to address the situation and determine what needed to be done. The U.N. was not given the opportunity to work out a peaceful solution to the conflict in Vietnam. Just as Truman had done fifteen years prior, Johnson unilaterally involved the U.S. in a military conflict, an act that was unconstitutional.

Whereas Truman would seek to validate his decisions regarding involvement in the Korean War exclusively on American membership in the United Nations, Johnson would justify ordering military intervention in Vietnam based on both United States involvement with the U.N. and because of participation in SEATO. Argumentation based on memberships in these organizations did not satisfy Gruening and Morse any more than arguments made by Truman that

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U.S. membership in the U.N. justified the country's involvement in Korea. Membership in these organizations did not supersede the Constitution. As a signatory to the SEATO agreement the United States was not required to defend a member or "covered" government (like Vietnam) without the authorization of Congress. Thus according to Gruening and Morse, Johnson's actions were unconstitutional and illegal.

Initial arguments made by both Gruening and Morse fell on deaf ears. Although many other Senators had their own concerns about actions taken by President Johnson, they refused to heed the call of these two Senators and restrain the actions of the president. Lethargic behavior by their colleagues regarding this issue did not discourage either Senator nor did it lead them to give up their call for the U.S. military to be withdrawn from Vietnam. Prior to the passage of the Tonkin Gulf resolution until America pulled out of Southeast Asia, they continually lobbied for Congress to take actions to end the country's involvement on the Asian continent. Making public appearances, writing their colleagues pointed letters, supporting the actions of the Anti-war movement and continuing to speak on the floor of the senate were avenues used to gain support for their position, impact the Senate and see military activities in Vietnam brought to an end. Over the course of time their calls indeed seemed to make an impact and take effect.

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**CHAPTER FOUR:****GRUENING AND MORSE AND THE VIETNAM WAR DEBATE, 1965-1968**

The fears of Senator Ernest Gruening and Wayne Morse that the Gulf of Tonkin Resolution would lead to war were realized. Between 1965 and 1967, the United States became involved in a war that deeply divided Americans and Gruening and Morse were important figures in the debate over the war's justification, purpose and legality. Throughout 1965 tensions between the Viet Cong and Americans continued to escalate. On February 7, Viet Cong forces staged attacks against American installations including the bases at Danang and Pleiku. President Johnson responded by authorizing sustained bombing of North Vietnam named Operation Rolling Thunder.<sup>1</sup> Throughout the year the United States Air Force would fly 25,000 sorties.<sup>2</sup> Scholar Don Oberdorfer states that "once set in motion...the bombing effort seemed to stiffen rather than soften Hanoi's backbone, as well as to lessen the willingness of Hanoi's allies, particularly the Soviet Union, to work toward compromise."<sup>3</sup> Then, on March 8<sup>th</sup>, two United States Marine Corps battalions were sent to defend the Danang airfield—the first U.S. combat troops in Vietnam.<sup>4</sup> Seeking to reach some type of peace agreement, President Johnson, in a speech given at Johns Hopkins University, offered Ho Chi Minh the opportunity to participate in a Southeast Asian development plan. Ho Chi Minh rejected the offer as a trick to get the Viet Cong/North Vietnamese to quit fighting for their independence.<sup>5</sup> As the position of South Vietnamese forces weakened, Johnson steadily increased the American combat role, making an

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<sup>1</sup> Gary Hess, Vietnam and the United States: Origins And Legacy Of War (Boston: Twayne Publishers, 1990), pp. 91-95.

<sup>2</sup>Herring, America's Longest War p. 146.

<sup>3</sup> Don Oberdorfer, Senator Mansfield: The Extraordinary Life of a Great American Statesman and Diplomat (Washington, D.C.: Smithsonian Books, 2003), p. 274.

<sup>4</sup> Herring, America's Longest War p 131.

<sup>5</sup> Hess, Vietnam and the United States p. 95.

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“open-ended” commitment in July of 1965. As 1965 came to a close almost 200,000 American troops were present in Vietnam.

During 1966 and 1967 American involvement in Vietnam continued to escalate. Neither the increased bombing of North Vietnam nor the ground war of search-and-destroy in South Vietnam forced the communists to give up their struggle. The strategy of search and destroy invoked by the United States military leaders did not work. If the Viet Cong/North Vietnamese did not like the odds or the terrain of the battle field they would make an escape leaving the Americans unsure of where they had gone and the U.S. military made no effort to hold territory where fighting took place: the only objective was to win by attrition. Efforts at negotiation, often tied to temporary halts in Rolling Thunder, proved futile. By 1967, it was evident that the war had become a quagmire. By the end of the year American troop levels reached almost 400,000. American forces had experienced 5008 deaths and had over 30,093 soldiers wounded.

Two major operations in early 1967 highlighted the limitation of search-and-destroy. Operation Cedar Falls began sending 16,000 Americans and 14,000 South Vietnamese to clear out the Viet Cong from the “iron triangle” 25 miles northwest of Saigon.<sup>6</sup> The Viet Cong broke off the fighting and instead melted into the jungle, but returned to the area within a few weeks. In February the longest military offensive of the war took place. Operation Junction City involved twenty-two American battalions and four South Vietnamese.<sup>7</sup> The goal of this offensive was to destroy the North Vietnamese Central Office near the Cambodia border. It was estimated that during the battle 2728 Viet Cong were either killed or wounded and American

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<sup>6</sup> Karnow, *Vietnam* p. 439ff.

<sup>7</sup> Gary Hess, *Presidential Decisions for War: Korea, Vietnam, and the Persian Gulf* ( Baltimore: The Johns Hopkins University Press, 2001), pp. 128-129.

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casualties totaled 282 killed and 1576 wounded. Again the Viet Cong/North Vietnamese broke off the fighting, and the North Vietnamese moved their central office into Cambodia.<sup>8</sup>

Realizing that he did not currently have the manpower to win the war in Vietnam led General Westmoreland to make a request in July for an additional 200,000 troops.<sup>9</sup> There were already 475,000 troops scheduled to be in Vietnam. If granted, this request would bring the total number of American troops serving in Vietnam to 675,000. President Johnson only agreed to authorize another 45,000 soldiers, leaving Westmoreland drastically short of his perceived need. By the end of 1967 American troop levels would reach 463,000.<sup>10</sup> Combat deaths totaled 16,000.

The war changed in early 1968. The first battle of the year occurred on January 21<sup>st</sup> when 20,000 North Vietnamese troops, under the command of General Giap attacked the air base at Khe Sanh. Over the course of 77 days, 5000 United States Marines were isolated and surrounded. This engagement quickly became likened to the battle of Dien Bien Phu by Johnson. Nervous that the outcome would be the same, Johnson responded by stating that he did not want “another damn Dinbinpoo.”<sup>11</sup> To keep that from happening he had supplies dropped to the marines and also had B-52's bomb the attackers every ninety minutes for several days. The siege of Khe Sanh continued amidst the turning point in the war which occurred on January 31<sup>st</sup> when 84,000 Viet Cong guerillas and North Vietnamese soldiers launched simultaneous attacks on 100 cities and towns in South Vietnam. American forces were able to regain control and President Johnson declared the TET offensive a victory for the United States and the South Vietnamese. The capacity of the Viet Cong/North Vietnamese to launch an attack of that

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<sup>8</sup> <http://www.historyplace.com/u.s./vietnam/index-1965.html>.

<sup>9</sup> Herring, *America's Longest War* p. 136-139.

<sup>10</sup> <http://www.historyplace.com/u.s./vietnam/index-1965.html>.

<sup>11</sup> <http://www.historyplace.com/u.s./vietnam/index-1965.html>.

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magnitude, however, undermined further support for Johnson and the war. Walter Cronkite reported that the war would end in a stalemate. Cronkite's assessment made a significant impact on many Americans.<sup>12</sup> On March 31<sup>st</sup>, Johnson announced an end to almost all of the bombing of North Vietnam and his willingness to negotiate with North Vietnam. He also rejected Westmoreland's request for more troops. In effect, escalation had ended and disengagement was beginning.

From early in 1965 Lyndon Johnson would push hard to get key pieces of legislation passed by Congress. These would include such things as the Voting Rights Act and Great Society programs including Medicare. His domestic agenda coupled with the way that he was handling the situation in Vietnam, taking a hard line but responding in a limited manner, garnered for him support among the American people. Struggling with "guns vs. butter" he sought to keep the actions being taken in Vietnam from being highly publicized but once American troops were engaged in combat, Americans realized that the country had become engaged in a conflict with imprecise objectives.

Throughout 1966 Johnson for the most part enjoyed widespread support for his policies both domestic and foreign. There were occasions during the year, however, when he was challenged publically and as a result condemned the anti-war activists accusing them of "providing great encouragement to the enemy by projecting images of domestic division and weakness."<sup>13</sup> Members of the anti-war coalition were not Johnson's only problem during the year; he also began to lose the support of the policy-shaping elite. As Charles DeBenedetti writes, "Edwin Reischauer, a former ambassador to Japan, came out in favor of de-escalation: and New York Times correspondent Neil Sheehan expressed his disillusionment with the war in

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<sup>12</sup> Hess, *Vietnam and the United States* p. 106-109.

<sup>13</sup> Charles DeBenedetti. *An American Ordeal: The Antiwar Movement of the Vietnam Era* (New York: Syracuse University Press, 1990). p. 150.

a widely reviewed essay, “Not a Dove, But No Longer a Hawk.”<sup>14</sup> Grumblings and discontentment among the general public touched Johnson in more than a superficial way when a February 23<sup>rd</sup> speech before a group known as the Freedom House was interrupted. Protests outside the White House and around the country had begun but those events only touched Johnson in an indirect manner. While Johnson was speaking at this particular event, one in which he was to receive an award for his efforts toward Peace and Justice, a pacifist by the name of Jim Peck rose from his seat at the back of the room and began to shout “Mr. President, Peace in Vietnam.” It is true that the President was unfazed by this outburst, however it did signify the growing discontentment among some Americans and their waning support for Johnson and his leadership.<sup>15</sup>

At the outset of 1967 Johnson would continue to enjoy some level of support for his policies but it was waning. Martin Luther King, who had been an ally of the President on the Great Society reforms, began to publicly chastise him for diverting funds to the military for use in Vietnam. Once King pulled his support and began to openly oppose the policies of the President, the opinion of many, primarily within the black community, turned. In order to minimize King and a growing peace movement, Johnson sought to relegate opposition to the fringes of society.<sup>16</sup> One tangible way that he sought to do this involved marginalizing the minority of dissenters who burned American flags.<sup>17</sup> Pointing to those burning the flag, he indicated that they were un-American and did not appreciate the freedoms that they enjoyed in the United States.

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<sup>14</sup> DeBenedetti, p. 160.

<sup>15</sup> *Ibid.* p 148-149.

<sup>16</sup> Terry H. Anderson, “Vietnam is Here” in *The War that Never Ends: New Perspectives on the Vietnam War* ed. David L. Anderson and John Ernst (Lexington: The University Press of Kentucky, 2007), 250.

<sup>17</sup> DeBenedetti, p. 177-178.

The TET Offensive, coming at a time of “war weariness,” undermined Johnson and his Vietnam policies. The Senate Foreign Relations Committee held hearings which aired on television that dealt with General Westmoreland’s request for 200,000 additional troops and the overall effectiveness of Johnson’s Vietnam War strategy.<sup>18</sup> Clearly, key members of the Senate were challenging the position of the president. Many people from New Hampshire demonstrated their displeasure with Johnson by casting their votes in the Democratic primary for the anti-war Senator Eugene McCarthy of Minnesota.<sup>19</sup> As a result, Johnson narrowly won the election. The occurrence in New Hampshire was really no surprise considering that in a public opinion poll taken shortly after the TET offensive Johnson’s approval rating had dropped to 36% and approval of his Vietnam policy had slipped to 26%.<sup>20</sup>

By that time, a large number of Americans had come to accept much of the argument of the war’s opponents. Beginning as a relatively modest movement in 1965, the anti-war protest grew in strength over the next three years. A major plank at this time was the draft.<sup>21</sup> According to historian Charles DeBenedetti, members of the protest movement saw conscription as an immediate symbol of the war. As a result a draft card burning ceremony to be held in New York City was planned for October 28, 1965. Dr. DeBenedetti wrote: “this was not an attempt to wreck the machine...it was to be a major act of renunciation of the war in Vietnam and U.S. militarism generally.”<sup>22</sup> It led to more draft card burning ceremonies.<sup>23</sup>

These actions, of course, were controversial, and many anti-war supporters opposed them as too “radical.” Burning draft cards was not the only form of protest that would occur

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<sup>18</sup> Woods, *Fulbright: A Biography* p. 402-412.

<sup>19</sup> Hess, *Presidential Decisions* p. 144.

<sup>20</sup> <http://www.historyplace.com/u.s./vietnam/index-1965.html>.

<sup>21</sup> Terry H. Anderson, “Vietnam is Here” pp. 250-251.

<sup>22</sup> DeBenedetti, p. 128-129.

<sup>23</sup> *Ibid.* p. 130.

during 1965.<sup>24</sup> On the morning of November 2<sup>nd</sup>, Norman Morrison, a Pennsylvanian born Presbyterian turned Quaker traveled from his Baltimore home with his 18 month old daughter to the pentagon. Once on the lawn, not more than 50 yards from McNamara's office window, he would read an account of the suffering of the Vietnamese people and then light himself on fire while holding on to his daughter. Fortunately for the little girl Pentagon employees were able to get the child away from her father before she was seriously injured.<sup>25</sup>

Efforts were also made in 1965 to get the United States to stop bombing Vietnam, initiate negotiations and to call for a United Nations sponsored peace conference. At a demonstration, organized by SANE in Washington D.C. on November 27<sup>th</sup>, Presidential aide Chester Cooper met with the protestors; meanwhile, the group outside the White House began a chant that Johnson would hear for the remainder of his time in office: "Hey Hey LBJ how many kids did you kill today". Like the draft card burning ceremonies these events also garnered some support, but this time, however, the protest seemed to be coming from the margins of society.<sup>26</sup> By December of 1965 "hostility toward anti-war critics was so deep that one third of Americans believed that citizens did not have the right to demonstrate against the war, and only one fourth were willing to concede the sincerity of the anti-Vietnam demonstrators."<sup>27</sup>

Although the Johnson Administration still held the support of many Americans during the early months of 1966, the anti-war movement was beginning to gain momentum. DeBenedetti stated that:

In the first half of 1966 opposition to the war began to show a breadth and vitality that far surpassed its limited organizational base. With no agreed upon leader or central directorate, citizen activists created a social movement as they improvised

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<sup>24</sup> Terry H. Anderson, "Vietnam is Here" 252.

<sup>25</sup> DeBenedetti p. 129.

<sup>26</sup> Terry H. Anderson, "Vietnam is Here" 252.

<sup>27</sup> DeBenedetti, p. 137.

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and sustained attacks on the war from Church pulpits or Senate seats, on campus greens or at Business offices, in the streets or behind editorial desks.<sup>28</sup>

This breadth of support during 1966, would include a few members of the policy-shaping elite; scholars such as Arthur M. Schlesinger Jr. and John Kenneth Galbraith (both of whom had served in the Kennedy administration), various clergymen (most notably William Sloan Coffin of Yale University), doctors (led by Benjamin Spock), and hundreds of other professionals, many women and even disenchanted Vietnam War veterans. They came to represent a variety of groups who all held a common view: that American actions in Vietnam were wrong and needed to end.<sup>29</sup>

The “movement of movements” faced the problem of divisions among the various groups themselves. The protest did not consist of one unified group, but rather was a conglomeration of entities that all shared the same ultimate goal. Some groups wanted to take a low key approach and work within the confines of the system, while others desired to take much more radical actions, including acts of civil disobedience. This disparity led to continuing friction among the various groups.<sup>30</sup>

A second problem was the manner in which the protestors were perceived by the American people. Although the anti-war movement was gaining momentum, much of the public support questioned its legitimacy. Some Americans saw it as an organized communist effort meant to do more than bring United States involvement in Vietnam to an end, it was ultimately intended to destroy the country. Many Americans were contemptuous of those who were a part

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<sup>28</sup> Ibid. p. 142.

<sup>29</sup> Ibid. p. 142.

<sup>30</sup> Ibid. p. 143-150.

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of the movement, some assaulting the protestors or organizing pro-war rallies. Police who were sent in to keep the peace during demonstrations were often hostile to protestors.<sup>31</sup>

Hippies posed yet another problem. They flaunted outrageous clothing, hairstyles and proudly displayed their permissive attitudes toward individual behavior—most notably sex and drugs. By and large they were scornful of middle class values and promoted an anti-establishment agenda. Beyond their personal hygiene and behavior, the leaders of the Hippie movement stated that they were for the “Marxist tradition—the revolutionary tradition of Grouch, Chico, Harpo and Karl. Unfortunately for the dissenters hippies cared more about the feeling of freedom in being than for transforming political consciousness.”<sup>32</sup> By their actions and association with the anti-war movement, they discredited the legitimate efforts of those wishing to gain the support of the American people. Regardless of these problems, throughout 1966, the anti-war movement would continue to call for America to disengage in Vietnam.<sup>33</sup>

In spite of the growing anti-war movement and their activities, the Johnson administration capitalized on their excesses and retained a significant amount of support for the actions being taken in Vietnam. In the winter and early spring of 1967, most major newspapers and magazines still endorsed the administrations policies. Time, for example, referred to the dissenters as “Vietniks and Peaceniks, Trotskyites and potskyites who encouraged Hanoi and prolonged the fighting.”<sup>34</sup> Other media outlets followed suit trying to diminish the significance of the demonstrations by pointing out that only a small number of people really participated. The media was attempting to demonstrate that a vast majority of Americans still stood firmly behind the actions of the President. DeBenedetti points out that by 1967 there may have been

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<sup>31</sup> Ibid. p. 151-152.

<sup>32</sup> Ibid. p. 152-154.

<sup>33</sup> Ibid. p. 152-154.

<sup>34</sup> Ibid. p. 177.

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general support among Americans for Johnson's Vietnam policy but that it was unenthusiastic at best.<sup>35</sup>

Yet the anti-war movement, by 1967 was becoming stronger, coordinating a growing number of peaceful events and attracting still more mainstream support. New groups emerged such as the Business Executives Move for a Vietnam Peace, Physicians and Other Health Workers for Peace in Vietnam, another Mother for Peace, as well as former Peace Corps Volunteers and fifty former Rhodes Scholars.<sup>36</sup>

The emergence of these groups certainly signaled an increase in the number of people participating in the anti-war movement; they also brought with them an increase in demonstrations. Hallmarks of these events included solid organization, unity from the various members of the anti-war coalition, a diminished role for the hippies, inclusion of more mainstream Americans, an increase in the frequency of activities and a lack of violence. During the year there were three key events sponsored by the various groups. These included Negotiation Now rallies, Vietnam Summer events and the Draft Resistance movement. Negotiation Now rallies called for the President to open up dialogue with the Viet Cong and the North Vietnamese with the goal of bringing the war to a conclusion through open discussions and mutual agreement. According to DeBenedetti, the Vietnam Summer event was designed, at least theoretically, "to facilitate a transition from a peace movement of students, old leftists, pacifists, and liberals to a movement in contact with the majority of Americans opposed to the war on one level or another."<sup>37</sup> As its name suggests, the third initiative, the Draft Resistance was designed to disturb the country and the war effort by encouraging young men to refuse reporting for active duty once drafted. Targeting college campuses, rallies were held throughout

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<sup>35</sup> *Ibid.* p. 177-180.

<sup>36</sup> *Ibid.* p. 171.

<sup>37</sup> *Ibid.* p. 182.

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the school year in Chicago, Wisconsin, New York and many other locations around the country. Through the efforts made by the groups organizing these events, many young men from upper and better educated classes found innumerable ways to evade the draft.<sup>38</sup> Again, although not given much if any positive press, these events did draw attention to the concerns of the various groups and caused people to think about what was happening in Vietnam.<sup>39</sup>

From the very outset of 1968, the anti-war movement planned activities meant to bring American involvement to an end. Various groups greatly intensified their efforts and violence would follow the anti-war movement. Most notably violence took place at the Democratic National Convention held August 26 through August 29 in Chicago, Illinois. In the days leading up to and throughout the convention, war protestors marched throughout the city and held demonstrations outside the convention center. Aware that the anti-war movement was coming, Mayor Richard Daily ordered both the police and National Guard to be on alert to avert any trouble. Tension between the police and protestors escalated rapidly and chaos ensued leading to a full scale riot and the arrest of many protestors. In the aftermath of the Chicago incident, eight individuals who had provided leadership for the riot were indicted by the United States Attorney General and subsequently prosecuted for conspiracy to riot. Their convictions were eventually overturned on appeal.<sup>40</sup>

Throughout these tumultuous events, both Gruening and Morse would articulate their views regarding American involvement in Vietnam outside the Senate Chamber. They did this by addressing various groups, writing for newspapers and magazines, and by corresponding with their Senate colleagues. The groups where they invested a large portion of their time included civic organizations, colleges and universities; and religious groups, and war protest rallies.

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<sup>38</sup> *Ibid.* p.180-183.

<sup>39</sup> *Ibid.* p. 180-190.

<sup>40</sup> *Ibid.* p. 222-228.

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Newspapers and magazines that printed material written by them included the Washington Post, the New York Times, The Nation and Time. Senate colleagues with whom they corresponded was widespread; however, Senators J. William Fulbright, Mike Mansfield, Robert Kennedy, Albert Gore, John Sherman Cooper, George McGovern and Frank Church were particular targets.

Regarding public speeches, prior to the Gulf of Tonkin incident, Morse and Gruening had been critics of United States policy in general and Vietnam in particular. Some of the content of their speeches such as the domino theory, involvement in the United Nations, the South East Asian Treaty Organization, violations of the 1954 Geneva agreements by the United States and the nature of the conflict—that it was a civil war—were similar. In speeches in 1964 the senators from Oregon and Alaska were quick to point out that the domino theory articulated by Eisenhower and embraced by the succeeding presidents was a fallacy. Early in 1964, they questioned the validity of this theory, each stating that since 1954 Americans had heard about it but nothing like it had really happened. While addressing this topic they would reiterate that South Vietnam was the first domino in line, next to it was Cambodia and Laos then Thailand and Burma and “below Thailand stretched the Malaysian Federation, and beyond that Indonesia—each of which was supposed to drop into the lap of the Communists if Americans failed in Vietnam.”<sup>41</sup> Seeking to discredit the theory Morse would often state that:

...one of the greatest fallacies of the domino theory was that any country not in the western camp was considered to be in the Communist camp. That was where the theory began to lead us astray. We convinced ourselves that any nation not imbedded with American economic and military aid programs, and all their attendant advisors, was as good as Communists.

But what has happened to the row of dominos since 1954? North Vietnam has always been outside the scope of American influence. Laos was neutralized by

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<sup>41</sup> Wayne Morse, Speech entitled “Foreign Policy Under the New President,” given at The University of Kansas, April 1<sup>st</sup>, 1964, Morse Papers, University of Oregon, Box 49.

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agreement, Cambodia has recently ousted all American aid missions and declared herself neutral, and Burma long ago put herself outside the circle of American military protection. Indonesia certainly is neutral insofar as her sympathies and politics toward America and China are concerned.

The only countries left in the row of dominos as we originally conceived it are South Vietnam, Thailand, and Malaysia. Yet none of the rest except North Vietnam which was never in the row, has become a Communist state. Undemocratic and totalitarian, yes, but so are South Vietnam and Thailand. Perhaps one can say that as South Vietnam goes, so goes Thailand; but it cannot be said that as South Vietnam goes, so goes Southeast Asia. And South Vietnam and Thailand are already separated by the neutralist states of Laos and Cambodia.<sup>42</sup>

Basically Morse was telling all who would listen that none of the countries listed would be consumed by Communism and become a part of the Sino-Soviet bloc. He also suggested that America was overly fixated on making all other nations like itself, which he believed, was his most important argument. For his part Gruening made it clear he did not embrace the concept that America would be fighting Communism on the beaches of California even if all of these areas were firmly in the grasp of the Soviets. On many occasions he would state that the domino theory was “errant nonsense, that United States control of the Pacific by sea and air rendered that absurd.”<sup>43</sup> He also believed that the countries likened to dominos had stronger resolve than they were given credit for and the Soviets were in reality weaker than the American government believed them to be. Because the domino theory was invalid, both Senators believed there was no real reason to fight in Vietnam.<sup>44</sup>

As they continued to make a case in their speeches that America needed to disengage in Vietnam, both Morse and Gruening cited United States involvement in the United Nations and

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<sup>42</sup> Wayne Morse, Speech entitled “Foreign Policy Under the New President,” given at The University of Kansas, April 1<sup>st</sup>, 1964, Morse Papers, University of Oregon, Box 49.

<sup>43</sup> Remarks of Senator Ernest Gruening: “United State Policy and Actions in Vietnam,” Harvard and Boston Universities: December 9<sup>th</sup>, 1965. Gruening Collection, University of Alaska Library, Fairbanks. Box 524, folder 4062.

<sup>44</sup> *Ibid.* Box 524, folder 4062.

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the South East Treaty Organization. After recounting what had been said about the importance of Vietnam remaining free from Communism, Morse often asked a rhetorical question; “why...is not the United Nations the place for the South Vietnam issue, just as it has been” the place for the issues dealing with world peace and security.<sup>45</sup>

The Alaskan senator was quick to point out that America, which was instrumental in the creation of the United Nations, had not followed protocol and therefore was breaking the very guidelines it helped to establish for handling disputes. While seeking to make a case that the United States had indeed violated the U.N. process for handling acts of aggression, he reiterated for his audiences two articles from the Charter. Article 2, Chapter 1, paragraph 4 provides that: “All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.” Article 33, Chapter 6 provides that “The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall first of all seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.”<sup>46</sup> After quoting these stipulations, Gruening pointed out they were not choices, but rather steps to be followed and adhered to by all member states. He further pointed out just how the United States had treated these articles with contempt. Time and time again, he stated the United States had not sought a solution by means of negotiation; that it had not tried to obtain satisfaction by enquiry, or to reach a negotiated settlement, or rely on conciliation or arbitration. Instead the United States took matters into its own hands, taking

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<sup>45</sup> Wayne Morse, Speech entitled “Foreign Policy Under the New President,” given at The University of Kansas, April 1<sup>st</sup>, 1964, Morse Papers, University of Oregon, Box 49.

<sup>46</sup> Ernest Gruening, “Our Dilemma In Vietnam,” May, 1966, Gruening Collection, University of Alaska, Fairbanks, Box 524, folder 4062. p. 13.

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actions to bring about the results that it wanted and deemed most important for its own interests. Because of the manner in which America had treated both Vietnam and the United Nations Charter, the dissenting senator argued in his public addresses that the country should disengage in Vietnam and that the people needed to call on the governmental leaders to do so in a timely fashion.<sup>47</sup>

Repudiating both the President and Senator J. William Fulbright (Democrat-Arkansas), the Chairman of the Senate Foreign Relations Committee for not turning over to SEATO such an important issue, Morse made the following statement:

...Neither the President...nor the...Chairman of the Senate Foreign Relations Committee gives any explanation of why this country has not used the Southeast Asia Treaty Organization or the United Nations for the South Vietnam issue. Those countries party to SEATO with us are Australia, New Zealand, Thailand, Philippines, Pakistan, France and Great Britain. It was created to deal with threats to the peace in Southeast Asia, and an amendment specifically described South Vietnam as an area of concern and mutual interest to the parties about which they would consult in case of threat to the peace.

But they are not with us in Vietnam. Is it because none of our treaty partners thinks we are right in trying to hold it as a U.S. area of influence? Is it because the Asiatic members of SEATO do not want to associate themselves with the United States in its campaign to stay in Asia? Is it because France, Britain, Australia, New Zealand know that the white man is being thrown out of non-white countries and that the effort to stay will be increasingly costly?

Why is there no joint SEATO action in South Vietnam? It is an area of mutual interest to all SEATO partners under the protocol to the SEATO treaty. Why are we acting unilaterally there? The Chairman of the Foreign Relations Committee declares that it should be clear to all concerned that the United States will continue to meet its obligations and fulfill its commitments with respect to Vietnam. What obligations and commitments do we have toward Vietnam that are any more or less than those of every other SEATO member?

None. But we have mistakenly built up many emotional commitments to ourselves. We took a tiger by the tail 10 years ago and no one in high office knows how to let go of it. So we call that a commitment. What is really meant is face and prestige. We backed a puppet there 10 years ago, and we are afraid the world will laugh at us if we recognize that it has been a flop. The government to

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<sup>47</sup> *Ibid.* p 13-14.

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which we gave the backing in 1954 is gone, and the United States government was glad to see it go.

I say that we have a greater commitment to SEATO, to the United Nations, and to world peace than we ever had to any government of South Vietnam, whichever one it may be at the moment. When are we going to begin honoring those obligations?<sup>48</sup>

Gruening also made comments regarding SEATO and how it had been treated with contempt by the U.S. The basis for his accusation was founded in article I which stated that:

The parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purpose of the United Nations.<sup>49</sup>

By using force, Gruening pointed out, the United States did in fact violate the SEATO treaty mainly because disagreements that could not be settled between two parties needed to be referred to the United Nations Security Council before any independent action could be taken. It also called for the other signatories to agree on the need to become involved and most important for the country in peril to request assistance from its allies. Previous disregard for each of these treaty agreements could only be rectified by the United States withdrawing from Vietnam.

Morse and Gruening chastised the president for not turning to these international organizations to handle the conflict. They also criticized the Chief Executive for not following United Nations or SEATO protocol which the United States as a member needed to do. Under these protocols, the United States could not just arbitrarily engage in military conflict. These two Senators made it very clear that by not consulting the United Nations or SEATO, the President had not adhered to steps required before military action could be taken; he had acted

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<sup>48</sup> Wayne Morse, Speech entitled "Foreign Policy Under the New President," given at The University of Kansas, April 1<sup>st</sup>, 1964, Morse Papers, University of Oregon, Box 49.

<sup>49</sup> *Ibid.* p. 14.

illegally and had taken actions to tip the balance of power in his favor. As a result, Morse and Gruening would constantly state that the U.S. needed to get out of Vietnam.<sup>50</sup>

Beyond these stipulations, the Geneva Agreement called for an “International Commission to supervise the carrying out of the Geneva Accords and to see that its provisions were implemented in Vietnam.” Gruening would point out that the commission consisted of three representatives: Canada, India and Poland. This group filed various reports with the United Nations indicating that both sides had been and were continuing to violate the agreements. In one such case the commission filed the following with regard to South Vietnam;

Since December 1961 the Commission’s Teams in South Vietnam have been persistently denied the right to control and inspect, which are a part of their mandatory task. Thus, these teams, though they are able to observe the steady and continuous arrival of war material, including aircraft carriers with helicopters on board, were unable, in view of the denial of controls, to determine precisely the quantum and nature of war material unloaded and introduced into South Vietnam.<sup>51</sup>

Continuing on the report concluded that:

As the commission has been denied mandatory controls, as pointed out earlier in paragraph 12 above, it has not been able to make a precise assessment of the number of military personnel and the quantum of war material brought in. However, from 3<sup>rd</sup> December, 1961 up to 5<sup>th</sup> May, 1962, the commission’s teams have controlled the entry of 72 military personal, and have observed but not controlled 173 military personal, 62 helicopters, 6 reconnaissance aircraft, 5 jet aircraft, 57 fighter/fighter bombers, 25 transport aircraft, 26 unspecified types of aircraft, 102 jeeps, 8 tractors, 8 105 mm howitzers, 3 armored carriers-tracked, 29 armored fighting vehicle trailers, 404 other trailers, and radar equipment and crates, 5 warships, 9 LSTs, 3 LCTs, 5 visiting aircraft carriers and spares of various kinds...<sup>52</sup>

While pointing out the misbehavior of the United States in relation to the Geneva agreements Greuning and Morse also made it clear that the Communists had also taken action contrary to the

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<sup>50</sup> Wayne Morse, “Foreign Policy Under the New President,” The University of Kansas, April 1<sup>st</sup>, 1964, Morse Papers, University of Oregon, Box 49.

<sup>51</sup> Ibid. 12.

<sup>52</sup> Ibid. 13.

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treaty. In many speeches he would point out the commission reports highlighting the actions of the Communists prior to December of 1961. These stated that:

In specific instances there was some evidence to show that armed personnel, arms and other supplies had been sent from the North to the South with the purpose of supporting, organizing and carrying out hostile activities including armed attacks, directed against the Armed Forces and Administration of the Zone in the South. These activities are in violation of Articles 10, 19, 24, and 27 of the agreement of cessation of hostilities in Vietnam.<sup>53</sup>

These data indeed made it clear that both sides were violating the agreement, but going even further, Gruening would argue that the actions of the U.S. were far more egregious than those of the Communists. Actions of the Americans stimulated the Soviets to disregard the agreement and ship war materials into Vietnam—had the U.S. not introduced military supplies first they Soviets would not have followed suit. Because America was taking what he deemed to be illegal action, Gruening argued that U.S. military personnel should be pulled from Vietnam.

Another component of their public speeches was Johnson's abuse of presidential power, which Morse and Gruening argued, was compounded by involving the United States in a conflict for which it had no right to be engaged. South Vietnam had not been attacked by an outside aggressor such as the Soviets or the Chinese who wished to subjugate the Vietnamese people; rather it was a country embroiled in a civil war. All of the insurgents in South Vietnam were of Vietnamese origin and many were even from South Vietnam itself. Indigenous people were revolting against the governmental structure that was in place and against the intervention of outsiders—America. Additionally, the government and people of North Vietnam were assisting the efforts made by these "Freedom Fighters" in the quest to reunify their country and gain

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<sup>53</sup> Ernest Gruening, "Speech, Our Dilemma In Vietnam," May, 1966, Gruening Collection, University of Alaska, Fairbanks, Box 524, folder 4060-4064. p. 13.

freedom from colonial oppression.<sup>54</sup> What was taking place in Vietnam was not unlike what happened in the U.S. from 1861-1865. States from the South wished to break away from the United States. Northern states for their part were willing to fight in order to preserve the union. Morse pointed out that needing assistance to secure their freedom the Confederacy appealed to Britain for help. He further pointed out that politicians from the Union were not at all happy about the prospects of Britain entering the conflict, which would have been seen as interference in an internal family struggle. After sharing this piece of history, the Senator from Oregon indicated that now, 100 years later we were doing the very same thing we sought to keep Britain from doing. Because what was happening was a civil war, Americans should be removed.<sup>55</sup> Like Morse, Gruening would state that the United States had no business getting involved in a civil war. How could we, Gruening would assert, justify doing in Southeast Asia what we did not want to have happen during our own internal conflict?<sup>56</sup>

During their speeches, each Senator also made some unique assertions about American involvement in Vietnam. The Senator from Oregon argued that earlier containment policy, like the Truman Doctrine and the Marshall Plan, had worked well, because these plans had had clear definition and direction, but aid programs to Vietnam lacked either and were a waste of resources. Morse pointed out that “the theory that sending aid to a string of countries bordering the communist bloc makes them a bulwark against aggression is the weakest justification for the program. It is related to the argument that it is cheaper to put one Turk or Pakistani in the field than to put one U.S. Soldier in the field.”<sup>57</sup> He would go on to say that the U.S. had helped to

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<sup>54</sup> Ernest Gruening, Speech, “United States Actions and Policy in Vietnam,” December 9, 1965. Gruening Collection, University of Alaska, Fairbanks, Box 524, folder 4060-4064.

<sup>55</sup> Ernest Gruening, Speech, “United States Actions and Policy in Vietnam,” December 9, 1965. Gruening Collection, University of Alaska, Fairbanks, Box 524, folder 4060-4064.

<sup>56</sup> Congressional Record: 88<sup>th</sup> Congress, 2<sup>nd</sup> Session, Jan 7<sup>th</sup>-Oct 3<sup>rd</sup>, 1964. p. 18419ff.

<sup>57</sup> Wayne Morse, Speech entitled “Foreign Policy Under the New President,” given at The University of Kansas, April 1<sup>st</sup>, 1964, Morse Papers, University of Oregon, Box 49.

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create South Vietnam, which received roughly a million dollars a day from America to protect a country of 14.5 million people, was not doing the job. During many of these speeches Morse asked the audience whether they believed that stability could ever be achieved in the region; money certainly did not do it, would military power really solve the problem in Vietnam?<sup>58</sup>

As for adjustments that Morse believed needed to be made to America's foreign policy, diplomacy was the key. Although he did not make it clear what America should do in case its interests were legitimately threatened and diplomacy failed, he did indicate in most of his speeches that the U.S. had failed to act diplomatically and that negotiations should be the primary focus of the country's foreign policy. In a speech given at Temple University on April 20<sup>th</sup> 1964 he stated:

What we do not need is a military offensive in Asia, but a diplomatic offensive. If the Secretary of Defense has not totally destroyed all our possibilities for diplomatic maneuvering, we should be exploring the means whereby a reasonable peace can be brought to Southeast Asia. Remember that we never considered any of those possibilities. Not since the French gave up in Indochina and we picked up the pieces she laid down have we considered for a minute anything at all except the pursuit of an American protectorate over South Vietnam. We say we are looking out for our strategic interests in that part of the world. We point to the Indian Ocean, just as though American oil investments in the Indian Ocean and beyond were vital strategic interests of the United States to which we must commit our fighting forces.<sup>59</sup>

While making these remarks and others that have stark similarities, Morse made it clear that under Presidents Eisenhower, Kennedy and Johnson, America fought when it should have engaged in dialogue.

Another component of the speeches Morse gave as early as 1964—one that he would give considerable time and attention to beyond 1964—were the policy and practices of Johnson and McNamara in relation to their orchestration of American involvement in Vietnam. Morse

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<sup>58</sup> *Ibid.*

<sup>59</sup> Wayne Morse, Speech given at Temple University, April 20<sup>th</sup>, 1964, Morse Papers, University of Oregon, Box 49.

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made it clear that Johnson was conflicted over what to do with Vietnam. On the one hand the President had articulated that every effort needed to be made to bring about a peaceful solution in the war torn Southeast Asia country. A partial reason was Johnson's belief that the world was becoming an increasingly dangerous place because of advances made by adversaries of America. Regardless of any reservations that he may have held, according to Morse, Johnson believed that aggression in general and communism in particular had to be stopped by the United States—which was the most powerful nation in the world. The president had increased the number of advisors placed in Vietnam, escalated their role from non-combatant to active combatant, promised and delivered additional financial support to the South Vietnamese government and thus took actions which directly involved America in a hot war. In every speech regarding Vietnam that he made after 1964, Morse would state very emphatically that America's involvement was illegal, that Johnson had usurped powers belonging to Congress, that he alone had shaped, made and executed U.S. policy and that he had assumed war powers which rightly belonged to Congress.<sup>60</sup>

As for McNamara, Morse charged that the Secretary of Defense, like Johnson, was taking actions that were unconstitutional. Morse's ire was directed at McNamara not for sending the troops into Vietnam; the president was responsible for that. McNamara's actions were challenged on the basis they crossed the line going from defense issues to the arena of foreign policy development, an area for which he was not responsible and ought not to get involved. The basis of this continuous criticism was founded on a trip that the Secretary of Defense took in early 1964 and the statements that he made while in Vietnam. When speaking of McNamara in this vein, Morse would state that:

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<sup>60</sup> Wayne Morse, Speech given at Temple University, April 20<sup>th</sup>, 1964, Morse Papers, University of Oregon, Box 49.

...he is on weak ground when he moves his defense department into the area of foreign policy. I regretfully say that I think that he is doing that when it comes to military assistance abroad, and when it comes to South Vietnam. On his recent trip to South Vietnam, Secretary McNamara made himself the spokesman for the United States not only in military matters, but in political, civil, and diplomatic matters. He literally campaigned in South Vietnam on behalf of our new puppet, General Khanh.

He told the Khanh regime, and he told the American Congress for the first time we had heard it, that the United States would give whatever economic, military and American force support South Vietnam may need and we would give it forever.

That was his prognosis for the South Vietnamese conflict: forever. In the absence of a treaty, in the absence of a joint resolution, in the absence of some other form of law, the Secretary of Defense or even the President of the United States cannot make such a pledge and have it carry the weight and the meaning of law. Such a pledge by the Secretary of Defense does not, and cannot, commit the American people or the American Congress to anything.

It was particularly unfortunate that it should have been made by the civilian head of the American military establishment. In that capacity, he is supposed to carry out the military end of American foreign policy. But he has compromised that function by speaking for and on behalf of the non-military elements of the American government. He has gone beyond the carrying out of a policy, which is the function of the military; he has established the policy. Or tried to, because I am certain beyond any doubt that the American nation is not going to pursue any Asiatic war forever, or even for long.

By seeking to pre-empt the role of the State Department and the Presidency in South Vietnam, the Secretary of Defense is apparently seeking to foreclose diplomatic avenues for a settlement of that Civil War.<sup>61</sup>

A constant argument of Morse after August 7, 1964 would be that the presence of the U.S. military in Vietnam was illegal, that promises made and actions taken by the White House and its agents, in this case McNamara, were unconstitutional and needed to be reversed. Thus while speaking to various crowds Morse made it clear that Congress had not really been involved in decisions regarding U.S. involvement in Vietnam. For instance, while addressing the attendees at the Fidelity Machine Tool dinner, in Cherry Hill, New York on May 15<sup>th</sup> 1964, Morse stated

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<sup>61</sup> Wayne Morse, Speech at Temple University, April 20<sup>th</sup>, 1964, Morse Papers, University of Oregon, Box 49.

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that “the only role that Congress is able to play directly in passing judgment on our policy in Vietnam is in the consideration of foreign aid measures.”<sup>62</sup> Prior to 1964 any help given to South Vietnam was determined by the president and took the form of either monetary assistance, provision of equipment or military advisors.

Morse reminded Americans that Johnson had exploited the Tonkin Gulf incident(s) to gain a Congressional resolution giving him authority to take actions to protect the U.S. and its South Vietnamese ally. Morse was very quick to point out that this resolution stopped short of a declaration of war which the President knew he would not get from the law makers. Using this Resolution and more requests for finances through appropriations bills, Johnson continued to wage war in Vietnam without Congress having blessed full scale war. As was the case with his previous arguments, Morse continued to make the claim that the president had taken illegal action, that the Constitution required the Congress to declare war and that the president was to manage it once it began.

Morse would also stand before the various crowds that he addressed and call for the troops to be brought home, whether they were merely advisors or active participants. He also called for no more troops to be sent to Vietnam. Even while the American military role was still “advisory” Morse warned the Americans that the United States troops were be used in a war that could not be won. He would state on many occasions that:

American military power and American manhood will be sapped and drained by this war every bit as much as French manhood was sapped and drained. The French are trying to tell us right now that there is no such thing as military victory in Vietnam. They had victories by the dozens. The military picture for the French in Indochina was always looking up. Every encounter was called a French victory. Every week and every month was called a turning point toward victory. Every year was hailed as the one when the French war effort would be over.

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<sup>62</sup> Wayne Morse, Speech Fidelity Machine Tool Dinner, Cherry Hill New Jersey, May 15<sup>th</sup>, 1964, Morse Papers, University of Oregon, Box 50.

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After eight years of these promises, the French war effort in Indochina simply collapsed. The French people decided to quite throwing good money after bad, they simply had enough. Words like there is no substitute for victory are meaningless when no one knows what victory consists of. And let me remind you that Secretary McNamara has not told us, either, what he would call a victory in South Vietnam. All he promised is that we will continue the war forever.<sup>63</sup>

While encouraging the people to call for United States engagement in Vietnam to come to an end before the carnage increased even more, Morse also stated that he regretted that the American people had to voice their opposition to their President, but that Johnson just did not seem to understand what was happening and how extreme his actions had become. Morse indicated that he truly regretted:

...that the administration of my own party has not been able to bring itself to recognize the facts of life. It has felt compelled to carry out a disastrous policy simply because it inherited it. Unless it finds the courage to change that policy it, too, will do no more than preside over the continued loss of American life and American money in South Vietnam.<sup>64</sup>

Regardless of the group being addressed whether civic, religious or academic or the topic that he was supposed to cover, Morse always found an opportunity to share his thoughts about the war raging in Vietnam and the manner in which it was being handled by the president. He never missed an opportunity to tell his audience that the president was waging an illegal and unconstitutional war. Additionally he seized every chance given to encourage the American people to join him in calling for the Commander in Chief to pull American forces out of Vietnam and to end illogical involvement in Southeast Asia. Finally he never missed an opportunity to rein in the president and restore congressional authority on war making.

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<sup>63</sup> Wayne Morse, Speech at Temple University, April 20<sup>th</sup>, 1964, Morse Papers, University of Oregon, Box 49.

<sup>64</sup> Wayne Morse, Speech Fidelity Machine Tool Dinner, Cherry Hill New Jersey, May 15<sup>th</sup>, 1964, Morse Papers, University of Oregon, Box 50.

Gruening's speeches urging an end to American involvement in Vietnam differed from Morse's argument somewhat, notably by challenging the concept of "commitment." America was not bound by some nebulous promise made by the country's President. A justification used by the Johnson administration to continue U.S. involvement in Vietnam, was the "promise" made by three previous presidents to assist the South Vietnamese government in its fight to gain control of the lower portion of the country—17<sup>th</sup> parallel to the southern tip. In his quest to dislodge America from its Southeast Asian ally, Gruening sought to dispel the notion that former Chief Executives had made a commitment to the Republic of Vietnam. In speeches made at both Harvard and Boston Universities on December 9<sup>th</sup> 1965, he dissected the pledge that had been made starting with what had been attributed to President Eisenhower. The basis for the pledge according to Gruening, was rooted in a letter sent to South Vietnamese president Ngo Dien Diem on October 23<sup>rd</sup> 1954 which stated;

Dear Mr. President: I have been following with great interest the course of developments in Vietnam, particularly since the conclusion of the conference at Geneva. The implications of the agreement concerning Vietnam have caused grave concern regarding the future of a country temporarily divided by an artificial military grouping weakened by a long and exhausting war and faced with enemies without and by their subversive collaborators within.

Your recent request for aid to assist in the formidable project of movement of several hundred thousand loyal Vietnamese citizens away from areas which are passing under a de facto rule and political ideology which they abhor, are being fulfilled. I am glad that the United States is able to assist in this humanitarian effort.<sup>65</sup>

While addressing these audiences as well as many others, the senator from Alaska would point out the first two paragraphs only promised to provide assistance in helping transport people from the North to Southern Vietnam. He stated: "there was nothing to indicate that Diem was asking

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<sup>65</sup> Ernest Gruening, "United States Policy and Actions in Vietnam," Speech to Harvard and Boston University, December 9<sup>th</sup> 1965. Gruening Collection, University of Alaska, Fairbanks, Box 524, folder 4060-4064. p.5.

and that President Eisenhower was responding to a request for help against Communist aggression.”<sup>66</sup> He would go on to quote more of the letter;

We have been exploring ways and means to permit our aid to Vietnam to be more effective and to make a greater contribution to the welfare and stability of the Government of Vietnam. I am accordingly, instructing the American Ambassador to Vietnam to examine with you, in your capacity as Chief of Government, how an intellectual program of American aid given directly to your government can serve to assist Vietnam in its present hour of trial, provided that your government is prepared to give assurances as to the standard of performance it would be able to maintain in the event such aid were supplied.<sup>67</sup>

Using this section as the basis for his argument, Gruening asked his audiences to consider the language used by Eisenhower. “We, namely, the Government of the U.S., have been exploring ways and means of aiding Vietnam.”<sup>68</sup> Reviewing the first portion of the letter and calling attention to what had been written led the senator to point out that aid was only to be given if the South Vietnamese Government could assure that it would perform in an acceptable manner and maintain that standard once assistance was provided. After making this observation, he would often read the next portion of the letter which stated that;

The purpose of this offer is to assist the government of Vietnam in developing and maintaining a strong, viable state, capable of resisting attempted subversions or aggression through military means. The Government of the United States expects that this aid will be met by performance on the part of the government of Vietnam in undertaking needed reforms.<sup>69</sup>

Sharing this section of the correspondence between Eisenhower and Diem, Gruening would point out that a second condition had been placed on U.S. assistance. The first related to “assurances as to standards of performance” and the next that aid was contingent on the Government of South Vietnam undertaking needed reforms.<sup>70</sup> Gruening then shared the final

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<sup>66</sup> *Ibid.* p. 5-6.

<sup>67</sup> *Ibid.* p 7.

<sup>68</sup> *Ibid.* p. 7-8.

<sup>69</sup> *Ibid.* p. 7-8.

<sup>70</sup> *Ibid.* p. 7-8.

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portion of the letter in an attempt to solidify his argument that no promises of direct military assistance had been made: that;

It, namely the government of the United States, hopes that such aid, combined with your own efforts, will contribute effectively toward an independent Vietnam endowed with a strong government. Such a government would, I hope, be so responsive to the nationalists aspirations of its people, so enlightened in purpose and effective in performance, that it will be respected both at home and abroad and discourage any who might wish to impose foreign ideology on your free people.<sup>71</sup>

After reading this portion of Eisenhower's letter, Gruening pointed out that there was a third precondition for U.S. aid, namely that the Vietnam Government be respected both at home and abroad. He went on during these speeches to question how "responsive it was to the aspirations of the people, how enlightened its purpose and how much it was respected at home—since a civil war broke out against it. He also contented that it was not really respected abroad, "as evidenced by the fact that Ambassador Lodge supported the removal of Diem and the Nhu's." These factors indicated that the conditions prescribed by the Eisenhower administration had not been fulfilled and that the U.S. bore no responsibility to become involved in Vietnam.<sup>72</sup> Beyond the letter, Gruening pointed out to his audiences that a statement made by the White House, on November 3<sup>rd</sup>, 1954 indicated that no request had been made by Diem for direct military aid. Eisenhower had sent General J. Lawton Collins to "explore" with President Diem exactly how the U.S. could help him handle the critical problems and to supplement measures being taken by the Vietnamese themselves. No mention was made in the statement outlining a request for help.<sup>73</sup>

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<sup>71</sup> *Ibid.* p. 7-8.

<sup>72</sup> *Ibid.* p. 8.

<sup>73</sup> *Ibid.* p. 8.

Having dealt with the first president to supposedly make a commitment, Gruening moved on to the second, John F. Kennedy. Gruening did not focus on comments made by Kennedy in any letter to Diem, but rather on statements that were articulated by the president on television. Kennedy was persuaded by both his Secretary of State Dean Rusk and his Secretary of Defense Robert McNamara to increase the military advisors present in Vietnam. More than 15,000 were sent prior to Kennedy's death in 1963. In spite of his acquiescence, the president, according to Gruening, did not think America should become directly involved, and had made no pledge. On September 2<sup>nd</sup>, 1963 in an interview with Walter Cronkite, the president stated that; "I don't think that unless a greater effort was made by the Government to win popular support that the war can be won out there."<sup>74</sup> While speaking to his various audiences, Gruening used this statement to indicate that Kennedy had reached the conclusion that Diem had not fulfilled the conditions laid out by Eisenhower for Vietnam to continue receiving assistance although he had nine years to do so—from 1954-1963. He was also quick to point out that Kennedy had stated

...in the final analysis, it is their war. They are the ones who have to win it or lose it. We can give them equipment, we can send our men out there as advisors, but they have to win it—the people of Vietnam—against the communists. We are prepared to continue to assist them, but I don't think that the war can be won unless the people support the effort, and, in my opinion, in the last two months the Government has gotten out of touch with the people.<sup>75</sup>

Gruening concluded by stating that the record clearly showed the United States had not made a solemn pledge to support the Vietnamese government by sending in combat troops.<sup>76</sup>

Gruening also emphasized the corruption of the South Vietnamese government. In a speech given on February 2, 1968 entitled "Corruption in Vietnam II: Must Our Boys Died To Defend It," Gruening recounted information provided by a United States governmental agency,

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<sup>74</sup> *Ibid.* p. 8-9.

<sup>75</sup> *Ibid.* p. 8-9.

<sup>76</sup> *Ibid.* p. 9.

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which implied that high ranking South Vietnamese officials were involved in smuggling gold and opium; that black market trade in multiple United States military post goods and equipment, extortion, bribery and money laundering was widespread; that funds sent by America for specific purposes or programs were misdirected into personal accounts of officials. The Senator was especially indignant about supplying both troops and indigenous people with opium, selling goods that were meant for United States military personnel; extorting bribes from the common people either for protection or so they could buy needed items and misdirecting the aid sent by the U.S. to assist the common people. If top level officials were treating the people in this manner, what hope could there be that the people would ever trust or support the government? Furthermore, would it ever be possible for the deep-seated corruption to be rooted out and a government sensitive to the needs of the people put in place? Ultimately Gruening contended that the wide-spread dishonesty present in the government would make it impossible for it to ever become stabilized and strong. America thus was not supporting a legitimate government that had the best interests of the people in mind, but rather a harsh dictatorial regime that was oppressing the people and pushing them into the arms of the communist camp. America needed to cast off its support, Gruening argued, no longer making it possible for the South Vietnamese leaders to treat their people in such a cruel manner.<sup>77</sup>

Another rationale for ending American involvement in Vietnam was Greuning's contention that North Vietnam was not a satellite of the Soviet Union or China. Recounting the history of Vietnam from 111 B.C. and outlining the struggle of the people to obtain and maintain their independence, he stated that if left alone by the United States, three independent countries would have emerged from French Indo-China. Each would have its own unique social and

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<sup>77</sup> Ernest Gruening, Speech, "Corruption In South Vietnam II: Must our Boys Die To Defend it," Gruening Collection, University of Alaska, Fairbanks, Box 524, folder 4060-4064. p.1-3.

political ideology and most important a united Vietnam would have been ruled by a communist form of government, but it would not be a puppet state of any other communist country. It would be a communist regime independent of Peking.<sup>78</sup> He would also state that “the history of Vietnam shows conclusively their dislike and fear of the Chinese and” that “their war is largely motivated by a desire to get rid of all foreign rule.”<sup>79</sup> What they wanted most of all, Gruening would tell his audiences was their independence, which should be a cause that Americans would find appealing. He said “they did not want the French or the Chinese, and it is doubtful that they wanted the U.S. in their country.”<sup>80</sup> Like Tito in Yugoslavia, Ho Chi Minh sought to create a communist state independent of Moscow. This being the case, a communist Vietnam never would be a threat to the U.S. and should be left alone. Again, according to the Senator, this provided a clear cut rationale for withdrawing troops from Vietnam.<sup>81</sup>

The negative effects of involvement on America itself became another rationale to bring the U.S. involvement overseas to an end. A primary argument used here focused on the impact of the war on President Johnson’s Great Society Reforms/Program—which was being slowly strangled. In a speech given on May 6 1965, the Alaskan Senator stated that:

...the fine domestic programs which the president has presented and which have already met with wide and enthusiastic acclaim from the American people, sorely needed and desirable programs—the war on poverty, anti-pollution, the war against crime, landscaping and urban beautification, resource development, wildlife and wilderness conservation, and much else—will go down the drain. The funds needed to carry out the president’s purposes and his over-all proposal to build a Great Society will be consumed by the moloch of war.”<sup>82</sup>

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<sup>78</sup> Ernest Gruening, “Speech, Our Dilemma In Viet Nam,” May 1966. Gruening Collection, University of Alaska, Fairbanks, Box 524, folder 4060-4064. p. 20.

<sup>79</sup> *Ibid.*, p 20.

<sup>80</sup> *Ibid.*, p.20.

<sup>81</sup> *Ibid.*, p 20.

<sup>82</sup> Ernest Gruening, Speech, “The United States Should Get Out of Vietnam; Four Years Later,” May 6<sup>th</sup>, 1965. Gruening Collection, University of Alaska, Fairbanks, Box 524, folder 4060-4064. p. 2-3.

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Funds needed to underwrite and support these programs were not the only casualties of the war. Continuing along these same lines Gruening said that freedom of speech was also being impaled as a direct result of this war.

While addressing the crowds at Harvard and Boston Universities, Gruening pointed out that he and others who shared similar views regarding Vietnam had come under increasing attack, primarily from the Johnson Administration. This was a most surprising development, considering the fact that America had been seen as a land of freedom, a place where one could speak out openly on anything including the need for peace. He emphasized that it was not only a right for Americans to speak out and share their opinions, but it was a duty, “an imperative duty.” Support for his position regarding the right and duty of Americans to speak out was found by the Senator in the St. Louis Post-Dispatch. On December 2<sup>nd</sup> 1965 in an editorial the following statement was made;

One of striking things about the criticism of Vietnam policy is its persistent refusal to be silenced. We hope that continues to be the case. Every citizen shares the moral responsibility for his country's conduct. If he believes his country's conduct to be wrong, but fails to speak out, he is betraying his own obligations as a citizen...just as public criticism of a no-negotiation policy brought about a policy of pro-negotiation, so criticism of mistaken objectives in Asia can bring about adoption of the right objectives. It is vital that discussion of the nation's Asia objectives be free and vigorous.<sup>83</sup>

After quoting from the Post Dispatch Gruening would go on to state that;

since the bill of rights, the first of the ten amendments to the Constitution, prohibits the Congress, and by implication all other legislative and executive authorities in the nation and state, from abridging freedom of speech, the burden of proof would rest heavily on any who would deny or seek to impair such freedom. I know of no right more precious or more inherent in our nation's philosophy and its often reiterated professions.<sup>84</sup>

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<sup>83</sup> Ernest Gruening, “United States Policy and Actions in Vietnam,” Speech to Harvard and Boston University, December 9<sup>th</sup> 1965. Gruening Collection, University of Alaska, Fairbanks, Box 524, folder 4060-4064. p. 1.

<sup>84</sup> Ibid. p.1-1a.

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Greuning recognized that the nation was at war—an undeclared war—and that many of his fellow citizens held the view that it was the duty of all, as patriotic Americans to support the Administration, which had;

...assumed the responsibility for our course of action in Southeast Asia, and is conducting the war. When our men are dying in combat deep passions are naturally aroused, the martial spirit becomes rampant, and dissent and protest become increasingly perilous. Yet it is just at such a time that speaking out is more than ever essential...Clearly it is not easy to oppose the publicly expressed and re-iterated declaration of policy and related action by the President of the United States, policy largely supported by the press...with some honorable and courageous exceptions...and in behalf of which the powerful machinery of government is militantly mobilized.<sup>85</sup>

People held differing views regarding the war. Some Americans supported it while others did not embrace it or believe that it was the right action to be taken by the U.S. Friction was developing between these groups that Greuning believed would tear the country apart. The Senator asked if Vietnam was really worth the potential harm that could be done to freedom of speech. He did not believe that Vietnam was worth that risk and thus sought to convince his audiences to join him in calling for the U.S. to withdraw from Southeast Asia.

Greuning's concern over the potential demise of free speech was coupled with his concern regarding the increased activity of the anti-war movement which he saw as important, but an entity that could wreck irreparable damage on the country. As noted, late 1965 and early 1966, college students, religious groups, women's organization, ethnic groups, concerned citizens and some members of Congress, such as Greuning and Morse, were actively protesting American involvement in the war. These protests were occurring on college campuses as well as in major cities and the capital itself. During most of these rallies anti-war songs were sung by groups such as Peter, Paul and Mary, inflammatory speeches were given, marches to strategic sites like the Capitol Building and the Pentagon occurred and those in attendance were

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<sup>85</sup> *Ibid.* p 1-1a.

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encouraged to take action to persuade Johnson to get out of Vietnam. Gruening made it perfectly clear that he supported these rallies, but he also indicated they were disconcerting to him because he believed they could spiral into acts challenging all forms of authority. Government, structure and authority were important components of the country and not all were bad. His ultimate fear was that the movement could go too far, throwing the baby out with the bath water. This led him to reiterate whether the unrest and danger to the country was really worth continued involvement in Vietnam.<sup>86</sup>

Additionally both Gruening and Morse sought to sway public opinion against continued involvement in Vietnam and to restore the balance of power regarding war making by writing articles in various periodicals, most notably the Nation and Progressive magazines. Their articles contained relatively little new material. For the most part they recounted what they had been saying in their public addresses. These articles were really just another medium they used to get their message out to the American people. The articles however, did permit both men to elaborate more fully on some arguments than they could do in speeches. In early stories they focused on United States violation of the Geneva agreements—they did admit that it was not signed by the representatives of the United States—on America’s disregard for following the United Nations Charter Agreement, their belief that the attack on American ships was provoked, the fact that the domino theory was misguided and inaccurate, that what was going on in Vietnam was a civil war that United States had no business getting involved in—the revolution taking place had not been instigated by Russia or China, that the president had engaged in behavior that was both illegal and unconstitutional by waging an undeclared war and that no matter how much money, resources or personal were put into Vietnam we could not win.

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<sup>86</sup> Wayne Morse, “Humpty Dumpty in Vietnam,” Progressive Magazine, August 1964. Wayne Morse Collection, University of Oregon, Eugene. P.13-16.

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One such early article, authored by Wayne Morse and published in Progressive in 1964 articulated these points in the following manner. United States foreign policy regarding Asia required that China cease from aiding the Viet- Cong and that the North Vietnamese do likewise or America would increase support given to the South Vietnamese along with heightened military involvement in the Southeast Asia. He pointed out that lack of genuine diplomatic action and the position taken by the United States were a direct violation of the Geneva Agreement. America, after all, had threatened war and did so in a situation where there was no direct threat to the countries security. After making a case that events in Indo-China posed no threat to America, Morse went on to highlight the particular clauses of the Geneva agreement that the United States violated. Articles 16, 17 and 18 were the main components that had been ignored. Regarding article 16 Morse would write that it stated no troop reinforcements were to be introduced into Vietnam, with the exception of rotating personnel. As for 17, he point out that no new “arms, munitions and other war material, such as combat aircraft, naval craft, piece of ordnance, jet engines, and jet weapons and armored vehicles were to be brought into South Vietnam.” Finally, 18 made it clear that no new military bases were to be developed in the country.<sup>87</sup>

After giving his readers insight into the significant portions of the document, Morse provided detailed information about how it was to be monitored. A commission comprised of three nations was to monitor actions in both North and South Vietnam and report any suspicious activity or violations to the United Nations. Once the document from Geneva had been finalized and agreed to the United States did two things. First American governmental leaders indicated

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<sup>87</sup> Wayne Morse, “Humpty Dumpty in Vietnam,” Progressive Magazine, August 1964. Wayne Morse Collection, University of Oregon, Eugene. P.13-16.

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that the country would support and follow the provisions as long as everyone else did and second, it offered support to the Diem regime.<sup>88</sup>

What the offer of support to Diem did in actuality, according to Morse, was convert South Vietnam into a protectorate. As trouble grew there, so did the commitment of America to help the unstable, unpopular and undemocratic government. In this particular article as well as several others that he wrote after 1964, Morse pointed out that some politicians and citizens were beginning to state that involvement in Vietnam was a big mistake, but there was no point in looking back or rehashing the wisdom of it all. Morse wanted his readers to know there was reason to rethink and even alter the behavior of the American President.<sup>89</sup>

In addition to the Geneva agreement the U.N. Charter agreement had been disregarded. Provisions of this international directive that had been cast aside included Article 2 section 4; “all members shall refrain...from the threat or use of force...against any state.” Article 33 stated that disputes must be handled by negotiations and article 37 made it clear that disputes should not be handled individually but brought to the Security Council. To ensure the magnitude of the situation he pointed out that even the self defense clause did not sanction what the United States was doing in South Vietnam. The Security Council had to be given ultimate responsibility for coordinating the protection of Vietnam if it really needed it.<sup>90</sup>

After establishing the misbehavior of the government and indicating that the country’s leaders had involved America in an unjust unnecessary war, which was the primary reason to rethink continued involvement, Morse went on to criticize the stated justification for the United States not turning the situation over to the United Nations. The government’s rationale for acting unilaterally included the need to take immediate action, which the U.N. would not do, and the

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<sup>88</sup> *Ibid.* p. 13.

<sup>89</sup> *Ibid.* p 13-14.

<sup>90</sup> *Ibid.* p 14-15.

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belief that the communists only understood force. He informed his readers that such reasoning was faulty, that it ignored several key points. First “it should not be left to us to decide whether the issue should be handled by the United Nations, Second, admission by administration officials that some day America would seek United Nations involvement suggests that the government knows that what is taking place is a United Nations issue.” Third, “the fight now negotiate later line is based on the wholly illusionary assumption that Communist China and North Vietnam will do what we in the U.S. refuse to do, negotiate when they are losing.”<sup>91</sup>

Once Morse dealt with the flaws that pervaded the process utilized by America to become involved in Vietnam, he pointed out that the risks being undertaking were quite high. He revealed just how dangerous the risks by including public statements made by Secretary McNamara, Secretary Rusk and General Harkins. At different times these three men called for the United States to expand the war effort if the communist-led forces did not retreat from Vietnam and Laos. They each made the assumption that China alone was responsible for the communist gains and that China could be bluffed into giving them up. Morse was quick to point out that China had not been bluffed in Korea when the whole United Nations was involved and this time the United States was on its own. If the bluff was called this time, and Morse believed that it would be, America would have no choice but to resort to nuclear weapons with all of the hideous consequences that entailed. Continuing on course would lead the country into a nuclear war, and for what purposes? He concluded his article by stating that nothing America set out to do in 1954, had been accomplished, that there was no justification for what the United States was doing in 1964, nor for what it was threatening to do in the future.<sup>92</sup>

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<sup>91</sup> Ibid. p. 15-16.

<sup>92</sup> Ibid. p. 15-16.

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As stated, the purpose of this article, like Morse's speeches, was intended to turn the public against the war effort, to get them to pressure the White House to end participation in the conflict. His focus more than anything else, at least at this point, was on the illegality of the war. America needed to get out not just because continued participation was immoral but because involvement was illegal. American military personnel needed to be brought home not because they were dying, which did grieve the Senator, but because the war had been instigated by the President and not Congress. The balance of power in relation to war making that had been established by the constitution needed to be restored. This was the focus of these early articles.<sup>93</sup>

Much later articles, such as the one by Gruening and published in The Nation, focused less on the legality of what was occurring and more on the need for the United States to disengage from war in Vietnam. Involvement in the war should be ended because Vietnam was inconsequential to America and because continual participation was keeping the government from effectively dealing with issues and problems at home that were in desperate need of attention. Withdrawal also needed to take place, according to Gruening in his writing because the President, who at this point was Richard Nixon, promised the people that he would get the country out of the conflict. In spite of the need and promise to extricate the United States from Vietnam nothing, Gruening would write, had taken place. America had been misled by both presidents.<sup>94</sup>

The Senator also argued the conflict needed to be discontinued because of its great cost and the lack of progress toward ending the war. At the time of the article's printing, Gruening pointed out, over 34,000 lives had been lost and 125 billion dollars spent—which would have gone along way toward fixing internal problems that need to be addressed. Additionally,

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<sup>93</sup> Ibid. p 13-16.

<sup>94</sup> Ernest Gruening, "Lessons from the Tonkin Gulf," The Nation, May 5<sup>th</sup>, 1969 Gruening Collection, University of Alaska, Fairbanks, Box 521, folder 4025-4028. p. 1.

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Gruening articulated his belief that the sacrifices being made by American boys and the money being spent were all in vain. The reports given by the governmental leaders and military personal were false; the war was not on the verge of ending. As a result of it continuing to dragging on the American people were becoming weary. This exhaustion led many people, according to Guening, to call for the country to get out, honorably for sure, but to get out none the less.<sup>95</sup>

Addressing the desire on the part of the people to see the U.S. end support for the South Vietnamese government, Gruening challenged the president to just disengage, “to barge out” as we had “barged” in back in 1964. Seeking to dispel the notion that it had to be done in an “honorable” fashion, as defined by Nixon and other leaders, he wrote that it would be more honorable on the part of the Americans to just pull out of Vietnam. After all, the regime that we were supporting was really comprised of a ruthless dictator who was abusive toward the people. It was not a government that was representative of the people or responsive to their needs. Gruening would ask how it was honorable to support and fight to keep that kind of administration in place.<sup>96</sup>

Finally, in this and other articles, Gruening stated that ultimate responsibility for getting out of Vietnam rested on the shoulders of those who got America involved and those who continued to keep us fighting. President Johnson could have ended American involvement in Vietnam. He could have gone on television and radio and informed the American people that he had tried to help the government of South Vietnam for four years as had his predecessors for a decade, but despite our best effort, success had not been achieved. The U.S. could not obtain the direct result desired and therefore needed to withdraw and end all support. Nixon had the same

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<sup>95</sup> *Ibid.* p. 1.

<sup>96</sup> *Ibid.* p. 1-3.

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opportunity. As Johnson should have done, he needed to end the war. If he did the consequences would not be negative as some in leadership were indicating, they would be positive. There would be no more bloodbaths like the one currently taking place, the American people could return their focus to living life, and the government could turn its attention toward the issues at home that needed to be addressed.<sup>97</sup>

Gruening used this particular article and ones like it to encourage the government to disengage from Vietnam and to enlist the help of all Americans to push the country's leaders to take this needed action. He pointed out that continued involvement was harming America at home, that the money being spent on the war effort could go a long way toward making needed improvements in America and that continued involvement was illogical—we were facilitating the oppression of the Vietnamese people. Because it was not right for us to be there and we were not making a positive contribution, we needed to vacate. Later arguments such as this did not focus on restoring the balance of power in relation to war-making rather, Gruening emphasized the need and importance of the complete withdraw the U.S. from Vietnam.<sup>98</sup>

In addition to using public speeches and the pen as a means of bringing United States commitment in Vietnam to an end and as a mechanism for restoring the balance of power in relation to war making, both Gruening and Morse relied on interaction with many of their colleagues in the Senate. Correspondence from 1964 through early 1965 demonstrates efforts to sway their colleagues to embrace their position on the Vietnam War. Letters from mid 1965 through 1968, and even beyond, show the efforts of Gruening and Morse to influence other members of the Senate to take needed action. Notes sent by these two senators contained two things. First was a personal plea and second copies of letters sent to these two dissenting

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<sup>97</sup> Ibid. p. 2-3.

<sup>98</sup> Ibid. p. 2-3.

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senators by their colleagues' constituents. They asked their brethren in the Senate to apply what they believed to be common sense to American involvement in Vietnam. They did not believe that wise judgment had been used in passage of the Tonkin Gulf Resolution and that action needed to be taken to ensure that the president did not involve the United States in an undesirable war. After war became a reality, from late 1964 on their correspondence focused on encouraging members of the Senate to join them in reining in the president, in stripping him of the power to wage an undeclared war.

Gruening and Morse enclosed copies of originals sent to them by the constituents of other senators. Each of these items forwarded indicated several things. First, those writing agreed with the position taken by Gruening and Morse on the Vietnam issue. Second, they appreciated the stand that these two dissenting Senators had taken regardless of how unpopular it might have been. Third, the constituents indicated they were not pleased either by the position or lack thereof taken by their own Senator. In several cases correspondence sent to these two Senators, speaking out about the action or inaction of particular Senators had already been mailed to the appropriate party. Gruening and Morse wanted to insure that their colleagues were aware of the discontent present in his/her state. Those who received letters included but were not limited to the following; Frank Church (Democrat-Idaho), J. William Fulbright (Democrat-Arkansas), Mark Hatfield (Republican-Oregon), Mike Mansfield (Democrat-Montana), George McGovern (Democrat-South Dakota), Richard B. Russell (Democrat-Georgia), Stuart Symington (Democrat-Missouri), Stephen M. Young (Democrat-Ohio) and William Proxmire (Democrat-Wisconsin).<sup>99</sup>

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<sup>99</sup> Ernest Gruening, Letters sent to Various Colleagues, Gruening Collection, University of Alaska, Fairbanks, Box 302,303,306, folder 1575, 1596, 1597, 1601, 1602, 1621.

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In response to letters sent by Gruening and Morse, or actions these individuals had taken, many senators would write expressing or reiterating their views on U.S. involvement in Vietnam. Late in 1964 Fulbright would respond to a letter sent by Gruening indicating that he held reservations about what was happening in Vietnam, particularly as it concerned the U.S. Throughout 1965, both Gruening or Morse received notes from William Proxmire, who voiced his appreciation for their position; McGovern, who indicated that they had been an inspiration to him and many others; Mark Hatfield, who stated that he understood their concerns but felt the need to do some investigation before embracing their position; Robert Kennedy (Democrat-New York), who wrote that Vietnam policy needed to be re-evaluated and Thomas Dodd (Democrat-Connecticut), who shared their concerns over the political situation in Vietnam—particularly as it related to the Buddhists.<sup>100</sup>

After 1966, mail came from the following: Russell, who did not wholly agree with the two, but believed them to be correct in many aspects regarding United States involvement in Vietnam; Mansfield, who believed as they had been advocating, that the conflict should be turned over to the United Nations; Symington, who although not convinced that America should withdraw from Vietnam did believe that the war was hurting the much needed Great Society reforms; Jacob Javits (Republican-New York), who articulated the belief—he shared with them—that a new resolution needed to be adopted, one that affirmed support for the president and at the same time restricted actions he could take; Robert Kennedy, who wanted it made clear that the U.S. military itself was strong, but the conflict was not something that America should continue to be involved with; Mark Hatfield who indicated to each of them that he also believed the balance between the President and Congress needed to be restored, as it related to war

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<sup>100</sup> Ernest Gruening, Letters sent to Various Colleagues, Gruening Collection, University of Alaska, Fairbanks, Box 302,303,306, folder 1575, 1596, 1597, 1601, 1602, 1621.

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making powers and both McGovern and Hatfield who in 1971 indicated they were advocating actions similar to those called for by Gruening and Morse since 1964.<sup>101</sup>

Another avenue Gruening and Morse followed in the quest to end the war was involvement in the anti-war movement. Both men would spend a considerable amount of time traveling throughout the country speaking at war protest events. Gruening seemed to garner more invitations than did Morse. This may have been because the Senator from Alaska was more direct and pointed in what he had to say. He did not take ninety minutes to say what could be communicated in fifteen minutes. This gave Gruening a significant amount of credibility and made him appealing to various anti-war groups. Morse on the other hand may have received fewer invitations because of the manner in which he spoke. Like Gruening he was very passionate about what he had to say. He was also very articulate. One problem for the Senator from Oregon was that he had a tendency to give very long impassioned speeches. They may have included a lot of good points and important insights, however they tended to be so long that listener interest would be lost. Additionally there was a tendency to ramble on and to “beat a dead horse”.

Gruening and Morse appealed to anti-war groups because they were renowned for their early opposition to the war, epitomized in their votes against the Tonkin Gulf Resolution. Because of how vocal they were on the Senate floor and in general addresses they received many invitations to speak. Rallies Gruening was invited to speak at included a Students for Democratic Society gathering held in Washington D.C. on April 17<sup>th</sup> 1965. Joining Phil Ochs, Judy Collins, I. F. Stone, Staughton Lynd and Joan Baez on the platform, which was located at the foot of the Washington Monument, Gruening addressed over 25,000 marchers of which 15,000 were students. The main emphasis of the Senator on this day was to call for President

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<sup>101</sup> Ibid. Box 302,303,306, folder 1575, 1596, 1597, 1601, 1602, 1621.

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Johnson and the military leaders to implement an “immediate cession of our bombing in Vietnam.” He also called for negotiations to take place and for the extrication of the U.S. from Vietnam.<sup>102</sup>

The student led teach-in held at the University of California-Berkley on May 22, 1965 was another place where the senator would speak. On this occasion Gruening shared the speaking duties with Dr. Benjamin Spock, Dick Gregory—a comedian, Kenneth Rexroth—a poet, Norman Mailer—a novelist, and Norman Thomas—Socialist Party leader. On this occasion, while addressing 10,000 students, he would demand that the President seek “an immediate negotiated settlement in Vietnam on any terms available.” He would state the White House could not make demands for the settlement rather it must be willing to take what is offered by the North Vietnamese and be happy with it. In closing he fired the crowd up by emphatically denouncing the Johnson Administration for trying to settle international problems in Asia which he argued white men could not do.<sup>103</sup>

Fire Island located in Cherry Hill Long Island, New York, was another venue where Gruening was able to address a group of anti-war protestors. The event, which drew roughly 200 people, occurred on August 20, 1966. After joining the protestors for the last half mile of their walk, he spoke about U.S. involvement in Vietnam encouraging the people to increase their calls “for the halt of the stupid, indefensible war in Southeast Asia.” He noted that U.S. officials did not want reunification elections to take place because it was clear that Ho Chi Minh would win. Concluding his remarks he stated that America was not only the intruders but also the aggressors. While speaking to a group at Colby College in Maine on November 21, 1967, Gruening

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<sup>102</sup> “15,000 White House Pickets Denounce Vietnam War,” *The New York Times*, April 18, 1965, Fairbanks: University of Alaska Library, Ernest Gruening Collection. Box 520, folder 4024, 4029-4031.

<sup>103</sup> Peter Bart, *The New York Times*, “33-Hour Teach-In Attracts 10,000,” May 23, 1965. Fairbanks: University of Alaska Library, Ernest Gruening Collection. Box 520, folder 4024, 4029-4031.

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reiterated many of the same things that he had said at the rallies held in Washington D.C., Berkley, California and Long Island, stressing again and again that the United States was fighting a senseless war and needed to get out now.<sup>104</sup>

Early in the Nixon Administration, during the Moratorium Day Rally held on October 15, 1969, Gruening was given yet another opportunity to call for discontinuing military involvement in Vietnam. At this point Gruening was no longer a U.S. Senator, having lost his position in the election of 1968 (to be discussed later). Joining him on stage in front of the Washington monument were George McGovern, Frank Church and Benjamin Spock. He pointed out the war would not be terminated by the executive branch nor by the legislative branch, as only a minority of Senators were willing to challenge the Chief Executive, but only by the public. He went on to recount his personal record in relation to American involvement in the Vietnam War, and finished by encouraged the students to continue their efforts to bring the war to an end, because they were the only mechanism in place that could truly make it happen.<sup>105</sup>

In late November 1969 the former Senator made an appearance in Chicago, Illinois where he spoke to crowds of anti-war protestors totaling over 2000. During the noon rally which had been sponsored by the Business Executives for Peace, he stated that “President Nixon’s plan for peace in Vietnam far from being a program to end this unjustifiable war is a blueprint to prolong it and even to perpetuate it.” Gruening would go on to say that the war would never end as long as Nixon held the office of president. “Our boys will die and they will die in vain.” He did state that the war should not just be labeled Johnson’s or Nixon’s war but Congress’ war too. The Senator made it clear that he had voted against the Tonkin Gulf Resolution and every single

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<sup>104</sup> *The New York Times*, “Fire Islanders Hear Senator Assail War,” August 21, 1966. Fairbanks: University of Alaska Library, Ernest Gruening Collection. Box 520, folder 4024, 4029-4031.

<sup>105</sup> Ernest Gruening, Speech, Moratorium Day, October 15, 1969. Gruening Collection, University of Alaska, Fairbanks, Box 524, folder 4060-4064.

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military appropriation for Southeast Asia. Gruening went on to indicate that many in the Senate asked him if he “did not want to back our boys to which he stated yes...I want them back home.” Finally he said the blood of every American who has died in Vietnam would be on the hands of those who voted to endorse the Tonkin Gulf Resolution and who subsequently supported the various appropriations bills.<sup>106</sup>

On February 15, 1970, Gruening would make another appearance before an anti-war crowd as he addressed a group of protestors in Washington D.C. as a part of the National Moratorium activities. Many of the comments that he made on this day were similar to those that he had made during other public appearances. Most importantly he called for the students and all those in attendance to join in pushing for the government to bring all U.S. military personnel home and to end the fighting. Through speeches given to various service clubs and Religious groups, letters written to fellow members of the senate and addresses given at anti-war rallies, Gruening continually shared his strong conviction that U.S. intervention in Vietnam was wrong and that the president had over stepped his authority in relation to war making. He sought to facilitate an end to the Vietnam War and a return to the balance of power as it related to war making.<sup>107</sup>

Wayne Morse also made appearances at anti-war rallies. Two in particular that he participated in were the SANE Rally and the anti-napalm campaign. At the SANE rally which took place in Madison Square Gardens on June 8<sup>th</sup> 1965, Morse had the opportunity to speak to over 18,000 people. Other speakers at the event included Benjamin Spock and Norman Thomas. In much the same manner as Gruening, the Senator from Oregon called for a “unilateral U.S.

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<sup>106</sup> John Carpenter, *The Chicago Sun Times*, “Protestors Hope for a better 2<sup>nd</sup> day,” Fairbanks: University of Alaska Library, Ernest Gruening Collection. Box 520, folder 4024, 4029-4031.

<sup>107</sup> Ernest Gruening, Moratorium Speech, Sunday 15, 1970. Fairbanks: Gruening Collection, University of Alaska, Fairbanks, Box 524, folder 4060-4064.

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cease fire, negotiations among all parties and United Nations supervision of a Vietnam peace settlement.”<sup>108</sup> Earlier, on May 3<sup>rd</sup> over three thousand people gathered in Redwood City California for a “rally that featured Wayne Morse and Students for a Democratic Society leader Tom Hayden.” The purpose of this event was to call attention to America’s use of napalm, the destruction that it was doing and to encourage people to push for its discontinued use in Vietnam.<sup>109</sup>

Although these Senators sought to rally the American people and their individual colleagues against the war, they never stopped arguing from the floor of the Senate that United States participation should be brought to an end and that the legislative branch was the entity to make it happen. As events took place in Vietnam from 1965-1968 that escalated American involvement in Vietnam, they seized every opportunity to call for the senate to take action to reverse the tide and bring the military home. Speeches about the illogical nature of the war, introduction into the Congressional record of letters from people who shared their particular view, amendments to repeal the Tonkin Gulf Resolution, calls to voting against war reparations and encouragement to place war powers in the hands of the legislative branch where it belonged were all a part of their ongoing campaign in the Senate.

Argumentation of Gruening and Morse against American involvement in the war, specifically some of the analogies that they used could be categorized by some as hyperbole and yet when given close consideration it is clear that their arguments were sound and that they really were appropriate. An example of this would be the Civil War analogy that they both would use at different times. It could be argued that this particular analogy is weak because the North (in America) did not agree to the split that occurred just prior to the beginning of the Civil War and

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<sup>108</sup> DeBenedetti, p. 114.

<sup>109</sup> DeBenedetti, p. 152.

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thus had a right to take actions necessary to reunite the union. North Vietnamese leaders had agreed to the split and therefore had no right to force South Vietnam to become reunited with it. It was an independent nation attacking another self sustaining people. A counter argument could be made that the North Vietnamese only agreed to the split because their allies pushed them to except the temporary division of the country and ultimately because there were to be reunification elections in the near future. These elections which had been promised had been thwarted and thus the North Vietnamese did have the right to take the necessary action to erase the division and restore their country.

Another argument that seemed to be hyperbole was the Domino Theory. It could be argued that the Soviets were behind the conflict that was taking place in Vietnam and that the Russians did have designs on consuming all of Asia and parts of Europe in an attempt to alter the balance of power in their favor. It does seem, however, and history bears testimony, to the fact that many of the nations that had been likened to dominoes—that would fall—had resolved to resist becoming puppets of the Soviets which is what Gruening and Morse argued when they sought to dismiss the Domino Theory. A third was the Geneva argument. American representatives did not sign the agreement---as did not one else—and therefore the U.S. was not bound to follow the terms and conditions of the document. It could also be pointed out that North Vietnam had also violated the agreement and because of this, actions taken by the Americas were justified. Again, counter-arguments could be made, which would strengthen the view held by Gruening and Morse, that what they argued in relation to the violation of the Geneva Convention of 1954 correct. First, the United States took direct action to keep the agreements from coming to fruition. President Dwight D. Eisenhower encouraged Ngo Dien Diem to thwart the reunification elections that were to take place in 1956. In addition, the North Vietnam had taken

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no direct action against the South Vietnamese government until it was clear that the terms negotiated at Geneva were not going to be honored and that the promised reunification elections were not going to take place.

It could be said that Gruening and Morse's focus on the violation of the United Nations charter agreement was also hyperbole. Those who embrace this view could argue that in times when an ally is under attack immediate action must be taken to protect that country; that taking the time to follow the steps prescribed by the U.N. Charter agreement would only allow the aggressor to gain a foothold that would be more difficult if not impossible to break. Additionally, members of the U.N. such as the Soviet Union could block such action and therefore make protecting an ally or other country under attack impossible and irrevocably alter the balance of power in favor of the Soviets. Again, when the argument made by these two dissenting senators is examined, it becomes clear that indeed their position was sound. Like it or not there was a process in place for handling regional or global conflicts. A country such as the U.S. could not determine on its own when to act and what needed to be done to maintain global peace. It could be possible for a situation to arise in which swift action would need to be taken, however, once things became stabilized the U.N. would need to be consulted to determine the next move. If this process—following the guidelines established by the United Nations—is not palatable to the U.S. and the America chooses to be the world policeman then the only real option would be to pull out of the United Nations and become extensively involved in world affairs.

The focus on America's violation of the SEATO agreement could also be seen as very weak. As Gruening would point out himself, South Vietnam had asked the U.S. for assistance, just not direct military assistance—in the form of troops. Additionally it could be argued that countries in distress could not ask for help and that when a treaty partner came under attack, no

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plea for help should be needed. Finally, by being a SEATO signatory we were obligated to protect South Vietnam regardless of whether help was openly sought or not—this agreement was in reality constructed as a mechanism to allow the U.S. to take necessary actions to keep communism from spreading. It could be counter argued that much like the U.N charter agreement and the Geneva accords of 1954, there was a process to be adhered to which was being totally disregarded. If America was to take legitimate action then all of the SEATO signatories needed to be consulted and all agree to take action together. The U.S. could not use this treaty as a smoke screen to take actions it deemed necessary to protect its own global interests.

Another focal point of the argument made by these two senators involved diplomacy. Both Gruening and Morse indicated that diplomacy had not been tried, that the U.S. attacked the North Vietnamese merely because Americans feared the spread of communism. Those wishing to discredit this particular argument could rightly point out that diplomacy does not always work, that there are indeed times when action needs to be taken. It could also be pointed out that while diplomats are seeking to generate a peaceful conclusion to a continuous situation that the enemy could work to bolster its strength—much like Hitler had done—making it far more difficult to suppress. Although, as indicated, there are times when diplomacy will not work, Gruening and Morse pointed out repeatedly that diplomatic channels needed to be used and an attempt made to resolve conflict before it escalated to military action. Only after all peaceful means are exhausted should a country engage in warfare.

Involvement of the United States in Vietnam became a topic of discussion early in the 88<sup>th</sup> Congress of the United States and would be an issue taking up a considerable amount of the Senate's time, as well as filling hundreds of pages of the Congressional Record of 1965.

Gruening and Morse contended that American involvement in Vietnam was unconstitutional because American participation in Vietnam required a formal declaration of war which had not been issued by the United States Senate.<sup>110</sup> Thus the United States military should not be engaged in war in Vietnam on an ongoing basis. Realizing that President Johnson was relying on the Gulf of Tonkin Resolution to keep America involved in Vietnam led them to point out that the resolution only allowed the president to take actions to protect American citizens or American interests if attacked. Carrying on a sustained war in Vietnam was not protecting American citizens or American interests, at least not in their opinion. The United States was the aggressor in this war. If the United States really needed to continue protecting South Vietnam and remain at war with North Vietnam, then the Congress, the body charged with the responsibility in the Constitution for declaring war, needed to be approached.<sup>111</sup> They would fall short of winning their point and getting American forces out of Vietnam, because the wording in the Gulf of Tonkin Resolution was so nebulous that it left room for Johnson to keep the American military engaged in Vietnam. Senators who supported American involvement in Vietnam indicated that as Commander in Chief, Johnson had the right to take action deemed necessary to protect the United States and that was what he was doing in Vietnam.

As early as January 6, 1965 Gruening and Morse voiced their displeasure over the way President Johnson was increasing American involvement in Vietnam and were calling for open debate in the Senate regarding whether the American military, still as advisors not combat troops, should remain or disengage and come home.<sup>112</sup> In the minds of Gruening and Morse the rationale for calling for a debate was both simple and logical. They did not believe American involvement in Vietnam had been adequately thought through or discussed. Both Gruening and

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<sup>110</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 1, p. 331-341.

<sup>111</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 1, p. 331-341.

<sup>112</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 1, p. 331-341. 914-918.

Morse believed that the 88-2 Senate vote supporting the Gulf of Tonkin Resolution was based primarily on the emotion of the moment.<sup>113</sup> They argued that the resolution was not passed on careful consideration of the facts or the implications of American involvement, but on a desire to strike back at the North Vietnamese.<sup>114</sup> American involvement should now be discussed again in more detail.<sup>115</sup>

Gruening's and Morse's goal was to bring President Johnson's ability to wage war in Vietnam to an end. They believed that once a calm, rational discussion took place their colleagues would draw the same conclusions they had: that what was happening in Vietnam was a civil war, not an attack on South Vietnam by an aggressive external force, America had no business becoming involved in Vietnam's internal affairs, not one American soldier should die to prevent the Communists from taking over Vietnam because the cost was higher than what it was worth, all of Southeast Asia would not necessarily fall to Communism if a reunited Vietnam became a Communist state, and finally, America could not win a war in Vietnam.<sup>116</sup>

Gruening and Morse were joined in their call for a formal debate by other senators, including Frank Church and George McGovern. These senators believed that if handled properly, a debate could help the president gain an understanding of how Americans felt about the country participating in the war.<sup>117</sup> Gruening and Morse claimed that many Americans felt the way they did, wanting the United States military brought back home. They pointed out that there were even a few prominent Americans beginning to actively question American

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<sup>113</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 1, p. 331-341, 914-918.

<sup>114</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 6, p. 8284-8295, 8432-8445.

<sup>115</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, part 1, p. 8284-8295, 8432-8445, 8433-8441.

<sup>116</sup> Congressional Records, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, part 1, p. 8284-8295, 8432-8445, 8433-8441.

<sup>117</sup> Woods, Vietnam And The American Political Tradition: The Politics of Dissent (Cambridge: University Press, 2003), p. 74.

involvement in Vietnam.<sup>118</sup> President Johnson, on the other hand, contended that the American people overwhelmingly supported the direction he was taking in Vietnam. According to Church and McGovern, each senator was to keep in touch with the thoughts and feelings of his constituents, was to voice the concerns and represent the interests of the people from their respective districts. Debate, which allowed the senators to share the thoughts of those they represent, could be a venue to reveal who held the correct view, Gruening and Morse or President Johnson.<sup>119</sup> Church and McGovern also believed that if it became evident that Gruening and Morse were right and a majority of Americans in fact did not support the actions of the president in Vietnam, he would need to take a different direction. Likewise, if President Johnson was right that a majority of Americans supported his actions, then he could continue on with full confidence that he had the backing of the American people.<sup>120</sup>

The call for debate on the Vietnam issue did not meet with unanimous support in the Senate. Leverett Saltonstall (Republican-Massachusetts) voiced concern over the Senate debating United States involvement in Vietnam and gave multiple reasons why he believed a debate should not take place. One, he was concerned about the message that would be sent to the enemy, in this case the Viet Cong and North Vietnamese, if a debate took place.<sup>121</sup> He believed it could be interpreted as a lack of unity or lack of resolve, or both, which would encourage the Viet Cong.<sup>122</sup> It would send a signal to the Viet Cong that it would be possible to outlast the Americans and win if they remained steadfast and were patient. Saltonstall also believed that debate would weaken the position of the United States if peace negotiations were to take

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<sup>118</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 11, p.14628-14638.

<sup>119</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 11 p. 14628-14638, Volume 111, Part 1, 538-542.

<sup>120</sup> Ernest Gruening, Many Battles: The Autobiography of Ernest Gruening (New York: Liverlight, 1973), p. 465-483, 513-538.

<sup>121</sup> Congressional Record, 1965, Volume 111, Part 1, p. 915.

<sup>122</sup> Congressional Record, 1965, Volume 111, Part 1, p. 915.

place.<sup>123</sup> Additionally, Saltonstall was concerned how American allies would interpret the Senate debate. Some allies might see it as a good thing; however, Saltonstall was concerned that other allies would wonder if the United States would remain true to commitments it had made to their governments.<sup>124</sup> Third, he voiced concern over what a debate in the Senate could do to the American people.<sup>125</sup> Formal debate in the Senate could either draw battle lines that had not previously existed between Americans who supported the war and Americans who opposed it, or it could make existing divisions even worse. Saltonstall saw this as detrimental to the country. He felt this was a time when Americans needed to be unified and work together rather than fight with one another. If the focus shifted and Americans began fighting one another, then South Vietnam would surely fall to Communism and the enemy would win.

Also joining in the discussion—at a more formal level—over America participating in Vietnam in 1965 was the Senate Foreign Relations Committee. During hearings held that year members questioned and debated representatives of the administration on topics such as how long America could wait for a stable government to appear in Saigon—things were not getting any better, if the focus should not be amended from military to political strategy—some members indicating they were not certain that the United States had a plan to win the war, if the United States should cut its loses—simply pull out, if SEATO and NATO should not be more fully engaged in the situation, if the Vietnamese people did not have the of self-determination and if there was really a strong enough interest on the part of Americans to accomplish the mission in Vietnam. Vietnam divided members of the Senate Foreign Relations Committee. While some voiced concern and opposition during the hearings others indicated their support. Senator George Aiken (Republican-Vermont), for example stated that the United States needed

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<sup>123</sup> Congressional Record, 1965, Volume 111, Part 1, p. 915.

<sup>124</sup> Congressional Record, 1965, Volume 111, Part 1, p. 915.

<sup>125</sup> Congressional Record, 1965, Volume 111, Part 1, p. 915.

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to do more, not less in Vietnam. He argued that by not assisting South Vietnam and ensuring that it retained its freedom America would solidify its title as a paper tiger—in the eyes of the Chinese. It was also stated that America could not extricate itself through negotiations from a position of weakness and therefore needed to take stronger action to gain a favorable standing. Besides, attempts at negotiations had been tried and were unsuccessful.<sup>126</sup>

Even though this call for open debate was not immediately embraced in the winter of 1965, it was continually called for by Gruening, Morse and several other senators. It took place indirectly from January 1965 until the fall of 1968 as discussion on American involvement in Vietnam dominated the business of the Senate. As various Senators kept the topic of Vietnam before the Senate, discussion on the rationale for the United States to be involved in Vietnam would be a constant source of heated debate. Senators who supported the involvement of the United States in Vietnam continued to argue that South Vietnam, an independent and freestanding country, had been and was continuing to be attacked by an outside Communist force and needed the assistance of the United States so that it would not be swallowed up by Communism. In addition, the South Vietnamese people were being terrorized and abused by the Viet Cong forces and needed to be protected. These senators compared what was taking place in South Vietnam to Korea in 1950, when the North Koreans overran much of South Korea in an attempt to conquer the country. A second argument, which had also been used from the time of the Gulf of Tonkin incident, surrounded the attacks on the United States naval vessels. The United States had been attacked, unprovoked, by an aggressive force that needed to be dealt with so that all foes of the United States would be forced to think twice before attacking the United States military. Finally, the fact that three presidents of the United States had given their word

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<sup>126</sup> Executive Sessions of the Senate Foreign Relations Committee (Historical Series): Volume XVII: Eighty-Ninth Congress: First Session; 1965. Thursday January 7, p. 102-130, p 674-725 .

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that the United States would assist the South Vietnamese was a third rationale for arguing that American forces needed to remain in Vietnam.<sup>127</sup>

Gruening and Morse, along with those beginning to embrace their point of view such as Albert Gore Sr. (Democrat-Tennessee) opposed American military personnel assisting the South Vietnamese government and called on the Johnson administration to reach a negotiated settlement with the North Vietnamese.<sup>128</sup> These senators systematically denounced the rationale used by those who called for and supported American involvement in Vietnam. Just as Gruening and Morse had done early in the debate on Vietnam, they argued that South Vietnam had not been attacked by an outside force. Vietnam was experiencing a civil war.<sup>129</sup> They also argued that the damage inflicted on the North Vietnamese Navy had been sufficient and the word of the president did not require the United States to remain involved in an illogical conflict that could not be won. The United States had the right to alter course as deemed necessary. In addition, they argued that America was doing the very thing in Vietnam it was trying to prevent, by pushing the South Vietnamese people into the arms of the Communists.<sup>130</sup> Since the United States had become involved in South Vietnam, it had supported an oppressive dictator who had made the lives of the Vietnamese people miserable. The United States had encouraged and financially supported the removal of villagers from their homes and had them placed in strategic hamlets which were less than ideal places to live.<sup>131</sup> In addition the United States used defoliants to destroy both the forests and vegetation in Vietnam which reduced the crop output and caused the spread of hunger throughout the land. While engaged in combat operations, the

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<sup>127</sup> Congressional Records, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 8, p. 8285-8294, 8433-8445, 9109-9113.

<sup>128</sup> Kyle Longley Senator Albert Gore, Sr. Tennessee Maverick (Baton Rouge: Louisiana State University, 2004), p. 192.

<sup>129</sup> Woods, The Politics of Dissent p. 127ff.

<sup>130</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 6, p. 8285-8294, 8433-8445, Volume 111, Part 7, 9109-9113,

<sup>131</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 6, p. 8433-8445.

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United States Air Force used bombs containing napalm to kill North Vietnamese military personnel. Napalm was a gel like substance which upon contact with the skin would burn its victim.

A problem with bombing, such as the United States began doing in February 1965, was they did not always hit the intended target and sometimes they killed civilians. Moreover, innocent men, women and children were burned as a result of being hit by napalm.<sup>132</sup> United States medical personnel did tend to the wounds of some of the civilians who had been inadvertently hit during bombing runs, yet the Vietnamese knew who was responsible for their pain and suffering.<sup>133</sup> Bombs used by the Americans also destroyed many of the huts and homes of the Vietnamese people. Losing their homes, most or all of their possessions, and being forced to live on the street did not endear the Americans to the Vietnamese people.<sup>134</sup> Gruening and Morse argued that these actions did more harm than good because the United States was inflicting injury on the very people they were trying to save. If all of this was not reason enough, they did not believe, as Gore would articulate, that a military victory could be won in Vietnam.<sup>135</sup>

Inability on the part of Gruening, Morse and those who supported their position to extricate the United States military from Vietnam did not stop them from continuing their campaign to end United States involvement in Vietnam, nor did it end debate within the Senate. It merely led these senators to emphasize that the actions of the United States in Vietnam were illegal and that the president was abusing his power by ignoring commitments that had been formally agreed to by the United States. In Gruening's and Morse's opinion—as noted earlier—

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<sup>132</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 6, p. 8433-8445.

<sup>133</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 6, p. 8433-8445.

<sup>134</sup> George Herring *LBJ And Vietnam* (Austin: University of Texas Press, 1994), p. 46, 105-107, 168-169.

<sup>135</sup> Kyle Longley, *Senator Albert Gore, Sr. Tennessee Maverick* (Baton Rouge: Louisiana State University, 2004), p. 192.

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waging war in Vietnam was illegal under the Geneva accords, the South East Asia Treaty Organization (SEATO), and United Nations Charter.<sup>136</sup>

Bringing American involvement in Vietnam to an end through a negotiated settlement was one area many members of the Senate agreed on. In the minds of Morse and Gruening, a negotiated settlement meant the United States would meet with North Vietnamese leaders, determine when the United States would depart from Vietnam and that the North Vietnamese would not attack the departing United States forces either while they awaited their departure or when they were actually in the act of leaving the country.<sup>137</sup>

To Fulbright and Mansfield, two Senators who were increasingly strong critics of the war, a negotiated settlement meant that a compromise would be reached which would allow the South Vietnamese to maintain some level of autonomy or that the country of Vietnam would be re-unified in such a way that would allow all the people freedom of choice and keep them from being oppressed.<sup>138</sup> Johnson was making some attempts to reach a negotiated settlement by the end of 1966. Fulbright believed that the President was doing well by seeking to open dialogue with the North Vietnamese; however, based on Mansfield's report to the Senate Foreign Relations Committee about the situation in Vietnam, he did not personally believe that Johnson's efforts would be effective.<sup>139</sup> Mansfield strongly believed that the effort needed to be made anyway. In a White House meeting with the President, Mansfield nonetheless indicated that continued participation in Vietnam would be a costly failure. Sending in large numbers of ground troops was an action that would make the "struggle in Vietnam a purely American war,

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<sup>136</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 1, p. 331-341.

<sup>137</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 6, p. 8435.

<sup>138</sup> Congressional Record, 89<sup>th</sup> Congress, 1<sup>st</sup> Session, 1965, Volume 111, Part 1, p. 538-540.

<sup>139</sup> Joseph A. Fry, Debating Vietnam: Fulbright, Stennis and their Senate Hearings (New York: Rowman and Littlefield Publishers, Inc. 2006), p 19.

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and like the French a decade earlier, foreigners would be unable to win.”<sup>140</sup> Making these assertions the Senator strongly encouraged Johnson to negotiate an end to the war. Johnson’s effort was not enough to please Gruening, Morse and the other senators who embraced their view nor would it bring an end to the war. Mansfield’s biographer Don Oberdorfer asks if “history would have been different if the Democratic leader of the Senate, who was considered the leading expert on Asia had taken a firmer stand and broken with the president if serious steps to achieve a negotiated settlement were not taken.” Because Mansfield’s criticism remained muted however, the president was able to continue fighting the war in Vietnam.<sup>141</sup>

Morse, Gruening and key members of the Senate Foreign Relations Committee would continue to call on Johnson to negotiate and get the United States out of Vietnam while at the same time dealing with a general public that was supportive of the President’s foreign policy. The Committee, moreover, sought to re-establish congressional authority. Joseph Fry observes that while trying to be sensitive to the American people and at the same time deal with pressures of escalation:

...the Senate Foreign Relations Committee sought to halt the loss of congressional influence in the formation of foreign policy and the Committee’s own reduced standing and clout. The role of Congress in the foreign policy process had eroded steadily since the beginning of the Cold War, which produced a prolonged state of National emergency—a condition that persisted until the demise of the Soviet Union forty years later. The permanent crisis atmosphere associated with this crisis, containing communism, the perceived need to react quickly to block threatened enemy gains, the felt imperative in Congress to present adversaries with a unified national front, and the management of the nation’s nuclear arsenal shifted initiative in making foreign policy decisively to the executive.<sup>142</sup>

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<sup>140</sup> Don Oberdorfer, Senator Mansfield p. 267.

<sup>141</sup> Ibid. p. 265.

<sup>142</sup> Fry, Debating Vietnam p. 21.

Even so, Jacob Javits (Republican-New York) would observe that the Senate needed to reclaim its status as an independent voice rather than limping along as a Presidential echo.<sup>143</sup>

One mechanism used to restore equilibrium and bring the war in Vietnam to an end was an appropriations bill presented to the Senate Foreign Relations Committee in 1965. Morse and Gruening saw the purse as a way to force Johnson to bring the troops home. Although Mansfield also wanted to see the war ended, he was not willing to vote down money for the troops. He stated that “we are faced with a realistic but simple fact, our troops are in South Vietnam and we must supply them...we will vote for the measure because there is not one member of this body who does not desire to uphold the President and those who are risking their lives in seeking to carry out the policies of the government.”<sup>144</sup> Ultimately, however, the unwillingness of the Senate Majority leader Mansfield,<sup>145</sup> the chairman of the Senate Foreign Relations committee Fulbright and chairman of the Armed Services committee Russell to foster official Senate debate on United States military action in Vietnam helped Johnson to move toward war in 1965 in a low key manner.<sup>146</sup>

Members of Congress, such as Frank Church, however, admired the courage and the strength of the Senate’s only two consistently outspoken critics. LeRoy Ashby and Rod Gramer in their biography Fighting the Odds: The Life of Senator Frank Church indicate that the Senator from Idaho was impressed that Gruening and Morse “labored virtually alone in their opposition

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<sup>143</sup> Ibid. p 27.

<sup>144</sup> Oberdorfer, Senator Mansfield p. 272.

<sup>145</sup> According to Oberdorfer Mansfield “continued to dissent energetically in private meetings and in memoranda to Johnson, but refused to do anything to aid the growing number of senatorial or outside critics of the war. When he did express public criticism of administration policy, he never attacked Johnson directly and nearly always gave full credence to Johnson’s gestures toward a negotiated settlement. To solidify his argument Oberdorfer cites... “Washington Post reporter Andrew Glass who observed a majority leader that continued publicly to defend the administration on Vietnam, without quite agreeing with it.” Oberdorfer, p. 303 and 306.

<sup>146</sup> Fry. Debating Vietnam p.25.

to the war for a number of months.”<sup>147</sup> Although it can not be directly proven, their continued efforts from 1966-1968 seems to have been a catalyst to reign in President Johnson, bring the fighting in Vietnam to an end and a return to the balance of power between the legislative branch and the President.<sup>148</sup>

When the second session of the 89th Congress opened in January of 1966, American involvement in Vietnam again dominated much of the Senates’ time.

John C. Stennis’s projected that six hundred thousand U.S. Soldiers could be sent to Vietnam and that it was possible for nuclear weapons to be used. This crystallized Fulbright’s fears in January 1966. At the outset of the year he and his anti-war colleagues on the Senate Foreign Relations Committee, including Frank Church, Albert Gore Senior and Wayne Morse, perceived numerous other frightening indications that the war was spinning out of control—that the ever bigger and dirtier war was yielding far too many dead and injured Americans and Vietnamese, was diverting far too many resources from pressing domestic needs, and was subverting U.S. foreign policy with China.

Richard Russell (Democrat-Georgia), the powerful chairman of the Senate Armed Services Committee, and Robert L F. Sikes (Democrat-Florida) the Chairman of the House Military and Construction Subcommittee, both predicted that U.S. forces would grow to at least four hundred thousand and perhaps five hundred thousand.<sup>149</sup>

As a result of these fears, discussion over American participation during the first and second session of the Senate was widespread with two issues standing out. These included the continued call for debate on the issue of American military involvement in Vietnam and the need for negotiations.

As in 1965, Morse and Gruening called for formal debate to take place regarding American involvement in Vietnam. They believed that if the Senate were to formally debate American involvement, it could come up with substantial recommendations that the president

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<sup>147</sup> LeRoy Ashby and Rod Gramer, *Fighting the Odds: The Life of Senator Frank Church* (Pullman, Washington: Washington State University Press, 1994), p. 192.

<sup>148</sup> *Ibid.* p 192.

<sup>149</sup> *Ibid.* 19-20.

would need to consider and maybe even implement if he wanted to retain the support of the Senate and the American people. Gruening and Morse called for the president to make a formal request and chided him when he ignored their calls.<sup>150</sup> There were other Senators who desired that the Senate engage in a formal debate; however, they believed that President Johnson needed to call upon the Senate to debate involvement in Vietnam, which led them to block any motion offered by Gruening and Morse, calling for formal debate. Many senators called for the issue to be debated; these senators included Senators Robert Kennedy, Church and Javits. Javits, although making it clear he still supported the actions taken by the president in Vietnam, called for debate because he did not believe the military or the president for that matter should have a monopoly on determining actions to be taken by the United States around the world.<sup>151</sup> When such actions were taken by both the military and the president, there was a clear abuse of power by both entities. Javits believed the only input the president was receiving on Vietnam was coming from the military, which was comprised of hawks who would advocate war in any situation.<sup>152</sup> Debating the issue in the Senate would allow both the hawks and the doves to express their opinions and a reasonable, balanced solution to the situation obtained.

In spite of the call for debate and the attitude that seemed to be growing that the United States needed to get out of South Vietnam, there were some senators who argued for continued United States intervention in Vietnam. Stuart Symington (Democrat-Missouri) and Everett Dirksen (Rep-Illinois) believed that the United States could win the war. In a speech on March 9, 1966 Dirksen stated that the United States as a free country had an obligation to give aid to another country whose freedom was being taken from them. He went on to say that “freedom

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<sup>150</sup> Congressional Record, 89th Congress, 2<sup>nd</sup> Session, 1966, Volume 112, Part 3, p. 3047.

<sup>151</sup> Congressional Record, 89th Congress, 2<sup>nd</sup> Session, 1966, Volume 112, Part 1, p. 1602-1603, 2037-2041.

<sup>152</sup> Congressional Record, 89th Congress, 2<sup>nd</sup> Session, 1966, Volume 112, Part 5, p. 5399-5400.

calls for determination not withdrawal and aggression calls for fortitude not retreat.”<sup>153</sup> Dirksen went further to liken what was happening in Vietnam to what had happened in the United States in 1776 when America was being attacked by the British. Like the South Vietnamese, the Americans faced overwhelming odds and it looked as if there was no way the Americans could gain independence; however, with determination and fortitude they were able to secure their freedom. Even though the position of the South Vietnamese looked bad, they too could gain ultimate victory if they held steadfast and the United States gave them assistance.

Symington went further by listing what needed to be done in order for the South Vietnamese and Americans to be victorious over the Communists. He indicated that the Haiphong harbor needed to be mined and that a blockade needed to be placed on North Vietnam. Going even further, Symington indicated he believed that important targets such as power plants, oil supply depots, and docks needed to be bombed in an attempt to diminish North Vietnam’s ability to supply the Viet Minh and hinder the enemy’s ability to wage war.<sup>154</sup> Senators Russell, Stennis, Dodd, Long, McGee and Lausche believed that the United States needed to engage in all out war.<sup>155</sup> In an effort to gain support from the House of Representatives for the position of senators who were calling for an increase in military operations, Congressman William Hull (Democrat-Missouri) quoted Senator Symington and then shared an example that did not fit the situation or make sense. Hull called his fellow Congressmen’s attention to the remarks made by Symington about the quarantine, and then likened it to the one imposed by President Kennedy on Cuba during the missile crisis. He stated the quarantine worked because the missiles were

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<sup>153</sup> Congressional Record, 89th Congress, 2<sup>nd</sup> Session, 1966, Volume 112, Part 5, p. 5399-5400.

<sup>154</sup> Congressional Record, 89<sup>th</sup> Congress, 2<sup>nd</sup> Session, 1966, Volume 112, Part 4, p. 4841.

<sup>155</sup> James E. Odenkirk, Frank J. Lausche” Ohio’s Great Political Maverick (Wilmington, Ohio: Orange Frazer Press, 2005), p. 326.

removed.<sup>156</sup> This was an oversimplification of what took place during the Cuban missile crisis. He was really calling for the United States to starve the North Vietnamese into submission which was not a goal of the Cuban missile crisis. Going one step further, Symington indicated that the Ho Chi Minh Trail also needed to be shut down so that North Vietnam would not be able to get supplies to the insurgents in South Vietnam. On March 3, 1966 Symington made it clear that he believed the United States needed to either take serious action in Vietnam or get out, and that his preference was for action.<sup>157</sup> This met vehement opposition from Gruening and Morse because they saw it as an act that would likely expand the war in Southeast Asia. The United States had become engrossed in Vietnam. Shutting down the Ho Chi Minh Trail in Laos could lead to war with the Laotian people if the United States was not careful.

Senators Gruening, Morse, Church, Mansfield and Fulbright disagreed with the position taken by the hawkish senators. They believed that mining Haiphong Harbor would be dangerous because a Russian or Chinese ship could hit a mine, which would provoke a major crisis, for a natural response would be retaliation by the Russians or the Chinese and the United States would find itself at war with one or both of them. Thus these senators continued to argue that the United States needed to get out of Vietnam. Seeking to strengthen their case for the discontinuation of United States assistance to South Vietnam led Church to ask how far the United States could realistically extend itself.<sup>158</sup> Church followed his own question by giving what he believed to be an appropriate answer. He stated that the United States could not serve as the world policeman and become involved in fights all over the globe. It was Church's contention that the United States did not have the equipment, manpower, finances or the will power to serve in this capacity in Europe and Asia. Church went on to argue that the United

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<sup>156</sup> Congressional Record, 89<sup>th</sup> Congress, 2<sup>nd</sup> Session, 1966, Volume 112, Part 1, p. 1602-1603, 2037-2041.

<sup>157</sup> Congressional Record, 89<sup>th</sup> Congress, 2<sup>nd</sup> Session, 1966, Volume 112, Part 4, p. 4841.

<sup>158</sup> Congressional Record, 89<sup>th</sup> Congress, 2<sup>nd</sup> Session, 1966, Volume 112, Part 3, p. 3561-3580.

States needed to select an island boundary in the Pacific Ocean, become involved with those islands if not already, and to throw all of its weight into protecting them if they were attacked by a hostile force.<sup>159</sup> The United States needed to limit its involvement to well defined boundaries.

Desirous to support the president but also wishing to share his thoughts and concerns with the American people led Church to write an article entitled “Should We Negotiate a Settlement in Vietnam.” The purpose of the article was to promote freedom of speech, particularly was it related to American involvement in Vietnam. Church authored the piece in 1965 because he and his colleagues who questioned United States involvement in Vietnam were being condemned by the Hawks. He stated that “debate is discouraged; dissent is condemned, and talk of a negotiated settlement in Vietnam is equated with Munich and European appeasement of Hitler in the 1930s. Bluster about war threatened all rational discussion.”<sup>160</sup> Challenging the President and asking questions like Gruening, Morse and he had done was not subversive but, rather, a function of democracy.<sup>161</sup>

Senator Fulbright, who was struggling with whether to continue supporting the position of the president, stated that he was becoming increasingly “convinced that U.S. strategy was wrong and that America’s present policy in Vietnam had...and would continue to have effects both home and abroad that would be nothing short of disastrous.”<sup>162</sup> As a result he asked some questions very similar to those of Senator Church. He asked if it was possible for a great power to overextend itself. To answer his own question, he pointed out that the Roman Empire had become spread too thin and as a result fell to its enemies. Giving more examples, Fulbright

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<sup>159</sup> Congressional Record, 89th Congress, 2<sup>nd</sup> Session, 1966, Volume 112, Part 3, p. 3561-3580. Ashby and Gramer, p. 193.

<sup>160</sup> Ashby and Gramer, *Fighting the Odds* p. 200.

<sup>161</sup> *Ibid.* p. 200.

<sup>162</sup> Woods, *Fulbright: A Biography* p. 473. J. William Fulbright, *The Arrogance of Power* (New York: Random House, 1966), p. 1-23.

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pointed out that Napoleon had extended the French empire too far and it imploded on itself and that Adolph Hitler sought to extend German control too far and as a result lost all of his dominion.<sup>163</sup>

An example from within United States history involved Robert E. Lee and the Confederate army. Throughout the Civil War Lee's army was smaller than the Union forces and suffered from lack of armaments and supplies. In spite of these disparities, by the time the Confederates had reached Gettysburg in July of 1863, they had compiled a long list of victories and, for the most part, enjoyed great success against the Army of the Potomac. This would all change on July 3, 1863 when Lee ordered General Longstreet's corps to march one mile over open ground and attack the center of the Union line. As the Confederates made their way across the field they came under intense fire from the Union artillery which had over 230 well positioned guns pointed in their direction. Once the Confederates came within one hundred yards of the Union line, they came under rifle fire from over 5000 men who were concealed behind a stone wall. Within thirty minutes the men from Longstreet's corps who were still alive and not captured began to make their way back to their own lines. Greeting the men as they returned, Lee proclaimed that the failed charge was his fault. He had wrongly come to believe there was no force on earth that could defeat his army and as a result he overextended it.<sup>164</sup>

According to Fulbright, each of these losses occurred due to the "arrogance of power." These leaders came to believe that their armies were invincible. Fulbright went on to point out that the United States needed to be careful not to become intoxicated with its power and thus become over committed as each of these leaders had done.<sup>165</sup> In seeking to further solidify his

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<sup>163</sup> Congressional Record, 89<sup>th</sup> Congress, 2<sup>nd</sup> Session, 1966, Volume 112, Part 7, p. 9920-9921.

<sup>164</sup> George R. Stewart. Picket's Charge: A Micro History of the final attack at Gettysburg, July 3, 1863 (Houghton Mifflin Company: Boston, 1959). P.179ff.

<sup>165</sup> Congressional Record, 89<sup>th</sup> Congress, 2<sup>nd</sup> Session, 1966, Volume 112, Part 7, p. 9920-9921.

case, he drew a comparison between the acceptance and arrogance of power. According to Fulbright, acceptance of power entailed a predetermined understanding of capabilities, a preordained list of areas to be defended if they were attacked by an aggressor, and a willingness to let countries fall to oppressors if they were outside the parameters of the predetermined plan.<sup>166</sup> Attacks on Hanoi and Haiphong indeed had signaled an escalation toward total war and proof that the administration had been mesmerized by the vision of a complete military victory in Vietnam. Using historical analysis Fulbright desired to know if Vietnam was really important to the United States and/or a fight that America could afford.<sup>167</sup>

As these senators continued to deal with the issue of supporting or withdrawing from Vietnam, the position of those senators calling for a negotiated settlement gained strength. Albert Gore strongly advocated such because he did not believe, as he would state from the floor of the Senate, that the cost was worth the endeavor. To be precise, he would say that “many people do not believe, many members of Congress do not believe, that the costs, the risks of nuclear war, the dangers of war with China or perhaps both China and Russia are worth the endeavor.”<sup>168</sup> Gruening and Morse no longer advocated that negotiation simply include the United States getting out of Vietnam. They did, however, continue to differ with many senators, including Fulbright, on what should happen during negotiations. The main difference between Gruening, Morse and Fulbright was active combat. Gruening and Morse believed that a ceasefire should be called for prior to negotiations and that while engaged in dialogue, the United States should refrain from attacking the Viet Cong. In their minds, the United States should lay their weapons down as an act of good faith. While Fulbright was increasingly coming to the point of believing that the United States should seek to bring an end to the conflict through

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<sup>166</sup> Congressional Record, 89<sup>th</sup> Congress, 2<sup>nd</sup> Session, 1966, Volume 112, Part 7, p. 9920-9921. Fulbright, p. 1-23.

<sup>167</sup> Woods, *Fulbright: A Biography* p. 427.

<sup>168</sup> Longley, *Senator Albert Gore, Sr. Tennessee Maverick* p. 150.

negotiations, he differed with Gruening and Morse in relation to fighting. Fulbright indicated that he believed it would be a most egregious error to discontinue hostilities prior to and during negotiations. This would diminish the desire of the enemy to compromise and reach a settlement beneficial to all parties.

In addition to the debate taking place within the Senate itself, there were at least three hearings held by the Senator Foreign Relations Committee that dealt specifically with American involvement in Vietnam. Throughout 1966 members of this committee remained divided over what should be done in Vietnam; however, more and more members were beginning to embrace the call for the United States to get out of Vietnam. In formal hearings members of the committee, most notably Gore asked a variety of questions: would bombing North Vietnam really bring China into the war? how many men would it take to achieve victory—can we pay the necessary price? Is military action the best way to obtain peace? Would not minimizing military activities lead to negotiations? do our allies really support the actions that we are taking in Vietnam—specifically Pakistan, Korea, the Philippines and Australia? are the actions being taken in Vietnam even legal? which really dominates the thinking of North Vietnamese leaders, nationalism or ideology.<sup>169</sup> Secretary of State Rusk gave general answers for the questions posed. Gore indicated that the explanations offered were not satisfactory. He indicated to the Secretary of State that many Americans and several members of Congress did not believe the costs of the war were worth the endeavor.<sup>170</sup>

Those who held the belief the United States needed to disengage argued with administration officials and their colleagues—in addition to comments they made from the

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<sup>169</sup> Executive Sessions of the Senate Foreign Relations Committee (Historical Series) Volume XVIII: Eighty-Ninth Congress: Second Session: 1966, p. 35-189, 233-333, 385-723. Kyle Longley, "Congress and the Vietnam War: Senate Doves and Their Impact on the War, in *The War That Never Ends: New Perspectives on the Vietnam War* ed. David L Anderson and John Ernst (Lexington: University of Kentucky Press, 2007), p. 296.

<sup>170</sup> Longley, "Congress and the Vietnam War" p. 298.

Senate floor—that America needed to find a way to get out of Vietnam, that in reality the domino theory was weak, that at the very minimum U.S. military objectives needed to be defined, that what was happening was a civil war—not an act of external aggression and that the war needed to be won by the South Vietnamese themselves.<sup>171</sup> Going even further, these individuals, led by Fulbright stated that the “administration was locked into...blind anti-communist assumptions and that it would not meet the minimum conditions for beginning negotiations, namely, recognition of the National Liberation Front (NLF).”<sup>172</sup> Members of the committee who did not share the opinion of Gruening, Morse or their colleagues voiced concern over the United States pulling out of Vietnam. They would articulate their belief that the war could be won, that victory could be achieved if the United States would take the necessary steps to severely damage North Vietnam. These senators also believed that obtaining victory was quite important. Losing South Vietnam to the Communists would alter the balance of power and increase the possibility that a nuclear war could occur. Senators embracing this view also argued that negotiating was a sign of weakness and that above all the president needed to be supported during a time of war—a public debate or hearings was not a good idea. While stating their position these individuals were quick to point out that North Vietnam was the aggressor and that the U.S. was indispensable to South Vietnam. Regardless of which position each senator held, there seemed to be general agreement that no discussions on appropriations could be held until American involvement in Vietnam was fully discussed.<sup>173</sup>

The 1966 Senate Foreign Relations Committee hearings, which had been televised, were meant first and foremost to inform the American people about United States involvement in

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<sup>171</sup> Executive Sessions of the Senate Foreign Relations Committee (Historical Series) Volume XVIII: Eighty-Ninth Congress: Second Session: 1966, p. 35-189, 233-333, 385-723.

<sup>172</sup> Randall Woods, *Fulbright: A Biography* (Cambridge: Cambridge University Press, 1995), p. 400.

<sup>173</sup> Executive Sessions of the Senate Foreign Relations Committee (Historical Series) Volume XVIII: Eighty-Ninth Congress: Second Session: 1966, p. 35-189, 233-333, 385-723.

Vietnam. Specifically the hearings were meant to help them come to a decision about continued United States involvement in Vietnam. Yet the hearings had less impact than Fulbright intended; his biographer, Randall Woods wrote that “A Louis Harris poll taken a few days afterwards revealed that only 37 percent of those queried had heard about the committee’s hearings...of the people with opinions fifty-five percent believed that the hearings were helpful, whereas forty-five percents thought otherwise.”<sup>174</sup> Fulbright took encouragement from those who indicated that they believed the hearings were beneficial to the American people.<sup>175</sup>

When the 90<sup>th</sup> Congress of the United States convened in January 1967, American involvement in Vietnam was an increasingly contentious issue. Gruening and Morse switched tactics, no longer calling for debate on the involvement of the United States in Vietnam, but rather encouraging an honorable peace agreement to be reached by the South Vietnamese government, the National Liberation Front, and the United States. The United States, as Gore would state, needed to honorably extricate itself from Vietnam.<sup>176</sup> When this did not work, they sought to have the Gulf of Tonkin Resolution repealed. On January 30, in an attempt to push the president toward reaching an honorable peace agreement in Vietnam, Gruening asked that both the Senate and President consider the proposal for peace put forth by Fulbright in his book Arrogance of Power. Gruening indicated that if the president was being honest with the American people, this proposal would be welcomed because it would give him the basis for reaching a peaceful settlement with the North Vietnamese. Gruening also pointed out that the president should be willing to seriously consider Fulbright’s plan because he had stated several times he needed an honorable way to extricate the United States from Vietnam and that he would

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<sup>174</sup> Woods, Fulbright: A Biography P. 410.

<sup>175</sup> Longley, Congress and the Vietnam War p. 299.

<sup>176</sup> Woods, Fulbright: A Biography p. 205.

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be willing to talk to anyone, anytime and anywhere to make this happen.<sup>177</sup> Seeking to defend the President, at least to some degree, Church would state that “our intentions have been good enough, but the policy has been wrong...now we find ourselves trapped in a situation where...we are like a giant being bled to death by Lilliputians.”<sup>178</sup>

After extending the challenge for the Senate and President to consider Fulbright’s plan, Gruening reiterated its eight main points. First, the South Vietnamese themselves should seek peace negotiations with the Communist-led National Liberation Front. Fulbright pointed out that the South Vietnamese government could not rely on the United States to make this happen; they had to take the initiative and do it themselves. They knew the terms and conditions they could live with and thus could agree to accept. Second, once the South Vietnamese and the National Liberation Front entered into formal dialogue, the United States and the South Vietnamese military should put forth a proposal for negotiations on a cease fire agreement. This would demonstrate the sincerity and good faith of the South Vietnamese and the United States. There was a good chance that it could inspire the North Vietnamese allies, namely the Chinese and Soviet Union, to encourage the Viet Cong/ North Vietnamese to embrace terms they might not otherwise have accepted. Third, the United States should terminate its bombing of North Vietnam and add no additional personnel to the area, reducing the scale of United States involvement while at the same time ensuring the safety of the American personnel located in Vietnam. Fourth, the United States should pledge that it would remove all of its forces once a negotiated settlement was reached. Fifth, negotiations should focus primarily on a cease fire agreement and on South Vietnam having the ability to determine its own direction and its own future. Sixth, an international conference should be convened to select a committee whose

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<sup>177</sup> Congressional Record, 90<sup>th</sup> Congress, 1<sup>st</sup> Session, 1967, Volume 113, Part 1, p. 1929-1931.

<sup>178</sup> Ashby and Gramer, Fighting the Odds p. 228.

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purpose would be to guarantee that the arrangements made by the belligerents were adhered to and that Vietnam's reunification progressed smoothly. Seventh, the international committee would be charged with the assignment of working toward neutralizing Vietnam and all of Southeast Asia. Finally, if for any reason an agreement could not be reached on ending the Vietnam War, then the United States forces needed to be consolidated into strong defensive positions and left in South Vietnam indefinitely.<sup>179</sup> Gruening argued that by accepting and seeking to implement Senator Fulbright's proposal and by proclaiming it to be the direction of the administration, Johnson would bring an end to the senseless and brutal killing of both young American men and tens of thousands of Vietnamese, including men, women and children.

In spite of the fact that the call for negotiating an honorable settlement was gaining momentum in the Senate, there was still a number of Senators who strongly advocated that the United States needed to remain in Vietnam. These senators continued to disagree with the position taken by Gruening, Morse, Fulbright and other senators who were joining their ranks. Senator Gillis William Long (Democrat-Louisiana) was one such Senator. He indicated that what was taking place in South Vietnam was more than just a struggle over a small, distant, insignificant country; it was about the globalization of Communism.<sup>180</sup> Events taking place in Vietnam over the past several years were really a part of a "struggle that involved Greece, Turkey, Berlin, all of Western Europe, the Near East, Korea, Formosa, the part of India where Chinese troops invaded some years ago, Malaysia, and perhaps even the Philippines, where Communists troops might be in control now were it not for the strong stand taken by the United States."<sup>181</sup> If the United States did not stand firm, as it had in past instances, Southeast Asia would be lost to Communism. The ultimate winners in his opinion would be the Communist

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<sup>179</sup> Congressional Record, 90<sup>th</sup> Congress, 1<sup>st</sup> Session, 1967, Volume 113, Part 1, p. 1929-1931.

<sup>180</sup> Congressional Record, 90<sup>th</sup> Congress, 1<sup>st</sup> Session, 1967, Volume 113, Part 20, p. 26720-26723.

<sup>181</sup> Congressional Record, 90<sup>th</sup> Congress, 1<sup>st</sup> Session, 1967, Volume 113, Part 20, p. 26720-26723.

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conspirators who intend to overthrow every free government in the world by instigating “wars of national liberation” and who would subtly assist the side that embraced their point of view once the conflict started. The United States would make this especially easy for the Communists if it determined not to get involved in these types of wars.

Senator Long argued against the view of Gruening and Morse that called for the United States to pull out of Vietnam because he believed it would be detrimental to United States security. In his assessment the United States was winning the war in Vietnam. He indicated to his colleagues on September 26<sup>th</sup>, 1967 that when the North Vietnamese put more troops in the field, they were matched by the United States military.<sup>182</sup> Additionally, when the North Vietnamese escalated acts of aggression against the South Vietnamese or the Americans, the United States had been matching their activity act for act. Long further pointed out that;

...in their endeavor to win a military victory over the United States in the kind of war that is taking place in Southeast Asia, North Vietnam and the Viet Minh’s greatest and only hope is through default on the part of the United States. Their greatest hope is that Americans will continue to make divisive speeches, fight among ourselves, and quarrel about the situation that exists rather than recognizing we are in a fight and working together to achieve victory.<sup>183</sup>

In his opinion America was in control of the situation in Vietnam. The only thing that would keep the United States from obtaining total victory in Vietnam would be reluctance to continue the battle

On September 26<sup>th</sup>, 1967 Senator Frank Lausche (Democrat-Ohio) effectively muddied the waters when carrying on a conversation with Senator Clifford Case (Republican-New Jersey) about the action the United States should take in Vietnam. He did this by sharing a conversation he had with the diplomat-scholar, George Kennan, the economist diplomat, John Kenneth Galbraith, and General Maxwell Taylor, former Ambassador to South Vietnam, during a Foreign

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<sup>182</sup> Congressional Record, 90<sup>th</sup> Congress, 1<sup>st</sup> Session, 1967, Volume 113, Part 20, p. 26720-26723.

<sup>183</sup> Congressional Record, 90<sup>th</sup> Congress, 1<sup>st</sup> Session, 1967, Volume 113, Part 20, p. 26721.

Relations Committee hearing. Lausche indicated he asked them if they advocated pulling out of Vietnam and not one favored that direction. Lausche asked the following question, "...assuming we pull out of Vietnam, will that be the end of our troubles in Southeast Asia or with the Communists...?"<sup>184</sup> Not one of the three believed pulling out of Vietnam would end American troubles in Southeast Asia or with the Communists. In an emotional moment Lausche then asked Case whether the United States should pull out and go back on her word to the South Vietnamese government, abandoning them during their greatest hour of need, while at the same time opening up the possibility that all Southeast Asia could fall to Communism, or stay and have our fighting men be mercilessly shot?<sup>185</sup> Without a doubt Lausche considered North Vietnam the aggressor in the war and encouraged the United States to take a stand in Vietnam so that communism would not spread to other countries of the world.<sup>186</sup>

Reading this conversation leads one to believe that both Case and Lausche were against following the course of action being called for by Gruening and Morse, and yet neither seemed to have an answer for what the next step should be. It needs to be mentioned that during 1967 Case and Lausche both made statements that indicated they were against American involvement in Vietnam and at other times during the year made statements that could lead people to believe they supported American involvement in Vietnam. This demonstrates the struggle that many Senators had with the issue and how they could take contradictory positions.

During 1967 Gruening and Morse each made motions calling for the re-evaluation of the Gulf of Tonkin Resolution. On August 7<sup>th</sup>, Gruening asked the Senate to reconsider, revise and if necessary repeal the resolution. Attempting to make his case Gruening pointed out that three years earlier, in 1964, the United States had been allegedly attacked by the North Vietnamese.

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<sup>184</sup> Congressional Record, 90<sup>th</sup> Congress, 1<sup>st</sup> Session, 1967, Volume 113, Part 20, p. 26721.

<sup>185</sup> Congressional Record, 90<sup>th</sup> Congress, 1<sup>st</sup> Session, 1967, Volume 113, Part 20, p. 26721ff.

<sup>186</sup> Odenkirk, Frank J. Lausche p. 319-320.

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Gruening went on to indicate that the resolution and initial response may have served a needed purpose in 1964, although he personally doubted so, but now the resolution was being misused by the President. Gruening stated that “in the three years that have passed since the resolution was adopted, it had been used to engage the United States in a major war, steadily widening and increasingly bloody, increasingly costly with consequences disastrous to the United States.”<sup>187</sup> Gruening believed that the resolution needed to be re-examined quickly, before the lives of more innocent boys were needlessly expended in Vietnam. The Senate could make a couple of determinations: first, did the resolution really extend the power to the president that he was exercising? and second, did the Senate desire for the president to have the freedom to take the military actions he deemed necessary in Southeast Asia without any form of accountability?

Morse called for a re-evaluation at the same time that he challenged one of many military appropriation bills. On August 22<sup>nd</sup>, 1967 Morse argued that passing these appropriation bills, as the Senate had done with other appropriation bills, sent a message that the Senate supported the president’s actions in Vietnam. Believing this was a wrong message to send to the American people and to the president and believing that continued involvement in Vietnam should be re-evaluated led Morse to urge his colleagues to vote down the appropriations bill, or at least amend it significantly, and take some time to reconsider the Gulf of Tonkin Resolution.<sup>188</sup> Like Gruening, Morse firmly believed that this resolution had been improperly used to deeply immerse the United States in Vietnam. He still argued that it had given the president too much power, that the balance of power created by the Founding Fathers had been subverted, and that equilibrium needed to be restored to the American political system.<sup>189</sup> Evaluating the resolution

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<sup>187</sup> Congressional Record, 90<sup>th</sup> Congress, 1<sup>st</sup> Session, 1967, Volume 113, Part 20, p. 26721-26771.

<sup>188</sup> Congressional Record, 90<sup>th</sup> Congress, 1<sup>st</sup> Session, 1967, Volume 113, Part 18, p. 23463-23465.

<sup>189</sup> Congressional Record, 90<sup>th</sup> Congress, 1<sup>st</sup> Session, 1967, Volume 113, Part 18, p. 23463-23465.

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would allow Senators to determine once and for all if the president had used the resolution to involve the United States more deeply in Vietnam than the Senate had intended and would give them an opportunity to either amend or repeal the resolution. Morse warned that he was going to move that the Gulf of Tonkin Resolution be repealed if action was not taken to assess and adjust it.

Senator Milton Young (Republican-North Dakota), responding to the call of Gruening and Morse for the resolution to be revisited, revised and possibly repealed, argued that although it was unfortunate that the United States had to police the world alone, in this instance, it was something that the United States needed to do. Lack of involvement of the United Nations was not a legitimate reason for the United States to allow the Communists to consume a country under the guise of “wars of national liberation.” Voting against appropriations such as Gruening and Morse were suggesting and discontinuing the fight in Vietnam was not acceptable. Young argued that the military needed the full support of the Senate and that everything possible needed to be done to aid the cause of victory in Vietnam for both the United States military personnel fighting there and the South Vietnamese government. Communism needed to be arrested and Vietnam was the place it needed to happen. Joining Senator Young were Stennis, Symington and Margaret Chase Smith (Republican-Maine), all of whom agreed there was a need to support the military while it engaged in a vital conflict.<sup>190</sup> Now was not the time to re-evaluate, revise or repeal the Gulf of Tonkin Resolution. These senators did not believe the United States military should be asked to perform a task but not given the necessary equipment to successfully complete it. Voting the appropriation down or even adjusting it, while spending time re-evaluating the resolution would indeed bring about such a result and hinder the military operations.

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<sup>190</sup> Congressional Records, 90<sup>th</sup> Congress, 1<sup>st</sup> Session, 1967, Volume 113, Part 18, p. 23462-23471.

As was the case in both 1965 and 1966 American involvement in Vietnam was not just discussed in the full Senate, it was also contemplated by the Senate Foreign Relations Committee. A concern for all members was the call by U Thant, Secretary General of the United Nations, for the Americans to disengage in Vietnam. The Secretary General indicated that the domino theory, which was the foundation for American action, was misguided and untrue. U Thant's initiative came at a time when many committee members feared that America was over-extending itself and that the Great Society program was being hindered.<sup>191</sup> They believed that the Senate had a constitutional responsibility to take the necessary action to end the war. These Senators saw a bombing pause and negotiations as essential. They also believed as articulated by Mansfield that there needed to be a "break in the steady escalation toward a wider war."<sup>192</sup> Finally, they did not embrace the notion, as articulated by Under Secretary of State Nicholas Katzenbach, that the "President had virtually unlimited constitutional authority to carry on the war in Vietnam."<sup>193</sup> When Katzenbach made this statement Senator Eugene McCarthy (Democrat-Minnesota) made the following statement prior to walking out of the meeting; "the Catholic Church has now abandoned the doctrine of Papal infallibility, but the Johnson administration has taken it up."<sup>194</sup>

There were still some Senators on the committee who held hawkish views. During the hearings they argued that more effort needed to be made to pacify the Vietnamese people and that the South Vietnamese military needed to be given a more active role in protecting its country. Ambassador Ellsworth Bunker's testimony before the group particularly his statement

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<sup>191</sup> Ashby and Gramer, *Fighting the Odds* p. 250.

<sup>192</sup> Executive Sessions of the Senate Foreign Relations Committee Together with Joint Sessions With the Senate Armed Services Committee (Historical Series): Volume XIX: Ninetieth Congress: First Session: 1967, p. 69-99, 492-520, 911-975. Oberdorfer, p. 314.

<sup>193</sup> Woods, *Fulbright: A Biography* p. 482.

<sup>194</sup> *Ibid.* p. 482.

that the United States was making progress and the North Vietnamese were losing ground, led these Senators to question whether or not a full invasion of the north would bring an end to the conflict. They questioned how important Vietnam really was to the Soviets and Chinese along with whether aggressive actions on the part of the United States would really lead to war with these other countries.<sup>195</sup> This group of Senators also pointed out that Americans over all supported the Vietnam War.

Louis Harris polls from December 1967 showed that 58 percent of the public wanted to increase U.S. military pressure in Vietnam; 63 percent opposed stopping the bombing in the North; over 75 percent thought the anti-war protests encouraged the enemy; and over 70 percent judged the demonstrations as acts of disloyalty.<sup>196</sup>

In 1968 during the 91<sup>st</sup> Congress, there was more discussion in the Senate as various members tried to determine what to do with the increasingly unpopular war in the aftermath of the TET Offensive. Senator Abraham Ribicoff (Democrat-Connecticut), who had traveled to Vietnam in late 1967 and early 1968, indicated that he believed the United States should take a different approach in Vietnam. He called for the United States to discontinue offensive military operations, to take a strictly defensive posture and to focus concentrated attention on the physical needs of the Vietnamese people. Meeting the needs of the South Vietnamese would require not only a change in American tactics, but also a change in the South Vietnamese government.<sup>197</sup> Ribicoff pointed out that the prime argument used by the Viet Cong and North Vietnamese to turn the South Vietnamese people against the government was the corruption that existed in their government. Corrupt government officials had either siphoned or diverted funds meant for needed housing projects, hunger relief and other social enhancement programs, and placed them

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<sup>195</sup> *Ibid.* p. 911-975.

<sup>196</sup> Ashby and Gramer, *Fighting the Odds* p. 251-252.

<sup>197</sup> Congressional Record, 91<sup>st</sup> Congress, 2nd Session, 1968, Volume 114, Part 1, p. 525-529.

in their own pockets.<sup>198</sup> They had also extended favors to those who could afford it, while making it difficult on the ones who were not in a position to afford to pay a bribe. Corrupt governments are not responsive to the needs of their people and it was no secret that corruption was prevalent in the South Vietnamese government. In addition to ending corruption, Ribicoff believed that repression needed to be brought to an end because it was another tool used by the Communist to turn the people against the government.<sup>199</sup> The North Vietnamese and the Viet Minh were accused of being oppressive, yet they were able to make a case they were not the ones really oppressing the South Vietnamese. It was not the Viet Minh or the North Vietnamese who were forcing many of the peasants to leave their homes and move into secure hamlets, which offered substandard housing and inadequate supplies; it was the South Vietnamese. In addition, the Viet Minh and the North Vietnamese were not favoring the Catholic minority and suppressing the Buddhists; it was the South Vietnamese that allowed this to occur, primarily under Ngo Dien Diem. Finally, the Viet Minh and the North Vietnamese were quick to point out they were not dropping bombs on the homes of the South Vietnamese and destroying what little the people had; it was the Americans who were doing it on behalf of the South Vietnamese government. Because of this Ribicoff thus lobbied for the United States to use all the leverage it possessed to assure that the South Vietnamese government took the appropriate steps to curb corruption.<sup>200</sup> Although Ribicoff did not exactly articulate the objectives of Ernest Gruening and Wayne Morse, it was encouraging to them that he was calling for an end to military operations.

Fulbright and Church were beyond simply calling for the United States to extricate itself from Vietnam; they were now taking direct actions to make this happen. During an intense post-TET 1968 Senate Foreign Relations Committee hearing, Fulbright stated that Johnson had

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<sup>198</sup> Congressional Record, 91<sup>st</sup> Congress, 2nd Session, 1968, Volume 114, Part 1, p. 525-529.

<sup>199</sup> Congressional Record, 91<sup>st</sup> Congress, 2nd Session, 1968, Volume 114, Part 1, p. 525-529.

<sup>200</sup> Congressional Record, 91<sup>st</sup> Congress, 2nd Session, 1968, Volume 114, Part 1, p. 525-529.

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mislead the American people regarding what happened in the Tonkin Gulf in August of 1964. Scholar Randall B. Wood points out that Fulbright labeled what happened in the Tonkin Gulf an ambiguous event. Going further, Fulbright indicated the event had been used to justify a major escalation of the war and that a naval commander who knew what had really happened and volunteered to inform Congress was locked up in a mental ward. Finally, Fulbright indicated that he had urged his colleagues to adopt the “Tonkin Gulf Resolution not out of the belief that it gave the President the authority to wage all out war in Southeast Asia; indeed the administration had presented the resolution as congressional authorization to respond to the torpedo attacks and nothing more.” Actions taken by the President led him to regret that he had pushed the resolution through the Senate.<sup>201</sup> For his part Church believed that America had sacrificed enough lives and spent enough money on Vietnam. He believed that it was time for “Americans to turn their attention toward their own troubled land. Military spending there and elsewhere was draining the nation’s economy, throwing its budget badly out of balance.”<sup>202</sup>

One of the Senate’s most respected members, Mansfield articulated thoughts that Gruening and Morse had been expressing since 1965, challenging America to get out of Vietnam and take care of the social difficulties at home.<sup>203</sup> Each year that the United States remained in Vietnam, billions of dollars were allocated to the defense budget. There were even times when appropriation bills were presented to the Senate mid-year requesting additional funds for the military because the amount originally allocated in the budget was not sufficient to meet the needs that existed in Vietnam. Mansfield pointed out that even before the United States became heavily involved in Vietnam it had spent considerable funds in support of the French who were

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<sup>201</sup> Woods, *Fulbright: A Biography* p. 473-478.

<sup>202</sup> Ashby and Gramer, *Fighting the Odds* p. 255.

<sup>203</sup> Congressional Record, 90<sup>th</sup> Congress, 1968, 2<sup>nd</sup> Session, Volume 114, Part 10, p. 13796-13798.

seeking to reassert their control.<sup>204</sup> After the United States military became fully engaged, the cost of war soared, diverting funds from domestic social needs. The American education system was in need of assistance. As Gruening stated, Alaskan schools, just like schools all across country, were in need of financial help with updated text books, equipment and funds to supplement their budgets, and were suffering because the government did not have the resources to help them.<sup>205</sup> Federal money needed to be diverted from the war and invested in the education of American youth.

After calling for the United States to take a different approach in Vietnam, Mansfield indicated that he was not happy with the increased military involvement of the United States in Vietnam. He had reservations about the United States getting involved in 1964 when the Gulf of Tonkin Resolution was passed. Now, in 1968, after all that had transpired in Vietnam, he fully embraced the position of Gruening and Morse, believing that the United States needed to get out of Vietnam.<sup>206</sup> Mansfield would not be alone in migrating toward the position held by Gruening and Morse. By 1968 several senators, including Fulbright who helped to pass the Gulf of Tonkin Resolution in the Senate, had abandoned his support for the president and endorsed the position of Gruening and Morse. Gore for his part would say the Senate Foreign Relations Committee needed to take actions to help prepare the American people for the inevitable—United States withdrawal from Vietnam.<sup>207</sup>

Again however, not all Senators believed that America should disengage from Vietnam. Senator Lausche was not swayed by Walter Cronkite's assessment of the war. He did not believe that the TET offensive was a sound defeat for the United States, but rather a loss for the

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<sup>204</sup> Congressional Record, 90<sup>th</sup> Congress, 1968, 2<sup>nd</sup> Session, Volume 114, Part 10, p. 13796-13798.

<sup>205</sup> Congressional Record, 90<sup>th</sup> Congress, 1968, 2<sup>nd</sup> Session, Volume 114, Part 10, p. 13796-13798.

<sup>206</sup> Kyle Longley, Congress and the Vietnam War p. 296.

<sup>207</sup> Ibid. p. 208.

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Communist forces. According to his biographer, James Odenkirk, Lausche “was convinced that Ho Chi Minh was insincere and that Communist expansion remained his only objective. The Senator believed the TET offensive was evidence that North Vietnam was unwilling to negotiate a peace settlement and that he was correct in his assessment.”<sup>208</sup> After TET Americans were more opposed to war and more and more Senators gravitated toward Gruening and Morse’s position. This was of little satisfaction considering that it had taken so long to win over many of their colleagues.

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<sup>208</sup> Odenkirk, Frank J. Lausche p. 334.

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**CHAPTER FIVE:**  
**LEGACY OF GRUENING AND MORSE**

Even before the introduction of the Tonkin Gulf Resolution in August of 1964 and full scale Americanization of the Vietnam War Ernest Gruening and Wayne Morse had opposed U.S. intervention. Having voted against the resolution Wayne Morse stated that history would vindicate him and Ernest Gruening, making it clear they were in the right and the Chief Executive in the wrong by sending boys to die in an illogical and unnecessary war. After Johnson introduced ground troops and involved the country in the conflict, these two Senators spent a considerable amount of time seeking to sway the opinion of both their colleagues and the general public. Their primary goal was to put pressure on the president to extricate the U.S. from Vietnam. Although they were never officially credited for bringing U.S. participation in Vietnam to an end, their actions certainly helped lead to the reversal of the Tonkin Gulf Resolution and the passage of the War Powers Act. Additionally, the concern they voiced regarding the shift in war making power and the need to keep it vested in the Congress has been something that several congressmen have been mindful of either overtly or covertly during American involvement in the Persian Gulf and Iraq wars. They may have sought to do what Gruening and Morse had tried so desperately to do—force the president to follow the Constitution in relation to war making powers.<sup>1</sup>

As for the repeal of the Tonkin Gulf Resolution, this would finally happen on June 24, 1970. Repeal of this resolution would not come quick or easy but according to several members

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<sup>1</sup> Unless otherwise indicated, the material on the repeal of the Tonkin Gulf Resolution is drawn from Randall B. Woods book, Vietnam and the American Political Tradition: The Politics of Dissent (Cambridge: Cambridge University Press, 2003), p. 288-292.

of the Senate needed to occur. Both houses of Congress were tiring of continued United States involvement in Vietnam and more particularly actions taken by the president to wage war without congressional input. This being the case, in May and June of 1969 both bodies would begin taking action to reassert their authority while at the same time seeking to bring restored balance to war making. Initial efforts in this regard would come through the Cooper-Church Amendment which was to be an appendage to a Military Assistance Bill. This particular bill, introduced by Republican Senator John Sherman Cooper (Kentucky) and Democratic Senator Frank Church (Idaho), was meant to cut off funds for military operations that were taking place during the 1970 incursion in Cambodia. When the piece of legislation was introduced, the Nixon administration used a number of tactics as a means to delay its passage.<sup>2</sup> Responding to the efforts of the Senate, Henry Kissinger, the national security advisor, speaking on behalf of the president indicated that the Cooper-Church amendment only prohibited assistance to Cambodia. According to Kissinger however, “we are not giving assistance to Cambodia, but are fighting the Viet Cong in Cambodia as a part of the Vietnamese conflict.”<sup>3</sup>

As the amendment continued to be debated, Nixon went on a public relations campaign seeking to garner the support of the American people and keep the bill from becoming law. A large scale Fourth of July rally to be led by Evangelist Billy Graham was planned as a means to generate support for the presidents’ Vietnam policies. Additionally, plans were made for Nixon to meet with construction workers who had been outspoken in their support for what the United States had been doing both in Vietnam and Cambodia. Conservative religious leaders were another group the president would meet with in an attempt to generate support for what he was

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<sup>2</sup> Kyle Longley, Congress and the Vietnam War: Senate Doves and Their Impact on the War, in The War That Never Ends: New Perspectives on the Vietnam War ed. David L. Anderson and John Ernest (Lexington: University of Kentucky Press, 2007), p. 300.

<sup>3</sup> Woods, Vietnam and the American Political Tradition p. 288.

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doing in Indo-china. Finally, he encouraged and even advocated the initiation of recall movements against senators who had challenged him and the actions that he had undertaken in Cambodia.<sup>4</sup>

Beyond the public relations blitz used to keep the Cooper-Church amendment from passing, the president relied on more conventional methods in an attempt to sway Senators to support his position. He invoked additional stall tactics as a means to derail the Cooper-Church amendment and any other congressional actions meant to constrain his ability to fight in Cambodia. When the Kent State incident occurred a few days after he ordered United States troops into Cambodia, Nixon made a hollow promise to end American activity in Cambodia by June 30, as a means of bringing calm to the deeply divided nation. One final delay tactic used by the Nixon administration involved the vote itself. Working with Senate and House Republicans, the Administration sought to ensure that the amendment would not come to a vote before the prescribed deadline. Although the Republicans could force consideration of some additional language to the amendment, which would draw out the vote on the legislation, they could not push it beyond the time limit in the Senate, according to Senator Hugh Scott, (Republican-Pennsylvania) the Minority leader.

At the same time the Senate was considering the Cooper-Church Amendment, the House of Representatives were also dealing with the proposal. While there was a growing lack of support in the Senate for the actions taken by Nixon, the House remained steadfast in its backing of his Vietnam policy. The House for its part turned down the Reid Amendment by an overwhelming vote of 321-32. During the month of July, the House firmly rejected the Cooper-

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<sup>4</sup> Kyle Longley, *Congress and the Vietnam War: Senate Doves and Their Impact on the War*, in *The War That Never Ends: New Perspectives on the Vietnam War* ed. David L. Anderson and John Ernest (Lexington: University of Kentucky Press, 2007), p. 300ff.

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Church amendment. Then in January 1971 Congress did pass a military appropriations bill that had some similarities to the Cooper-Church bill. This legislation, however, was worded in such a way that it clearly indicated a lack of House support for what Nixon was doing in Vietnam; "...in line with the expressed intention of the United States none of the funds appropriated pursuant to this...act may be used to finance the introduction of United States ground combat troops into Cambodia."<sup>5</sup> The two senators who had sponsored this bill acquiesced to a very significant alteration of the legislation. Nixon could authorize the use of the United States Air Force in Cambodia as long as it was directed to target North Vietnamese supply lines and/or concentrations of Vietnamese troops who were congregating across the border. By this time the Nixon administration no longer had troops stationed in Cambodia; thus Congress in all actuality provided the president with the ability to do what he desired: bomb the Vietnamese Communists located outside Vietnam.

When Nixon ordered United States military personnel into Cambodia, momentum was created for other steps to be taken to reassert congressional authority over the power to wage war in Indo-china and to constrain the president. Mark Hatfield (Republican-Oregon) and George McGovern (Democrat-South Dakota) co-sponsored a resolution calling for all Vietnam War funding to be cut off by December 1970. Randall Woods points out that by this time even more moderate Senators like Jacob Javits (Republican-New York) who had been supportive of the president and the war effort began to introduce legislation calling for a more clear definition of Congress's role in establishing, declaring and prosecuting foreign conflicts. One of the most significant measures was a bi-partisan push to overturn the Tonkin Gulf Resolution. Strangely enough, the Nixon administration sought to hinder the passage of the first two amendments but was somewhat supportive toward the last one. Woods states that this was quite paradoxical

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<sup>5</sup> Woods, Vietnam and the American Political Tradition 289.

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“given its commitment to the widest possible presidential autonomy in foreign affairs, the administration supported the drive to repeal the Tonkin Gulf Resolution.”<sup>6</sup> A clear cut basis for backing this particular action of Congress was rooted in Nixon’s belief that the president, as Commander in Chief of the Armed Forces, needed no Congressional authorization in order to deploy the military.

Twenty three Senators co-sponsored the McGovern-Hatfield bill yet in all reality it never was a threat to the president and the actions that he was taking in Southeast Asia. On September 1, 1970 it went down to defeat 55-39. Unwilling to give up the sponsors for this particular resolution brought it before the senate again in 1971. Much like the first time it came before the Senate it was voted down, this time by a vote of 55-42. It was not a piece of legislation that would do any better in the House. One day later, on September 2, 1971 it was defeated in the House by a vote of 237-147. Desirous for this bill to pass, Senator J. William Fulbright (Democrat- Arkansas) urged that it be modified so it would be palatable to enough members of Congress to gain an affirmative vote. Henry Kissinger made it clear to members of the Senate that passage of the Hatfield-McGovern bill would be seen by Nixon as undermining his authority as Commander in Chief. It would also be interpreted by the President as the Senate providing support for Hanoi. Fulbright for his part was concerned about the passage of this particular bill as originally written. An affirmative vote on this legislation would impose Congressional restrictions on the President’s use of armed forces in Vietnam to be sure. Fulbright and other critics of the war believed that Johnson had gone into Vietnam and Nixon continued to wage war there without congressional authorization. Arkansas’s senior Senator feared the president would use the Hatfield-McGovern resolution to actually augment his power and further shift the balance of war making in his own favor. Nixon would assert that he indeed had the ability to

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<sup>6</sup> Woods, Vietnam and the American Political Tradition 289.

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send troops into battle unless Congress took actions to directly forbid it: “The president can do whatever he pleases, anything goes, that is, unless it is explicitly prohibited.”<sup>7</sup>

Discussion and debate regarding the Hatfield-McGovern bill would continue, yet in the end the legislation would not receive the votes needed for it to be codified into law. What did become law was the repeal of the Tonkin Gulf Resolution. By the conclusion of Johnson’s presidency the Tonkin Gulf Resolution had become very controversial specifically regarding the events taking place that stimulated it and on constitutional grounds. Since the passage of this key resolution, information had come to light casting serious doubts in the minds of many senators that North Vietnamese naval vessels had attacked either the U.S.S. Maddox or C. Turner Joy on the night of August 4, 1964 as Johnson claimed. Even if there had been an attack on the U.S. naval ships, there was quite a bit of evidence to suggest that the United States had taken direct action to provoke the North Vietnamese by encouraging and participating with the South Vietnamese in offensive military activities within North Vietnam’s territorial waters. As for the constitutionality of what was taking place in Vietnam, a significant number of senators had come to believe that the Tonkin Gulf Resolution did not give the president open-ended authority to increase the American military presence or heighten the fighting that was occurring in Southeast Asia. Senatorial dissenters who originally voted for the passage of this resolution argued that it only authorized the president to retaliate against attacks against American military personnel not to instigate a full scale land war.

Throughout the final years of his administration, Johnson himself gave serious consideration to replacing the Tonkin Gulf Resolution with some other Congressional action that would demonstrate the support of Congress toward his Vietnam policy. Realizing that many in the Senate were skeptical Johnson determined to not push for any additional resolutions. Nixon,

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<sup>7</sup> Woods Vietnam and the American Political Tradition p. 290.

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at least during the early days of his presidency, did not utilize the Tonkin Gulf Resolution as a means for justifying actions taken in Vietnam. Later, when he authorized the invasion of Cambodia, he would also shy away from basing his authority to do so on the resolution of 1964. When confronted by members of the Senate and asked for the legal justification for sending troops into Cambodia, Nixon stated that he had done so because as the president of the United States he had a constitutional responsibility to protect the lives of American military personnel.

Early in Nixon's presidency, Charles Matthias (Republican-Maryland) made a motion that the Tonkin Gulf Resolution be repealed. His basis for such action was rooted in the fact that the resolution was no longer relevant to what was taking place in Vietnam or to American foreign policy. When asked about his proposal Nixon responded by stating that the president as Commander in Chief could order troops into combat; what the Senate chose to do with the resolution was a matter for it to determine, but would not impact what he was currently doing. Just prior to the incursion into Cambodia, the Senate Foreign Relations Committee took formal action and voted to repeal the Tonkin Gulf Resolution. Seeking to utilize the actions of the Senate Foreign Relations Committee to his advantage, the president undertook a series of parliamentary maneuvers as a means to shape the repeal to his own liking. Whether Nixon was able to garner what he wanted, the Senate repealed the Gulf of Tonkin Resolution on June 24, 1970 by a vote of 81-10. The House would then cast its vote in January of 1971.

Each group represented in this debate, the president, Congressional doves and hawks all had reasons to celebrate and at the same time to be concerned. Early on the Nixon Administration was able to change the content of both the Cooper-Church Amendment and the repeal of the Tonkin Gulf Resolution to serve its own purposes. Early in 1971 it was clear that

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the president would take whatever actions he desired in Vietnam regardless of congressional actions.

Gruening and Morse took comfort in the assertion of Congressional power. Both the proposed Cooper/Church and McGovern/ Hatfield legislation were intended to make it clear to the president and American people that Congress believed the Constitution required that the president gain a congressional declaration of war, unless of course doing so was not possible, as in the case of a direct attack on the U.S. The president of the U.S. was not a king and could not make arbitrary decisions. Rather he needed to share his thoughts and concerns with Congress, getting their input and subsequently making decisions that reflected the support of the legislators.<sup>8</sup> As Gruening and Morse had argued and many in Congress embraced, there was a process that had been put in place by the Founding Fathers which needed to be adhered to, and only then could the country be committed to war.

In stark similarity to the senators from Oregon and Alaska, during the 91<sup>st</sup> and 92<sup>nd</sup> sessions members of Congress openly stated that the Chief Executive as Commander in Chief did not have the authority to wage undeclared war, that he was bound by the Constitution to gain the support and a formal declaration from Congress. Presidents Johnson and Nixon had involved the country in an illegal war. To be sure these individuals were not the first to do so, as other presidents including John Adams, James Polk, Abraham Lincoln, William McKinley and Franklin Delano Roosevelt had also taken actions which involved the country in undeclared war. Seeing rogue presidential action regarding war making as dangerous led the Congress in place from 1969-1971 to take action to limit what the Commander in Chief could do. They sought to restore a balance to war making power by putting in place legislation which would limit the

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<sup>8</sup> George Herring, From Colony To Superpower: U.S. Foreign Relations Since 1776 (New York: Oxford University Press, 2008), p. 769.

actions a president could take and mandate that he seek a formal declaration of war before involving the U.S. in any military operation.

Gruening and Morse would have regarded the efforts to repeal the Tonkin Gulf Resolution as weak and incomplete. Although the resolution was repealed, repeal did not lead to the passage of any legislation mandating that Congress be consulted prior to America becoming involved in any military crisis or conflict. Additionally, it did not stop the president from continuing to wage war in Vietnam nor did it restore the balance of power between the congress and president in relation to war making.<sup>9</sup>

On the heels of the repeal of the Tonkin Gulf Resolution came the War Powers Resolution.<sup>10</sup> Congress had made a habit of “rubber-stamping presidential initiatives since World War II, now it sought a position of codetermination in making foreign policy, by which it meant early and full consultation and even active participation in making decisions.”<sup>11</sup> This particular resolution was a “direct response to the abuse of presidential authority in Vietnam” and was meant to restrain the presidents’ ability to use force without a formal declaration of war.<sup>12</sup> According to Louis Fisher, in 1970 the House of Representatives would discuss, debate, and finally pass a War Powers Resolution by a vote of 289 to 39. The legislative branch conceded that the Chief Executive in times of grave danger had the directive and authority to defend America, its citizens and its interests without specific prior authorization by the Congress.<sup>13</sup> Members of the House who worked on this piece of legislation were not intent on defining the specific situations under which the president could act but rather wanted to put

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<sup>9</sup> George Herring, *America’s Longest War: The United States and Vietnam, 1950-1975* (New York: McGraw-Hill, 1996), p. 262-264.

<sup>10</sup> Unless otherwise indicated, the material on the repeal of the War Powers Resolution is drawn from Louis Fishers book *Constitutional Conflicts Between Congress and the President* (Kansas: The University Press of Kansas, 2007), p. 270-274.

<sup>11</sup> Herring, *America’s Longest War* p. 814.

<sup>12</sup> Herring, *America’s Longest War* p. 290. Warren I. Cohen, *America in the Age of Soviet Power* p. 196.

<sup>13</sup> Arthur M. Schlesinger, Jr. *Imperial Presidency* (Boston: Houghton Mifflin Co., 1973), p. 302-303.

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safeguards in place that would insure the balance of power as it related to war making. Under the system they were looking to put in place the president would have to “whenever feasible” consult with Congress before sending American forces into any type of conflict. Additionally he was supposed to “report the circumstances making the action necessary; the constitutional, legislative, and treaty provisions authorizing the action,” along with his rationale for not requesting congressional authorization before hand and the parameters of the activities he wished to engage in.<sup>14</sup> In this particular instance the Senate did not act on the purposed legislation. The bill’s primary Senate sponsors acquiesced to a major modification; the United States Air Force could be utilized if it was directed against North Vietnamese supply lines or Communist troop build ups in Cambodia. By this time there were no ground forces located in Cambodia and so Congress, through the efforts of the House, provided the president with exactly what he wanted—the bombing of Cambodia.

Two years later both the house and the Senate passed a War Powers Resolution that extended far beyond the provisions posed in the initial draft. As for the House, it called for the president “in every possible instance to consult with Congress before sending forces into hostile situations or those where hostilities might be imminent.”<sup>15</sup> If there was absolutely no way that the president could consult with Congress prior he had to do so within 48 hours providing a detailed account of the events leading up to his actions as well as an summary of the steps that he had undertaken.<sup>16</sup> After 120 days if Congress had not declared war or given permission for force to be used, the president was to end American participation and bring the troops home. Within the 120 day time frame, Congress could force the president to discontinue the conflict by

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<sup>14</sup> Schlesinger, *Imperial Presidency* p. 306-307.

<sup>15</sup> Fisher: *Constitutional Conflicts* p. 271.

<sup>16</sup> George Herring, *America’s Longest War: The United States and Vietnam, 1950-1975* (New York: McGraw-Hill, 1996), p. 290.

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passing a concurrent resolution.<sup>17</sup> According to Arthur Schlesinger Jr. if “Congress were really serious about reclaiming its war-making authority, it had other possibilities. One conceivable way to get a grip on the problem, for example, was through an exertion of congressional control over the deployment of armed forces outside the United States.”<sup>18</sup>

As a body the Senate sought to be more specific by outlining particular situations when the president could engage in unilateral actions. According to the proposal of the Senate, there were three times or situations when the American armed forces could be deployed: first, to stop an armed attack against the United States that is taking place on American soil or on any of its territories or possessions; or to thwart an attack that is soon to be carried out; to stop an attack against American forces located outside of the continental United States; third military force could be used as a means to rescue United States citizens and nationals located in foreign countries who were in distress.<sup>19</sup>

The legislation before the Senate mandated that all military acts be brought to a halt in 30 days unless Congress gave permission for the president to continue on with the war. An additional provision to this particular bill allowed for the Commander in Chief to keep military engagements going beyond 30 days if more time was necessary to facilitate getting the troops out of hostile territory. The attempt on the part of the Senate to establish specific presidential war powers generated a number of problems. Because of the manner in which the document was written the legislation could be used to widen presidential power as opposed to constraining it. Terms such as “necessary and appropriate” as well as “imminent threat” and “endangered citizens” could be used to justify about any action.

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<sup>17</sup> Thomas M. Franck and Edward Weisband, *Foreign Policy By Congress* (New York: Oxford University Press, 1979), p. 68-70.

<sup>18</sup> Schlesinger, *Imperial Presidency* p. 307.

<sup>19</sup> *Ibid.* p. 68.

Coming together and developing one bill the House and Senate presented to President Nixon a unified piece of legislation pertaining to War Powers. Nixon promptly vetoed it stating that it was both dangerous and impractical to codify the procedures by which the president and the Congress would share war powers.<sup>20</sup> His biggest reservation was that he believed it limited the president's Constitutional powers as Commander in Chief. Nixon was quick to point out to Congress the only way for Constitutional powers designated to a specific branch of government to be altered would be through an amendment to the Constitution. Attempting to do so through the legislative process was inadequate and non-binding. Regardless of the concern and statements made by Nixon both the House and Senate were able to put together a two-thirds majority vote, just enough to override his veto.

The War Powers resolution established specific guidelines that were to be used when dealing with conflict, especially ones leading to the use of the military. One the president had to consult with Congress, two the president had to report his actions to Congress and three Congress' could terminate military action ordered by the president.<sup>21</sup> According to section 2(a) the purpose of the legislation was "to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both branches will apply to the introduction of United States forces into hostilities."<sup>22</sup> A through examination of the entire document coupled with the behavior of Congress seems to indicate that the resolution really undermines the intent of the Framers.

According to the document the president is to consult with both the House and the Senate in each and every possible instance. Lewis Fisher points out that this language obviously gives

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<sup>20</sup> Gary R. Hess, "Authorizing War: Congressional Resolutions and Presidential Leadership, 1955-2002", in *Divided Power: The Presidency, Congress, and the Formation of American Foreign Policy* ed. Donald R. Kelley (Fayetteville: University of Arkansas Press, 2005 p. 56.

<sup>21</sup> Franck and Weisband, *Foreign Policy By Congress* p. 68-71.

<sup>22</sup> Fisher *Constitutional Conflicts* p. 272.

the president considerable discretion as to the form and timing of consultation.”<sup>23</sup> Based on the document there was no expectation on the part of the legislature that the president deal with all 535 members in Congress. This opened up many questions such as who he should get in touch with, the House and Senate leadership, the chairmen and certain ranking members of particular committees or specific individuals who the president looks to for advice. In seeking out these individuals would the president be looking for a sounding board, someone to listen to his ideas or a group who would play a more active role? Examining the history of presidential congressional relations makes it clear that consultation has been seen as more than just the passing on of information. According to the intent of the Founding Fathers and the precedence established, it is clear that the president when faced with a particular problem is to look to Congress who is to provide advice, their opinions and even consent for action to be take when appropriate.

After the president sends the American military into hostile areas he is bound, according to the War Powers Resolution to inform Congress within 48 hours about the actions he has ordered. Again, there is some ambiguity here. Just exactly what conditions require the president to come before Congress is uncertain. Delay tactics by the president, whatever they may be and however justified they may seem also weaken the mechanisms by which Congress can control war making.<sup>24</sup> Congressional ability to control war making is also hindered by the wording in the legislation which gives the president the ability to introduce U.S. forces into hostile areas for a period of up to 60 days and to even extend that time frame to an additional 30 days if he believes it is necessary to protect the troops and assure their safe removal. Congress did provide for itself two distinct avenues to control war making and the president. During the 60/30

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<sup>23</sup> *Ibid.* p. 272.

<sup>24</sup> Edward Keynes, “War Powers Resolution and Persian Gulf War”, in *The Constitution and the Conduct of American Foreign Policy* ed. By David Adler and Larry N. George (Kansas: University of Kansas Press, 1996), p. 249.

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additional days time frame the military is deployed Congress could chose not to support the president and his actions. They could also pass a concurrent resolution directing the Commander in Chief to bring the troops home.

A major problem with the war powers resolution is this 60/30 additional day(s) clock. As commander in Chief the president can, according to this document send the military into hostile areas without immediately reporting to congress what he has done. If he does not report the introduction of troops into conflicted areas the clock will not begin ticking. Since the inception of the war powers resolution, only two presidents have alerted congress regarding U.S. forces being sent into tense situations. President Gerald Ford informed Congress about how he used the military immediately after the Mayaguez incident had occurred. However, by the time he had informed Congress, the situation was under control and coming to a conclusion. Ronald Reagan was the other president to report on a military situation that he, as Commander in Chief, had undertaken in Lebanon. This led to the Lebanon Resolution which was passed on 12<sup>th</sup> October 1983. Reagan was authorized to keep the troops in the field for up to 18 months, but he removed most of them by February 1984.

Although the War Powers resolution was meant to reestablish the balance of power in relation to war making, it was not very successful. Like grandma without her false teeth in place, this bill had little bite and even less effective holding power. It really could not do what it was indented to do: keep the president from waging undeclared wars. As noted there were too many loopholes that could be exploited and used to circumvent Congress and the requirements they had put in place regarding the presidential report detailing military actions being taken. Without said reports, there would be no opportunity for a vote to be taken that would call for the troops to be brought home and hostilities ended.

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Neither Ernest Gruening nor Wayne Morse would live long enough to see the War Powers Resolution implemented in a way that restored the balance of power between the President and Congress. Each former senator would have been pleased at the attempt of Congress because it sought to accomplish what they had been calling for since passage of the Tonkin Gulf Resolution in 1964. Similarities between this particular piece of legislation and the call of these two senators would include placing limitations on the ability of the president to wage undeclared war, the need for Congress to be involved and formally take action in order for the United States military to be utilized or continue to be used in warfare, and the ability of Congress to vote the American military out of war even if the president had already enmeshed the country deeply in a conflict. As indicated this bill did have a number of loopholes which could be, and have been, exploited. The only real mechanism in place for Congress to force the president to disengage the military involved the purse, the same leverage it had during the Vietnam War. Then and later, cutting off funding to troops in the field would not be popular with constituents back home.

When a careful examination of the arguments made by Gruening and Morse is undertaken it becomes clear that they had an impact on presidential war making and helped to rebalance power between the president and Congress. Beyond the influence seen in the repeal of the Tonkin Gulf Resolution and the wording of the War Powers Act, their influence is demonstrated in the way other presidents have been treated by Congress when seeking a resolution and involving the country in war. The U.S. Senate did eventually take action to discontinue U.S. involvement in Vietnam. Ernest Gruening and Wayne Morse continual call for the U.S. to get out of Vietnam was more than likely a catalyst that directly aided in a majority of the Senate going from a pro to an anti war position.

Regardless of whether they were responsible for getting the U.S. out of Vietnam, Gruening's and Morse's stand and effort in relation to the Vietnam War cost each of them their seat in the Senate. Gruening lost for three distinct reasons, two of which were directly tied to his position on the Vietnam War. First, Gruening lost because Alaska had become a strong U.S. military outpost and the people disagreed with his position on Southeast Asia. A majority of the voters in Alaska were either military personnel, family members of military personnel or civilians who made a living working for the U.S. military.<sup>25</sup> Prior to Gruening helping Alaska become the 50<sup>th</sup> state, the U.S. Federal Government had taken steps, with his strong encouragement, to strengthen the military presence in Alaska. Gruening called for this military strengthening as a means to discourage the Soviet Union or any other hostile enemy from seeking to attack the United States by coming through Alaska. Runways capable of handling large military planes were constructed in the early 1940's and a large contingent of personnel were sent to Alaska to both fly and maintain the planes. In addition, in the early 1940's an Alaskan home guard was developed and some army personnel from the contiguous states sent to Alaska to train and support this new military unit and to aid in building a military base.<sup>26</sup> As World War II spread, the U.S. sent more troops and the Alaska military bases were further developed. After World War II a strong military contingent was left in place in Alaska. By the time of the Vietnam War Alaska's population had increased tremendously and many of the people had a connection to the military. They were alienated by Gruening's anti-war position.<sup>27</sup>

Gruening was also defeated because the people of Alaska felt he had lost his focus.

There was a feeling propagated by the Republican Party that Gruening had become so absorbed

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<sup>25</sup> Ernest Gruening, Many Battles: The Autobiography of Ernest Gruening. (New York: Liveright, 1973). p. 294ff.

<sup>26</sup> Ibid. p. 249ff

<sup>27</sup> Claus-M Naske, Ernest Gruening: Alaska's Greatest Governor. (Fairbanks: University of Alaska Press, 2004). 248ff

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with what was going on in Vietnam that he was no longer looking out for the needs of the Alaskans.<sup>28</sup> Many of the voters were swayed to believe that the Gruening of the 1960's was not the same man who had fought to break the power of large corporations and to bring statehood to Alaska. Alaskans were encouraged to believe that Gruening was not looking after their needs and that the state was missing out on many Federal benefits. In the minds of many people, the proof of this was found in Gruening's Senate attendance record. During his last two years in office he was absent for over 50% of the votes.<sup>29</sup> Many of these absences were due to Gruening's participation in anti-war rallies. Although it was not true that Gruening became so focused on what was going on in Vietnam that he did not look out for the Alaskan interests, the perception fostered by the Republicans convinced many people and ended his political career.<sup>30</sup>

The third reason cited for him losing his Senate seat was his age. By the time of the 1968 election Gruening was 70 years old. Several of the other Senators that were his age had decided not to run for re-election. His age was used by his adversary to convince the people that Gruening was too old that his ideas were stale, and that Alaska needed a fresh new voice in Washington D.C.<sup>31</sup> His opponent also questioned whether Gruening would be able to serve out his term. This last reason did have some impact. It was Gruening's position on Vietnam, however, that ultimately cost him his seat in the Senate.

Mike Gravel would be Gruening's Democratic competitor and the one to win the primary election in 1968. Like Morse, Gruening felt that he still had a lot to contribute to the state of Alaska and the nation by serving in the Senate and thus ran as an Independent in the 1968 general election. Unfortunately for Gruening the citizens of Alaska did not believe that he

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<sup>28</sup> Ibid. p. 248ff.

<sup>29</sup> Ibid. p. 267-268.

<sup>30</sup> Ibid. p. 266-268.

<sup>31</sup> Ibid. p. 266-268.

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should continue serving in the Senate and thus he came in third in the general election. After leaving the Senate, Gruening became the president of an investment firm and would continue his involvement in politics by serving as a legislative consultant until his death on June 26, 1974—interestingly he and Morse died one month apart. He was cremated and his ashes were spread over what would be named Mt. Ernest Gruening just north of Juneau, Alaska.<sup>32</sup>

Wayne Morse also lost his seat primarily because of his opposition to the Vietnam War and specifically because he carried his anti-war sentiments so far that he publicly endorsed Bobby Kennedy as the Democratic nominee for president in the 1968 elections.<sup>33</sup> All during Johnson's presidency, and even prior when Johnson served as Senate Minority Leader, he and Morse had many disagreements that led to hard feelings. Morse had questioned Johnson's behavior and integrity. Morse had also berated Johnson without let up over the way that Johnson had been handling the Vietnam War.<sup>34</sup> He talked about calling for Johnson to be impeached, attacked Johnson for short changing the education of America's youth to fund the war in Vietnam, called for the military budget to be cut and treated Johnson with contempt both publicly as well as privately. After the 1964 election Morse publicly stated that he thought it would have been better if Goldwater had won the presidency.

Johnson could live with all the insults and problems caused by Morse until Morse made his public declaration supporting Kennedy for President. Mason Drukman, in his biography of Wayne Morse, indicates that this was all of Morse that Johnson could stand. When hearing that Morse had openly supported Kennedy, Johnson referred to Morse as a "smart assed, Harvardized, Back Bay Irishman, whose family for three years treated him like dirt" and then he

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<sup>32</sup> *American National Biography; Dictionary of American Biography*

<sup>33</sup> Mason Drukman, *Wayne Morse: A Political Biography* p. 434.

<sup>34</sup> *Ibid.* p. 433ff.

pulled what party line support he had been willing to give Morse in the past.<sup>35</sup> A vindictive man, Johnson was also determined to make Morse pay for his endorsement of Kennedy. He did this by appealing to Morse's ego and involving him in a labor negotiation that he knew would turn organized labor against Morse. Supreme Court Justice William O. Douglas, a friend of Johnson's, recounted for Drukman exactly how Johnson went about exacting his revenge. Douglas stated that Johnson "drafted" Morse for the railway labor negotiations. Performing the role of an arbitrator was not new to Morse. Morse had been looked to by President Roosevelt during the early stages of WWII to negotiate with the United Steel workers and help to avert a strike that could be damaging to the U.S. war effort.<sup>36</sup> During Johnson's presidency Morse was asked to help resolve a labor dispute with the airline industry that could have hindered the ability of Americans to move about the country and could have hindered the Nations economy. In both cases Morse had done well in resolving the situations. The problem for Morse, however, involved the settlements that came as a result of his efforts, which were not as favorable toward the labor unions as the labor leaders believed they should have been.<sup>37</sup> This exacerbated tension that already existed between Morse and organized labor. Johnson was well aware of this fact and used it, according to Douglas, to bring Morse down.

Douglas stated that after telling Morse he had been "drafted" to handle the railway dispute, Johnson "battered Morse up" by stating that Morse taught him everything he knew about labor law—that he had been Johnson's teacher and that he was the only one who could handle this situation.<sup>38</sup> Johnson knew that Morse, being a vain man, would not be able to resist the request when presented in this manner. He was also aware that the decisions needing to be

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<sup>35</sup> *Ibid.* p. 433ff.

<sup>36</sup> *Ibid.* p. 433ff

<sup>37</sup> *Ibid.* p. 433ff

<sup>38</sup> *Ibid.* p. 433ff

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made would not favor the labor unions. Although Morse came closer to the percentage increase in compensation desired by the railroad workers he had taken actions to bust a strike and for this earned the animosity of the union. Further agitating and alienating organized labor in this way hurt Morse re-election bid in 1968.<sup>39</sup>

When Johnson made the public announcement that Morse would be handling the negotiations, he told Morse that he had just been handed the “black bean”. Morse asked Johnson what he meant by this statement and Johnson in reply shared the following story with Morse: during the 19<sup>th</sup> century there was a Texas military expedition sent into Mexico. While on their trek the Texan soldiers were taken prisoner by the Mexicans. Because there was not enough jail space to hold all of the prisoners the Mexicans held a sort of lottery, having each Texan soldier close his eyes and choose a bean from a plate. Those who chose a white bean went to a jail cell while those who had picked a black bean were executed.<sup>40</sup> Morse would eventually understand what Johnson meant by the “black bean.”

Organized labor would campaign against Morse in Oregon and he would lose his seat to Robert Packwood.<sup>41</sup> Although there is some debate as to whether Johnson really set Morse up, the facts seem to indicate that Johnson was guilty.<sup>42</sup> Had Morse not turned his back on Johnson and given his support to Robert Kennedy, who Morse believed would get the U.S. out of Vietnam if elected, Johnson may not have deliberately put him in a position to lose the 1968 elections. The fact remains that Morse in his desire to see the U.S. pulled from Vietnam spoke out against the incumbent and he lost his seat in the U.S. Senate.<sup>43</sup>

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<sup>39</sup> *Ibid.* p. 433ff.

<sup>40</sup> *Ibid.* p. 434.

<sup>41</sup> *Ibid.* p. 434ff.

<sup>42</sup> *Ibid.* p. 437ff.

<sup>43</sup> Wayne Morse Center for Law and Politics: <http://waynemorsecenter.uoregon.edu/vietnam.html>.

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Beyond Johnson's scheme, Morse would lose his seat because his opponent was able to successfully portray him as out of touch with the people of Oregon. The basis for this claim was twofold: first, Morse was now in his late sixties, lacking the energy that he once had and most importantly no longer understood the concerns of the younger people; he did not have a firm grasp on what was really important to his constituents. Second, he was so focused on American participation in Vietnam that he paid little if any attention to the needs of the Oregonians. Packwood pointed to Morse's Senate attendance and voting record as proof of this claim showing that Morse had spent a large amount of time either speaking at anti-war rallies or addressing the Vietnam issue from the floor of the Senate, but not speaking to issues that were of real concern to the people of Oregon such as health, education and the economy.

Believing that he still had a lot to contribute to the country Morse would spend his remaining days seeking to regain his senate seat in 1972. Success would come in the Democratic primary as Morse defeated his old foe Robert Duncan. He did not come out on top in the general election, however, losing to the incumbent Mark O. Hatfield. Unwilling to accept defeat, on March 19, 1974 Morse again sought the Democratic nomination to serve in the Senate. Other Democrats seeking the nomination made Morse's age a key campaign issue. Able to down play the age issue, Morse won the primary and was making campaign plans for the upcoming general election when on July 21, 1974 he was hospitalized with kidney failure. During the next couple of days he remained at Good Samaritan Hospital in Portland where he was listed in critical condition. On July 24, while seeking to keep up with a busy campaign schedule from his hospital bed Morse passed away. On July 26, he was given a state funeral in the Oregon House of Representatives. Prior to the funeral his body lay in state in the Capitol Rotunda.<sup>44</sup>

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<sup>44</sup> "Wayne Morse Obituary", *The New York Times*, July 27, 1974.

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Although there is no evidence to suggest that Gruening and Morse were good friends prior to the Tonkin Gulf incident or even after its occurrence, they did bond over this issue and worked simultaneously to bring United States involvement to an end in Vietnam. Each would invest an incredible amount of time and energy to this endeavor and in the end would lose their Senate seat because of the position they had taken. This would not deter them at all, losing their Senate seats. Both men would make continued appeals to the American people and their former Senatorial colleagues, imploring them to push the government to bring the Vietnam War to a close. Whether they made any real impact on other members of the Senate remains uncertain. The very arguments, however, they had made were embraced by many other members of the Senate and the crusade they had undertaken in 1964 would be carried on until the last American was pulled out of Vietnam in 1973. Both men would live long enough to see his goal achieved; the end of Americans involvement in Vietnam, however, neither would live long enough to see the conflict in Vietnam itself come to a conclusion. They would die in 1974, one month apart and one year prior to the final defeat of the South Vietnamese and the end of the war that Gruening and Morse had always seen as futile.

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