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JK: For the record I would like you to explain what your role was during the Conference in San Francisco in 1945 for the founding of the United Nations.

Finkelstein:

Well, that is easy to do. I had been in the Office of Special Political Affairs in the State Department which was the office responsible for preparing for the drafting of the UN Charter and the Conference in San Francisco. I had been there at first as an intern starting in July, 1944, and then I guess I was hired as a junior professional person early in 1945. My work had been primarily concerned with the non-self-governing territories part of the UN Charter. I worked in what was the Division of Dependent Area Affairs in the Office of Special Political Affairs. There I had worked under Benjamin Gerig who was the chief of the division and who was also a figure in the American delegation at the Conference. Ralph Bunche at some time became the associate chief of the division. That may have been later but he had moved over from the Office of Strategic Services shortly before I joined as an intern in the middle of 1944. I worked with James Frederick Green who is the man whose picture is shown with President Truman on the platform when Truman gave his final address and I guess signed the UN Charter for the United States at the

end of the Conference. Thomas F. Power was a member of that staff. He went on to a career in the United Nations and died a couple of years ago. Elizabeth Armstrong is another person who was in that group. She is long dead. Emil Sady came along perhaps a little later after the Conference. He became a State Department professional working on non-self-governing territories. I guess he worked in the UN later, also. So, that was the context.

I was delighted to be, what seemed to me, given a real break to be allowed to go to the San Francisco Conference where I was assigned to what was called the correspondence unit, 3 or 4 supernumeraries who were there to answer the mail received by the delegation which was quite voluminous. We did it by categorizing incoming letters and sending out form responses for the most part.

Then just at about the middle of the Conference the more senior people who had had the responsibility of preparing the minutes of the US delegation were overburdened with other responsibilities. Those two people were Dorothy Fosdick and Ralph Bunche. So, I was asked to replace them which I did for the second half of the Conference beginning sometime around the middle of May til the end of June. That involved sitting in the back of the room when the delegation met, ordinarily once

a day, five days a week or sometimes six, occasionally two meetings in one day. I had to prepare two sets of minutes, a synopsis, very short, no more than a two page summary and the other as complete a record as I could make, as verbatim as possible. I would go back to the office which we had. It really wasn't much of an office. It was the gold room of the Fairmont Hotel, a great big cavernous space with desks and lots of people doing a variety of tasks. I had a string of secretaries who were recruited locally and who were quite good. I ran about dictating these extensive minutes. All this had to be done by the next morning. As you can imagine for a youth like myself that was a formidable experience.

There were significant people in the room comprising the delegation and the senior advisors to the delegation. There were significant issues being discussed. I was there as a fly on the wall and, although it was a pittance, I was being paid to do it. It couldn't have been better.

JK: How were the delegations composed? And how were the committees set up?

Finkelstein:

I just happened to be looking at Alger Hiss's recent book and he reminded me that the delegation was essentially constructed by President Roosevelt before he died. As

nearly as I can tell from that, the State Department recommended the composition of the delegation to President Roosevelt who accepted their proposal with one exception. I don't want to be misinterpreted on that. He didn't turn them down on any but, there was one member of the delegation who apparently was not on that list who turned up as a delegation member later and I'm not sure how that happened. That was Harold Stassen. But the original list proposed to the President according to Hiss consisted of the chairman of the Senate Foreign Relations Committee who was a Democrat, Senator Tom Connally, his Republican opposite number, the senior Republican member, Arthur Vandenberg, a potential Presidential candidate it was thought at the time, and their equivalents from the House Foreign Affairs Committee, Congressman Sol Bloom of New York and Congressman Charles Eaton of New Jersey. Edward Stettinius was the chairman of the delegation. Although nominally the chairman was Cordell Hull, he was ill and couldn't come. Hull was not in San Francisco, ever, during the Conference.

JK: What was Edward Stettinius's position in the government at that time.

Finkelstein:

I think he was Secretary of State at the time. He was replaced shortly after the Conference by James F. Byrnes who was Truman's appointment. But I think he was

Secretary at this time. Virginia Gildersleeve, former Dean of Hunter College, maybe still Dean at that time, was the one woman on the delegation. Then subsequently, somehow or other, Harold Stassen materialized and became a member of the delegation. He had been governor of Minnesota. He was a liberal Republican. He was in the Pacific as an assistant to Admiral Halsey in the Pacific naval campaign. He was quite an impressive fellow.

JK: I understand that the present Senator Claiborne Pell was also in San Francisco. Do you recall what his position was?

Finkelstein:

Yes, it's interesting. Thank you for reminding me. I guess he was in the navy.

JK: I think he was actually in the Coast Guard.

Finkelstein:

This would have to be checked on the record but, I believe that he was a junior member of the staff of a sister division to mine in the Department of State, the Division of International Security Affairs. That's my best guess because he did spend some time working there. The head of that division was Joseph Johnson who later became the President of the Carnegie Endowment for International Peace, where he hired me and he was my boss for a number of years. He died just a few weeks ago.

Another person, who was there and who was in naval

uniform because I remember meeting him on the special train from the East Coast to San Francisco, was Bernard Brodie who was a lieutenant in the navy. I hadn't heard of him before but Bernard later became known as an outstanding scholar of national security affairs and a leading figure in the Yale Institute of International Affairs. Then I guess he moved down to Princeton with the others. And he was at the Rand Corporation. So, it is good to know that he was there.

One thing that has probably come up before but that is worth mentioning is that the Conference involved a considerable innovation in Conference procedure because the US delegation took the initiative in creating a category of participants who were consultants to the delegation. These were people who represented major non-governmental organizations in the United States including the big trade unions, the CIO and AF of L at the time, major lay religious organizations, B'nai Brith and the National Conference of Churches of Christ in America, etc. The NAACP was among them. Those organizations are all listed in an appendix to the official report of the US delegation to the President after the Conference was over. There is such an official Conference report. I have a copy of it upstairs.

JK: Where would that official Conference report be located?

Finkelstein:

I would think any library would have it. I've held onto my original copy which I carried from San Francisco with me. But it is an official document of the delegation to the President included in the papers of the executive office. Any good library would have it. It is a public document.

What should I say about this? The Conference had a secretariat.

JK: There were a number of Americans in the secretariat.

Finkelstein:

I think the secretariat was not exclusively American but was certainly predominantly American. The Secretary General was Alger Hiss. He was supposed to be there in an international capacity as the servant of the entire Conference and not in his capacity as a US government official because he was not a member of the American delegation. Then there was, of course, as was traditional in conferences of this kind, a plenary meeting. That is a big meeting of all the delegations which was the sovereign body of the Conference. It was that body which took the final vote at the end approving the Charter which had been drafted. Then for working purposes the Conference was broken up into four commissions known by their Roman numerals I - IV. Each of those commissions had two or more committees known by their Arabic numbers, 1, 2, 3, whatever. For example, I forget what it was called but probably the committee on

trusteeship and non-self-governing territories, or something like that, was commission II, committee 4. The one that dealt with questions like the veto and the workings of the UN Security Council was commission III, committee 3.

JK: So, then the delegates from the various countries might be represented on various different committees.

Finkelstein:

These were full membership bodies. So, every participating government was entitled to participate in every one of those committees. Sometimes when the going got rough or the work got heavy or a particular task had to be accomplished the committees broke up into subcommittees or working parties which were smaller. They would pull in the participants whose presence was necessary to get the job done or whose interests were at stake. It was a very large, quite cumbersome and very complex business. Then there were several small expert kinds of bodies which had to do some of the mechanical work of the Conference. I can't reproduce them all from memory. I haven't thought about this in a long time. But one that was particularly important was called the coordination committee. This was a small body in which high level technical experts from the five great powers present participated. I forget whether there were others also in that committee. Theirs was the task of weaving

together and technically correcting and making perfect the text that emerged for the various segments of the Charter out of this committee process. Theirs was the task of reconciling the incompatibilities that emerged from this process in which different committees dealt with different problems in different parts of the Charter. The American on that was Leo Pasvolksy who had been the special assistant to the Secretary of State for this whole process and was the highest ranking continuing official of the Department of State for these matters and to whom my section and division reported. He was the top man in the process. He represented the United States in that coordination committee. He had a great influence.

JK: The Soviet on that committee, was that Sobolev?

Finkelstein:

No, it was Galunsky, the Russian principal legal advisor.

The record is available and it is easy to check on things like that. You know that after the Conference a series of volumes were published recording the Conference. They were called the UNIO documents, the United Nations Information Office, and I think there are 14 volumes on the San Francisco Conference. In that you would find all the information about the structure of the Conference and who were the participants.

JK: As long as we are talking about some of the people who

were involved, there were others like Nelson Rockefeller who were there. What was his role?

Finkelstein:

I think at that time Nelson Rockefeller was Coordinator of Interamerican Affairs, which was a body created during the war to perform as a sort of antecedent to the American Aid program. He had run a vigorous program of American assistance in Latin America. Although I think he was not yet Assistant Secretary of State for Latin American Affairs, at some point he did become that. He was there as an official of the government who was an advisor to the delegation, and a very active one. Now that you mention it, I was a little surprised reading Hiss's book the other day to learn something I hadn't known. An issue that arose was the status of Argentina which had not declared war against the Axis. Consequently, as a result of the decision reached in the Yalta Conference it should not have been eligible to be a member of the San Francisco Conference. Hiss's story is that he, and he said the whole American delegation, were astonished when a group of Latin American countries took the floor in one of the early plenary meetings to propose that Argentina be invited to participate. In the circumstances, that could not be permitted but Argentina was in the end invited to join the Conference. The speculation was that this had been engineered by Nelson

Rockefeller working on his own, not as a matter of US government policy, with the Latin Americans contrary to the commitment made by President Roosevelt to Stalin at Yalta. The American delegation was extremely embarrassed about this and sort of got preempted by this ploy that Rockefeller was involved in. This happened early in the Conference long before I was involved in taking the minutes. So, I don't have any first hand knowledge of any kind. But I do know that later on he was a very vigorous advocate of a special view of American interests vis-a-vis the Latinos which had him confronting the Secretary of State who was the head of the delegation, head on. I once saw them jaw to jaw at the penthouse which was part of Stettinius's suite and where the delegation sometimes met.

JK: Do you recall the issue they were discussing?

Finkelstein:

I was far enough away that I couldn't hear what they were talking about but I could read the body language that those two were disagreeing with each other. At that time the issue had arisen of the Latin American wish to emphasize regional over global machinery particularly for handling issues of peace and security. There is an interesting tale here.

JK: The role of regional organizations vs the role of a global organization.

Finkelstein:

That is an issue that has plagued the organization throughout its history. What had happened was, going back to President Roosevelt and Secretary Hull, they had taken initiatives through a series of inter-american conferences in the 1930s which had produced what was known as the era of good feeling between the Latinos and the United States. The collaboration during the war had been mutually beneficial and very effective with the main exception of Argentina. As a consequence at the end of the war the Latinos were quite comfortable with the United States and very uneasy about the role of the Soviet Union as a communist state in the UN. They were troubled by the emphasis of the US policy in placing the primary responsibility for peace keeping in the UN Security Council where the Latinos were afraid Latin American issues of peace and security might encounter a veto from the communist, non-catholic, anti-religious Soviet Union. So, at that time in 1945 the Latinos were much more comfortable sharing the inter-american bed with the United States than the global bed with the Soviet Union. And so, they were pushing very hard for exceptions to the globalist orientation of the Charter.

JK: That is an interesting interpretation of why that came up.

Finkelstein:

I'm sure I'm right in that general presentation of the case. It reads rather strangely in the light of later deterioration of relations between the United States and the Latinos as a whole. After some time in the mid '50s the relationship began to change for the worse and it is still hard for me to believe that things were so comfortable in 1945 as to produce that Latin pressure on the United States to adulterate the global principle of the Charter. I suspect that Nelson Rockefeller was advocating that point of view against the universalist tendency of the Secretary of State, who in any case was quite uncertain about it, Leo Pasvolksy, and the two Presidents, Roosevelt and Truman who would come under that group.

JK: So, the Latin American point of view was that they would prefer that matters of dispute or threats to the peace be handled regionally before the United Nations would take it on.

Finkelstein:

They certainly wanted to have that option preserved. This pressure from the Latinos was one of the factors that entered into the adoption of Article 51 of the Charter which preserves the right of individual and collective self-defense. They were also pressing on the provision which found its way into Article 53. I have a

copy right here that I'm trying to check. Article 52 has to do with regional arrangements and Article 53 also. I remember vividly that the first day that I began to take minutes in the delegation meeting one of the issues was one that had been on the agenda before and stayed on the delegation's agenda some time after the day of which I am speaking. It had to do with the question of whether in Article 53 toward the end of the first paragraph the word should be on the "request" of the governments concerned or with the "consent" of the governments concerned. This had to do with the transition from regional authority to deal with enforcement action where there were threats to the peace to the taking over of responsibility by the UN. The Latinos wanted the word "request" because it left the initiative with them and the alternative would have left the initiative with members of the Security Council. The difference was not obviously a terribly great one but, it really roiled the Conference and occupied 20 minutes or so of the delegation's time for many mornings. All of this is a part of that issue having to do with the Latinos' preference for certainty that peace and security measures in the hemisphere could be dealt with by the inter-american system, then the Panamerican Union later to become the Organization of American States, rather than to risk the uncertain fate that would be theirs in the UN

Security Council.

JK: So, there was a concern for the language that went into the Charter to keep it clear that the points were being made correctly and that the sources of power were designated specifically. Was there an effort to make the language flexible, also?

Finkelstein:

No, well I shouldn't say, no. This example is one of a word carrying a very substantive burden. It was an issue of disagreement among the states for which the word was intended to be the solvent. That's why it was so bitterly contested and consumed so much time over so many meetings and so extended a period in the Conference. That sort of issue didn't often arise because by and large the Conference had the benefit of a draft of the Charter which had been prepared by the Great Powers meeting the previous summer in the Dumbarton Oaks conversations where most of the issues about the structure and the main directions of the organization had been, for all intents and purposes, settled. So, they had this draft Charter laid before them at the beginning of the Conference in San Francisco. That stood up very well because, among other reasons, the Great Powers, the United States, the Soviet Union, England, France, and China, were determined to maintain their cohesion and thus were unwilling to risk opening up what they had done

to serious amendment by outside pressures. So that much of it was pretty well set and a great deal of what went on was the examination of what the Great Powers' draft meant and what its implications were. The alterations and amendments tended to be marginal to the main agreements that had already been reached.

Now, in some cases that was not true. One of the issues was the extent to which the veto was to apply. The other major issue was the issue of non-self-governing territories and trusteeship because that had not been incorporated in the Dumbarton Oaks discussions.

JK: That was one of the questions I wanted to ask you, whether or not that had been settled ahead of time. Was this discussed at Yalta?

Finkelstein:

Yes, it was discussed at Yalta to the extent of getting an agreement that this could be an issue to be dealt with at the San Francisco Conference.

JK: But the issues themselves were not settled there?

Finkelstein:

Absolutely, and I can tell a little bit about that. What happened at Yalta was an agreement that San Francisco might address general principles of the post war colonial order and might consider establishing a trusteeship system. I believe the language adopted there was very close to the language which found its way into the

Charter with respect to trusteeship, namely that such a trusteeship system might apply to territories -- this is Article 77 of the Charter -- which had been held under mandate under the League of Nations system, territories which might be taken away from enemy states as a result of the Second World War, and territories which might voluntarily be placed under the system by the colonial powers. But basically the agreement at Yalta was that no specific colonial issue was to be dealt with at the Conference, just the framework for an international system. That agreement was pretty well adhered to in the San Francisco Conference. One of the things that the US delegation did, led in this respect by Governor Stassen, was to defend that principle against attempts by others to introduce different colonial issues of contention. Those initiatives were taken but, they were all defeated and contained.

The thing that I wanted to emphasize that I think is fascinating is that the reason that the colonial agenda was not as far advanced by the time the San Francisco Conference began as were most of the other issues of the Charter was that there had been a deep split in the US government on this issue going back for years. This emerged sharply in the late spring of 1944 as planning for the Dumbarton Oaks conversations was moving into an advanced stage. There had been a lot of preparation in

the State Department of drafts for a trusteeship plan and a declaration having to do with principles of colonial government. There had been some consultations with the British. Most thought that this plan was ready to proceed but, it was the military services which threw a monkey wrench into the works for two reasons. The first, they were very concerned that these questions would involve territorial issues which might open up disputes among the countries still conducting the war against the Axis. We are talking about 1944. Their main argument was that they didn't want to introduce any unnecessarily contentious issues that might cause splits particularly between us and the Russians. The second issue was the belief particularly in the navy that it had to have the islands which we were winning island by island from the Japanese, some of which had been under League of Nations mandate after WW I but others which had not. So, the navy was against any concept of trusteeship which might internationalize those islands and thus deprive the navy of US sovereignty over them. On this they were clearly opposed by the President himself but, somehow or another the navy managed to keep the issue alive. It persisted in the internal debates in Washington right up to the eve of the San Francisco Conference. Indeed they were settled only by a late hour decision, perhaps the last one President Roosevelt reached before he died in Warm

Springs. The final shape of the US proposals did not appear until a working group on the train going from the East Coast to San Francisco on the way to the Conference reworked the proposals and came up with the draft that the United States introduced at the Conference. It was really a perils of Pauline.

JK: During the Conference in San Francisco itself then there was not disagreement amongst the American delegation on that issue? Had it become settled?

Finkelstein:

No, by the time the Conference began there was a US position which by and large was accepted by the delegation. But we started this line of conversation dealing with the importance of individual words and discussions and precise language. One of those arose in this context. That was namely the question of whether independence should be stated as a goal of the administration of colonies and/or the trusteeship territories. That did split the American delegation. For reasons that have never been entirely clear to me, Governor Stassen believed it was necessary to avoid the establishment of independence as the goal for territories under colonial rule. I think that he believed that that was a condition of getting approval by the colonial powers of the Charter provisions dealing with colonial issues. So, he brandished the club in

behalf of softer language.

I was not present, obviously, but I was told later by somebody who was that on the way to the meeting in the automobile his advisors urged Governor Stassen not to take the initiative in defending the British position opposing the word independence. He ignored their advice and made a very powerful and effective speech against including the word independence. That got very negative headlines in the national press and indeed around the world because here you had the representative of the great champion of colonial independence. That had been an important theme for Franklin Delano Roosevelt. The US itself a former colony founded in a war of revolution against a colonial regime had a representative standing up and opposing independence. Professionally many thought that it hadn't been necessary because the British were perfectly capable of defending their own case. It is a bit of a mystery to me why he should have done that.

In any case, a kind of a compromise agreement was reached under which the word independence was included as an objective with respect to the trust territories, which were to have a special international status. It was to promote their progressive development toward self-government or independence as may be appropriate to the particular circumstances of each territory and its people

and the freely expressed wishes of the peoples concerned. But it was not included in that part of the Charter devoted to all other colonies which were by far the most numerous. There the language is to develop self-government -- this is Article 73b of the Charter -- to take due account of the aspirations of the peoples, etc., carefully avoiding the word "independence" as such. So, here is another case where the language agreed upon was strongly debated because the language represented conflicting views as to what the purpose should be.

JK: Also, the use of the term self-governing, how was that interpreted because certainly not all the nations involved at that time were democracies? Were there various interpretations of that term?

Finkelstein:

I don't think it had anything to do with the form of government within the country. I think it had to do with the conduct of affairs autonomously from the colonial power. It's funny. I've written about this in something that hasn't been published. The Americans thought that they were advocating self-determination when they were proposing a trusteeship plan which was to provide guidance and oversight rather than self-determination. Self-determination is an act of deciding and trusteeship did not provide for such autonomous decisions by the peoples of the trust territories that they could be

independent in whatever course they chose from previous administering power. So, I think there was some intellectual confusion in the American position. They confused trusteeship with self-determination. When they spoke of developing self-government, the language that got into Article 73 of the Charter, I think they conceived of that as akin to the notion of self-determination.

JK: The language is very close.

Finkelstein:

The right to adopt their own laws rather than have the colonial power adopt them.

JK: So, there could have been a compromise of language there.

Finkelstein:

Well, there was. They put the word "independence" in one part and not in the other. That's the compromise they consciously reached. Although, it was interpreted by Stassen and others as broad enough to incorporate independence. It didn't exclude independence. Self-government might come to mean independence. But clearly they shied away from putting so hard edged a word in that part of the Charter because of the resistance of the colonial powers to doing that.

JK: That is really very interesting and it is fine to go off into those areas because those are things that I wanted to cover anyway. I just wanted to come back again to

cover a little bit more of the structure of the Conference itself. We talked about the controversy over Argentina's participation in the Conference and later on they were accepted. How was it decided as to who would represent Poland at the Conference?

Finkelstein:

I'm not sure that my memory is going to enable me to answer that question. One thing that happened which had a tremendous negative impact in San Francisco was that the Russians . . . Let's back up a little bit. There had been two ostensible governments of Poland during the war. One was the government of exiles in London which had dealt with the Brits and us and who we acknowledged to be the government of Poland. There was also the so called Lublin government which was the government of the communists which was supported by the Soviet Union. The Russians had agreed that the London group should go to Moscow, there to meet with the Lublin group to negotiate an agreement as to the government of Poland. When the London group arrived in Moscow the Russians arrested them and clapped them in jail, a clear act of infamy and malfeasance. This burst over the San Francisco Conference like a thundercloud as you can imagine.

The Russians were very difficult to get along with in many respects at that Conference from the first

minutes. But this was clear evidence that the harmony that the UN scheme required among the Great Powers did not exist. You had what was later to be called the Cold War in progress. It was really regarded as a dirty blow. It challenged the authenticity of the Soviet claim to want to be a partner in this organization which was being designed at San Francisco. I'm sorry I just can't recall the resolution of that Polish question was. What delegation should be seated in the Conference, you'll have let me pass on that. I have a feeling that there was a vacant seat, that Poland was considered a member but no delegation was accredited.

JK: You were mentioning the anxieties that the Soviet Union would not ultimately cooperate within the United Nations, in general what was the atmosphere in San Francisco in terms of optimism for the United Nations?

Finkelstein:

Very mixed. Just to give you an example which in itself is not a very important one but, nevertheless, indicative of the mood. Previously when international conferences had been convened the norm had been that the chairmanship or the presidency should be held by the host country. The Russians were not having any of that at San Francisco. They made an issue of it in the early hours. That had been the plan that as the host the United States would have the chairmanship. They contested that and

thus out of that resulted the awkward, rotating four power chairmanship that actually was adopted for the Conference. It was not a matter of great substance but an indication of how unwilling the Russians were to play the game as the rest of the powers thought it ought to be played. They were obstreperous and difficult up and down the line, very determined to assert their own interests and defend them vigorously. As I said before, they like the others in the group of five were very cautious about disrupting the consensus that had been reached among them when it was under attack by the 45 or 46 others present at San Francisco. By and large, they did succeed in presenting a united front and in cases like the trusteeship issue where the position had not been created before the conference they were reasonably successful in coming to an agreement and defending it against external assault. So, there was agreement but, it was necessary. This was pragmatic self-interest. They were real tough when it came to arriving at that agreement among the five but, once the agreement among the five existed, they were pretty good about helping to defend it.

The more direct answer to your question about optimism is this. The critical issue in the Conference itself had to do with the veto. There should be no misunderstanding about this. The United States was just as firm in needing a veto in the Security Council as were

the Russians.

JK: Wasn't that agreed upon before arriving in San Francisco at Dumbarton Oaks?

Finkelstein:

That principle was well established. They had left it unsettled at Dumbarton Oaks because some dimensions, some aspects of this there was not agreement on. But they had reached an agreement at Yalta. Basically the principle that there should be a veto was settled. The United States needed it because nobody believed that the United States Senate would give its advice and consent to ratification of the Charter in the absence of a veto for the United States to prevent a majority acting against the United States or deciding that the United States should be committed to enforcement action anywhere in the world when the United States didn't wish to do that. So, the veto was vital to the US as well. So, the question was not whether there should be a veto but how far down in the process of decision making the veto should apply. Here the United States wanted to avoid the application of the veto to decisions that an issue should be discussed. The Russians were arguing that the decision to discuss should be subject to the veto as well.

JK: And Molotov was very outspoken on that.

Finkelstein:

That's right, Molotov was outspoken. This was an issue

that divided the big five and also involved a great deal of, minimally speaking, curiosity and real anger among the 46 others who resented the notion of the veto to begin with and who knew that they were going to have to swallow it because there would be no Charter without it and they couldn't afford not to have the Charter. So, they were in the position of being rough shod over by the big five anyway. They were mad as hell about it. That included a lot of Latin Americans. In the leadership of this resistance was Herbert Evatt of Australia. This was not just a North-South issue. It was a small country/big country issue. Even the Canadians were unhappy.

JK: This resistance was to the major power veto in general or to the veto on the discussion, or both?

Finkelstein:

They wanted to cut back the veto in any way they could. That over simplifies and over generalizes but, basically that was the position they were in. Therefore, on this particular issue, of course, they were for the softer US view that there could be discussion without a veto. That issue was solved in two different ways. One was that when President Truman sent Harry Hopkins to Moscow sometime in May he got Stalin to overrule Molotov. Stalin thus agreed with the US interpretation of how far the veto power should extend in the Charter. So, that resolved the US/Soviet dispute and at this point you had

the five power agreement. Then you had the five powers with a big wall with stakes and spears sticking out with shields defending itself and hoards of smaller countries outside wishing to batter down the protection. What happened is that the five powers consulted with each other and arrived at what ended up being a very tough statement which they presented to the rest of the countries. It was their interpretation of the extent to which there would be a veto.

The theory underlying this tough agreement of the five, which they defended against the others and really imposed upon them in the end, is an interesting concept called the chain of events theory. If you are interested in following up on it you'll find a very full exposition by Leo Pasvolsky in the minutes of the American delegation published in a volume of Foreign Relations of the United States for 1945. There is a volume of that official document series for the Conference and in that there are the minutes of the US delegation. Buried in those minutes are Leo Pasvolsky's exposition, a very jesuitical exposition on this chain of events theory. Ruth Russell has written about this and I've written about it.

The chain of events theory was really simple and quite simple minded. It was that it was appropriate for the Great Powers to insist that the veto extend quite

deeply into the process of Security Council decisions because once an item was on the agenda there could "ensue a chain of events" which could lead to the invocation of those threats to the interests of the Great Powers which the veto was designed to protect. Therefore, the veto ought to be available earlier in the process to prevent such a chain of events from developing and threatening the autonomy of the Great Powers. That has been criticized because the Charter itself draws a very clear distinction between its peaceful settlement procedures in Chapter VI and the powers of the Security Council to take enforcement actions under Chapter VII. That line of demarcation was clear enough so that many have argued that there is no chain of events and that was a phony rationale. I always thought that Pasvol'sky understood that the Russians had to have it. Although we were somewhat looser as to where in the procedure a veto must apply, we could probably have lived with the protection of the enforcement powers part of the Charter. He had to defend a deeper extension of the veto because it was necessary from the Russian point of view and he wanted to be sure that the Russians would not have reason to drop out.

So, it came out that, although there can be no veto on discussion as such or on a decision to put an item on the agenda of the Security Council, beyond that the veto

is pretty pervasive. That statement of the five powers that I referred to, that they imposed upon the rest of the Conference, also included the so called double veto. Namely that if there were dispute as to whether the veto should apply or not, that decision itself would be subject to a veto.

JK: Was there disagreement among the American delegation on the issue of the veto?

Finkelstein:

Yes, there was considerable. Nobody challenged that there must be a veto. That was accepted by everybody. But there were disagreements in the delegation about how far it should go. The two Congressmen, Eaton and Bloom, really didn't matter very much. They were not powerful figures in that delegation. But the two Senators were of critical importance. So, you often had a kind of liberal/conservative division between Stassen and Dean Gildersleeve on the one hand and the two Senators representing the conservative side on the other.

I'll tell you a story. It's a wonderful anecdote. My duties kept me busy most of the time and I didn't get to see many meetings of the Conference. But I did make an effort to be there on the occasion when Senator Connally, the Chairman of the Senate Foreign Relations Committee, whose vote and leadership were going to be critical to the decision whether or not the United States

was going to join the United Nations.

JK: He was a very influential and powerful person.

Finkelstein:

Oh yes, because he and Vandenberg between them were expected to control the Senate Foreign Relations Committee which was going to be the body to vote on whether or not the Senate should be asked to give advice and consent to the Charter. We have come lately to talk of the two level game of international diplomacy, the international negotiation and the domestic negotiation as linked. It was operative in that delegation. Anyway, Connally was sent in behalf of the US delegation to read the law, the riot act, to the other smaller countries on the question of the veto. He was sent deliberately because everybody understood that he would control whether or not there could be Senate approval. He was a large imposing man, a very memorable character. He always wore a black string tie and he had a twenty gallon hat. He was a Texan. He wore a sort of preachers black coat. He was marvelous and he played it up. He built up this persona. He was a fourth of July orator, a stump orator with oratund rhetoric. He was a lot of fun. There he was and he went down to this committee III, 3, to tell them that "if you don't lay off on this veto you're not going to have a Charter. You're going to go home without it."

There are two funny things. The place next to the US place was occupied by the British, the UK next to the US in alphabetical order around the table. The British on this occasion were represented by a mild mannered, very distinguished professor of history who later became Sir Charles Webster. There was old Connally waving his arms as he spoke as though he were addressing 50 thousand people down there in Austin, Texas on the fourth of July. I watched this poor old Charles Webster slump lower and lower and lower to avoid having his head knocked off by this waving arm and finally you could barely see the top of his head over the table.

The other anecdote is even funnier. This is the same meeting and the same occasion and it has to do with the interpreters. As you can imagine the mood in that room was extremely tense. The tension was so great that it was palpable. You could feel it. Here was Connally coming to read the riot act to this large group of smaller countries to whom the issue was very important. It was a matter of passion. Connally stood up and he began in effect by saying, "here we are, come together in this beautiful city of San Francisco to reach an agreement on the United Nations Charter and wouldn't it be a damn shame if we had to go home without one." It was a real tough message. That is not exactly what he said but, it's close enough. That was the essence of it.

For the conference they had rounded up interpreters who had worked for the League of Nations and who were very skilled. In those days you had consecutive interpretation not simultaneous interpretation. The interpreter would stand with a pad of paper taking some notes as the speaker delivered his remarks. Then afterwards he would render them in the other language. In this case, it would have been French. After Connally did this tremendously offensive speech the interpreter, who was called Kaminker (there were two Kaminker brothers at the League of Nations) stood up and started to read it back in French and he began, "nous sommes assembles ici a la belle vue de Chicago." And the room dissolved in laughter. The tension was broken and to this day I don't know whether he did that deliberately or not. Well, the Conference succeeded and he made a great contribution.

JK: That's great. Well, now we've been talking about the five great powers but, at the time who was representing France? The war in Europe had just ended right around that time.

Finkelstein:

This was the government of France represented. De Gaulle was the president. They had some old prewar diplomats. Those names are all available. I'm sorry they are not just popping into my head. They had a regular strong delegation. After the Conference started, sometime late

in the proceedings but, possibly in the weeks just before the Conference, they were added to the Great Powers.

JK: They had not been participating before that.

Finkelstein:

The British pushed for that. Churchill wanted that. With Hull fading in influence, I suppose his resistance mattered less. Hull was very angered. FDR didn't like de Gaulle. He was a very difficult character. So, relations with France were prickly throughout. De Gaulle earned the hostility of Cordell Hull who could be a very bitter enemy when he undertook the invasion of those two little islands in the North Atlantic, Saint Pierre and Miquelon, sometime in late 1940, which represented a direct challenge to the American policy of protecting the Vichy government's rights against change. I don't remember all the details. There is a considerable literature on this if anybody is interested. But de Gaulle sent this submarine in and they landed troops and ran up the Fleur de Lis and the Gaullist colors. So, he had an uphill road gaining anything from the United States after that. The truth is, not to be taken offensively, that France was not a Great Power on the scale of Britain or the United States or the USSR.

Incidentally, the American Joint Chiefs of Staff were very perceptive about the post war power relationships. The record is very clear that by 1944 they were saying

requested representation for the 16 Republics. That proposal has taken on a different perspective in 1990. Roosevelt understood that that was very prickly politically in the United States and toyed with the idea of countering with the proposal that the then 48 states of the United States would be given membership, as well. But, that would have been foolish. So, we reached a compromise agreement to let Belorussia and the Ukraine have membership. This is my personal view now in 1990 looking back on it. It was not an important issue. It was understood at the time that it really didn't make much difference. It gave them two additional voices. It turns out it took more time in running meetings because you had two other people with the right to speak. The voting situation never proved to make those two votes critical in any sense. It just was a non-issue.

JK: Was there any consideration for accepting that as a trade off for accepting Argentina?

Finkelstein:

No, I don't think so. I think that Roosevelt's commitment was made. I never heard that. I just don't remember.

JK: Also, you've mentioned a couple of times that you had taken the train out to San Francisco from the East Coast. Did many of the international participants take the train to San Francisco?

Finkelstein:

This was wartime, remember. Transportation was very difficult. There were several special trains. They had to be specially routed because of the demands of wartime transportation. The US forces met up with the Russians in Europe on the day the Conference started, the 25th of April. The war was still going on in 1945. May 8th was the end of the European war. Plans were beginning to be made for the conduct of the war in the Pacific. So, everything was all knotted up. I was told this had never happened before. My train was routed through the yards in Chicago without our disembarking, without getting onto another train. Then continued westward on a route that went southwest through St. Louis down to El Paso and across the desert to Los Angeles then up the coast to San Francisco. That had to be arranged especially because of the difficulty.

I don't remember foreign delegations on that train. There was a large group of Americans including Bunche and Gerig. Ralph and I shared a compartment. He looked at skinny little me and said, "you take the upper." A lot of the delegation staff were there. I was very junior, very unsophisticated in the ways of the world. I wouldn't have known how to deal with a foreigner, anyway. So, they may have been there without my knowing it. It was a big train, a long train with dining cars. They

treated us well.

Then after the Conference there was a special train back. We went up the coast to Portland and then southern Washington and across North Dakota.

JK: I was wondering whether taking the train which took a long time and covered all across the United States might somehow be impressive to foreign delegations as to the size and diversity of such a vast country.

Finkelstein:

I'm pretty sure at least some delegations or staffs anyway did cross the country on the train and that impression was made. I didn't get to see them. I don't know why.

I did say that the US trusteeship plan was put together in that four days on the train.

JK: Uninterrupted time. They couldn't get phone calls. You have mentioned Ralph Bunche a number of times. How influential was he in San Francisco? Was he a powerful figure at all?

Finkelstein:

I have very little first hand basis for answering that because he was off working on trusteeship and I was doing these other things. We saw each other from time to time but basically we were not in very close contact. He was a relatively junior person. I don't recall that he ever appeared before the delegation. The representation on

those issues was generally handled by Stassen himself. Although he may have been there from time to time sitting behind Stassen. I just don't remember that. I think he was not a major power. I think he was emerging at this point. He was obviously extremely able and competent, a good draftsman, a tough, hard negotiator. So, that probably he was making his mark then. The big important decisions were made by the delegation or sometimes, as in that incident of Stassen's position on independence, by the delegates themselves. I don't think that there was a time when the seat in committee II, 4 was not occupied by Stassen himself. I noticed later at the first General Assembly that when the US representative on these matters was John Foster Dulles, he often wasn't there. So, Ralph Bunche got to sit as the representative of the United States on the UN General Assembly committee dealing with trusteeship and non-self-governing territories. I don't think that happened in San Francisco.

JK: How powerful a person was Stettinius? Was he influential?

Finkelstein:

The two Senators were the real power of the delegation. The real intellectual and oratorical force within the delegation meetings was Stassen. Stettinius was a pretty pompous, very good looking, tan, pearly white teeth, white hair, physically fit, very self-conscious fellow,

but very insecure. He was supposed to be the person who talked to the President about these matters. So, in that sense as the chairman of the delegation and as the Secretary of State, he must have had a considerable influence in helping to shape the President's decisions when issues were being argued and there were splits in the delegation. So, institutionally, he was placed to be a powerful figure but, I have no access to that. I have no idea what went on in the conversations between Stettinius and Truman which happened everyday. He was on the phone all the time. So, I really have no judgement on that. But, most people thought that he wasn't very bright that he was kind of slow witted.

After the Conference was over Truman named someone else Secretary of State. He obviously did not have the confidence of the President.

You asked much earlier about optimism. I meant to mention this. I have a probably unique view that Stettinius made a tremendous contribution to the success of the Conference because he was irrepressibly optimistic about it, even during those days when there was the veto issue. And please don't misunderstand this, the veto issue in my judgement came very close to wrecking the Conference. The disagreement over the extent of the veto between Moscow and the United States was a critical, determining issue. If the Hopkins mission had not

produced its successful outcome the Conference might very well have failed over that issue. During those days the tensions were extreme. I have some letters of mine upstairs reflecting my feelings at the time that the thing was very chancy and that it might just bust up. During all those days Stettinius pretended to refuse to believe that. He kept up a very optimistic patter of reassurance like a coach patting the players on the back and telling them not to worry that everything was going to come out fine. And he smiled all over the place both within the delegation and in the international forum. I think that was very helpful. Nobody quite believed it but, still it helped to offset the gloom which otherwise was pervading the place. I thought that was an important contribution.

JK: Now, we could move to some discussion about the Security Council. We were talking about the veto which takes place in the Security Council. How much of the structure of the Security Council had been set up ahead of time in Dumbarton Oaks, in terms of who would be on the Security Council, how many, what kind of vote the non-permanent members would have and so forth?

Finkelstein:

I believe that essentially the job was done before the Conference was started. The membership was fixed at eleven. I don't know at what time they decided there

would be five veto votes because as you pointed out the French were not at Dumbarton Oaks. They didn't get into this and become the fifth member until later. So, now I'm speculating but, that must have been part of the deal by which it was agreed that they would be admitted to the Conference and would come and participate. Although I don't think that was in the Dumbarton Oaks text. I'd have to go back and check but, I assume that the five powers agreed on that and got everybody else to agree that there would be five permanent members of the Security Council and those would be the ones whose affirmative vote would be necessary to get a decision of substance.

Of the total size of the Council, it was fixed at eleven. The issue of how far the veto would extend down the chain of decisions in the procedure, those issues were not resolved at Dumbarton Oaks. That part of the Charter proposal was left blank at that point or bracketed. It was not resolved altogether at Yalta either. So, those questions were finally settled in the Conference. But as for the rest of it I think the structure of the Security Council and the general outline of its powers was pretty well established before they got to San Francisco.

There were issues we talked about before like self-defense. Article 51 was not in the Dumbarton Oaks

provisions. That is the one that recognizes that there is a right of an individual or a collective self-defense if there is an armed attack against a member. We also mentioned the wrestling over the relationship between the universal and the regional organization. There was some fussing too about the authority of the Security Council in relation to the continuing authority of the victorious powers in the war over the defeated enemy. There were some provisions that got into the Charter protecting the continuing rights of the occupying powers for peace and security vis-a-vis Germany and Japan before the UN should be given that responsibility. I don't really remember how far the Dumbarton Oaks discussion had gotten in dealing with those issues. I think they probably ran on into the Conference. Basically, I'm pretty confident that the essential deals on the Security Council had been struck before then.

JK: Was there some discussion in San Francisco on the role of the General Assembly vs the role of the Security Council?

Finkelstein:

Yes, I'm glad you raised that question. Interestingly in the US delegation there was strong advocacy for increasing the role of the General Assembly on the part of the Republicans, Vandenberg and John Foster Dulles, who was not a member of the delegation but who was there as a senior advisor representing Governor Dewey with whom

he had been very close and who was expected to be, as he became, a candidate for the presidency. This was Roosevelt's device for insuring a collaborative relationship with the leadership of the Republican Party. It was not the only device but, it was the main one. Dulles was there as Dewey's man. Dulles and Vandenberg were pressing for more authority for the General Assembly. I think it was those two who also pushed for more emphasis on the concept of justice in the Charter. Sometimes the word justice is in there and that is directly attributable to Dulles' and Vandenberg's advocacy of that.

It is an interesting point and it has some contemporary relevance. What principles are to guide the Security Council? I think that what they did at Dumbarton Oaks and San Francisco was to create an organ whose important decisions would be determined by the votes. When does the Security Council act? It acts when the five Great Powers don't cast a veto and when there are enough other votes to constitute the requisite majority for a decision. That is an important observation because it says that the Security Council was intended to be a political organ, an organ representing the agreement necessary to allow it to succeed and not an organ guided by principles or criteria of conduct.

The critical threshold written into the Charter of

that Chapter VII that I referred to before when we were talking about enforcement powers, is when there is a situation where there is a threat to the peace, a breach of the peace, or an act of aggression. Nowhere does it say that the Security Council must determine that there has been an aggressor. It is entitled to act if peace is threatened or if an act of breaching the peace has occurred, not only if there is an aggressor. Nor does the Charter anywhere say that the Security Council must act against the aggressor. The Security Council whenever the votes are there may conclude that the aggression was justified and that its pressures should be against the country which was the victim of aggression because its policy was a source of disorder that led to the breach of the peace. This is kind of theoretical and abstract and that hasn't yet happened. But it is important to understand that this was a political conception of an organ acting on the basis of the necessary agreement rather than an organ bound to enforce law or impose law or to bring about just outcomes.

John Foster Dulles particularly was a lawyer. He was a senior lawyer and managing partner of Sullivan and Cromwell. He had also been a prominent lay leader of the Protestant lay organizations in the United States. I think he had been president of the Churches of Christ in America or one of the major lay protestant organizations.

It used to be said of him that John Foster Dulles carried a pair of brass knuckles in one pocket and the seven pillars of the church in the other. So, this notion of a politically guided powerful body must have been very difficult for him to accept intellectually, morally, and spiritually. He and Vandenberg were pressing for more references to justice. They were put in as adornments but in ways that really did not affect the decision making or the outcomes of the UN system.

JK: I had understood that the Latin Americans were pressing for more power to the General Assembly because that was a larger representative body.

Finkelstein:

Just thinking about it, it is almost self-evident that they would press for power for an organization in which votes had equal influence as distinguished from the Security Council in which the Great Powers had the veto.

JK: The question was the distinction between the Security Council and the General Assembly.

Finkelstein:

It's interesting. I don't know that much attention was paid to the great power that the General Assembly was given which was to adopt the budget and to set the assessments for members and under the Charter those are legally binding. It may be the one power the General

Assembly has to take decisions that bind the members. That has been the source of the enormous growth in the organization, namely combined with the power that the General Assembly has by majority vote to adopt a program to decide what the organization should do and the power to set the budget. You have an enormous influence and power exerted by the General Assembly.

JK: So, in the Conference itself when those powers were given to the General Assembly then the General Assembly was not necessarily conceived of as a weak body.

Finkelstein:

Well, I don't think that people thought about it very much. I think that the General Assembly was conceived of as a weak body. The predominant thought was the General Assembly was given, except for the one I mentioned, no powers of decision. It could do nothing which could oblige members to obey. It was, therefore, thought of as, I think it was Vandenberg's term, the town meeting of the world, a place where people could get up and talk and pass resolutions and express their wishes but, in which nothing important could happen. The point I was trying to make a minute ago, and I guess I didn't do it very clearly, is that they didn't seriously enough consider the power that would be vested in the General Assembly's capacity by majority vote to adopt programs linked to the power to fix the budget and assessments. That has been

a real source of strength for the General Assembly. The UNDP, for example, the United Nations Development Program and a whole series of other important things that are done under UN auspices have been done by the General Assembly exercising that power to adopt a program by a majority vote. Nobody thought about that very much at San Francisco. They just didn't anticipate it. The whole operational side of the things that the UN does, except for what it was hoped it would do in the peace and security field, everything else that the UN does really was not contemplated.

One of the powers given in the human rights field, for example, they are very carefully limited to promoting. The notion was that the General Assembly, the UN, would be an institution in which you could do studies, discuss, adopt resolutions which would not be binding, prepare treaties which would take on their binding quality only from the ratification acceptance by member states. None of this was thought to be the makings of a very powerful organization. I guess early on the UN decided to have a technical assistance program. Then President Truman in his point four in his inaugural address in 1949 put the United States on record as favoring the creation of a technical assistance program and the US then pushed for the adoption of a technical assistance program in the UN and other bodies throughout

the UN system. The operational calling of the UN began to develop fairly early in its history. It relied on this constitutional power to decide things by majority vote.

JK: Was it felt in San Francisco that the economic and social development through the function of the UN in that capacity related to peace and security?

Finkelstein:

Let me make an outrageous and probably exaggerated statement. For the US the UN was intended to be an organization to maintain peace and security. It was supposed to prevent the recurrence of the kind of aggression between the wars which had led to World War II. Yes, you are quite right, the economic and social dimensions of the Charter were viewed by the United States, not necessarily by all the others, primarily in terms of peace and security. They were auxiliary to the peace and security functions, the instruments for peace and security.

That gives rise to an argument whether they are really subsidiary in the UN Charter or not. I think that is a silly argument because the political history of the organization demonstrates that these have taken on meaning in their own right. They have their strong support and so, peace and security should no longer be thought of, it seems to me, as the predominant function

of the UN. The others are parallel to it. That, I believe, represents a change from what the United States planned initially.

JK: You mentioned human rights. The UN has contributed tremendously to the field of human rights. However, very little of that was provided for in the Charter.

Finkelstein:

There is a paradox here because human rights is mentioned in the Charter and particularly it is mentioned in Article 55 of the Charter. That fact in itself has been a potent reason for the internationalization of human rights. Human rights was thought of as a matter of national concern, domestic jurisdiction. Article 2, paragraph 7 says nothing in the present Charter shall authorize the UN to intervene in matters which are essentially domestic in nature. That was intended to protect sovereign states against having an international organization meddling with respect to their domestic issues, particularly human rights. But at the same time the words "human rights" were in the Charter. It became very hard to argue, thereafter, that human rights are domestic issues when they are enshrined in an international treaty of such authority and global impact as the UN Charter. So, that is how human rights got internationalized. It started very early with Eleanor Roosevelt by 1948. It seemed a long time coming then.

But to look back on it, it happened very rapidly. By 1948 you had the Universal Declaration of Human Rights.

JK: So, it was purposely put into the Charter but, the provisions for implementing were left to . . .

Finkelstein:

The belief was that there would be no implementation. All you could do was discuss, consider, and study, and promote but not protect. There is nothing in the Charter that authorizes the UN to intervene behind the walls of state sovereignty to protect people whose human rights are being abused by their government. Nothing in the Charter authorizes that. Yet, that capacity has been growing, too slowly some would say, but, still it has been developing in the 45 years since the Conference.

Another thing on the economic side, an anecdote, but this is more than an anecdote. Remember we talked about the bitter disputes over words. I noticed the first day I took minutes in the delegation that there was such a continual argument going on consuming a lot of time in the US delegation everyday, had been going on and continued, having to do with the words "full employment" in what became Article 55 in the Charter. The argument behind that is that in the United States 1945 was a period when consideration was being given to the adoption of a full employment act in the United States. It had

not yet occurred. It was an issue of intense domestic political argument, the New Dealers on the one hand and the Republicans on the other. Therefore, Senator Vandenberg among others, was determined that the words "full employment" should not appear in the United Nations Charter because that would be a lever which might be used in the continuing domestic argument over social and economic policy in this country. This argument went on for weeks and weeks with the American delegation instructing its representative, who as I recall was Dean Gildersleeve, that she must not agree to, and she must obstruct the inclusion of the words "full employment" in the United Nations Charter.

At the same time in Britain you were having the Beveridge Plan. Churchill was succeeded the summer of 1945 by a Labor government. We were out of step with the rest of the world because socialist concepts in the role of the government were taking over widely. So, in the end the words "full employment" were included in what has become Article 55, subparagraph A, clause A, "higher standards of living, full employment, and conditions of economic and social progress and development." That took place only over the bitter resistance of the United States which favored softer language like "fuller and higher levels of employment." This is an important anecdote because it shows how the United States viewed

the United Nations. It was determined that the United Nations should not be a serious actor in imposing economic standards on the world. Even though the United States was the country which proposed that the Economic and Social Council be given status as a principal organ of the UN. I think the British had proposed that it be subordinate to the General Assembly. And it is subordinate to the General Assembly but, it is among the organs of the organization listed among the six of the Charter. I guess we were ambivalent about it. We had the Roosevelt four freedoms behind us, the belief that economic and social matters are important in the search for peace and order in the world but, there was a reluctance to adopt principles which were divisive at home and which Senator Vandenberg was in a position to resist. I remember him saying and this was I think the first day that I was in those meetings and it struck me and I've never forgotten it. He said, "gosh, if the United Nations put the words 'full employment' in this Charter my constituents back there in Michigan would say that I had sold out to Sidney Hillman." Sidney Hillman was the president of the International Ladies' Garment Workers Union in New York, and was Jewish. So, Senator Vandenberg got in his licks for conservative economics and anti-semitism in one choicely turned sentence.

JK: Who is it that actually wrote the preamble to the

Charter?

Finkelstein:

Well, there was a great schlemozzle over that. Field Marshall Smuts thought himself to be the one and he had a lick at the preamble. Nobody liked it. At least in the American delegation there was a great deal of dissatisfaction with it. Archibald MacLeish, who was the Librarian of Congress, was a consultant to the American delegation. He and Dean Gildersleeve, who also had a hand in it, were sent to try to make it better. It is not really a great document.

JK: Had Smuts written a first draft?

Finkelstein:

I didn't say that because I don't remember at what stage he got into it but, it had his imprint on it. He was defending it. The Americans thought it had to be made better. He was being kind of stubborn about it. MacLeish did make it somewhat better.

JK: Did Virginia Gildersleeve work on it also?

Finkelstein:

She was the delegate on the committee who had to deal with the writing of it. There is a point that's worth making. The preamble has a tremendous awkwardness. It starts off "we the peoples of the United Nations" but, then it segues to a final clause which emphasizes not the peoples but their governments. This was the awkwardness.

This was a Conference of sovereign states engaged in the creation of a treaty which would be the constitution of an organization of sovereign states. So, you did have a considerable tension between the notion of state sovereignty and the aspiration of many to make this somehow a more popular institution. So, they adopted that device in the beginning with "we the peoples of the United Nations" and then going on to "have resolved to combine our efforts to accomplish these aims accordingly, our respective governments . . . do hereby establish an international organization to be known as the United Nations."

JK: So, the language then was purposeful. There was an attempt to reach a compromise between seeing the organization as a popular organization and one that was built around sovereign states.

Finkelstein:

When you compare this with the Declaration of Independence on literary merit Thomas Jefferson wins hands down.

JK: There are a couple of other issues I want to cover with you. One is the enforcement of the Security Council decisions. Was it envisioned in San Francisco that there would be a military aspect to the United Nations?

Finkelstein:

Sure, I think the Charter is very clear that once you got

this decision in Article 39 by the Security Council, there is a threat to the peace, a breach of the peace, or an act of aggression, the sky is the limit. The Security Council thereafter has virtually unlimited powers to act through taking temporary measures to prevent things from getting worse, to impose sanctions such as the disruption of diplomatic communications, economic, and transportation relationships and then whatever kind of further measures involving the use of force that it sees fit to decide to impose. The qualification of that is that the military forces to be available to the UN Security Council for such purposes had to be provided in the form of special agreements to be negotiated on the initiative of the Security Council with member states which were to agree in those special agreements to provide forces and facilities and access to the United Nations for its enforcement measures. Those special agreements under Article 43 of the Charter were on the agenda and a special effort was made to negotiate them in the early years of the UN but, nothing ever happened. No agreement was reached. No such agreement has ever occurred. Thus, the United Nations' arsenal is empty.

JK: But, it was conceived originally that the UN would have a permanent force.

Finkelstein:

Yes, absolutely. There is another point which has

contemporary relevance. When the United States ratified the Charter, the US Congress adopted the United Nations Participation Act, a law of the United States to provide for US representation in the UN and the expenses and so on. There is in it a provision in which the Congress in all deliberation and with the full knowledge of the Constitutional provision that in this country it is the Congress that has the power to declare war, in that UN Participation Act the Congress says that once a special agreement is in effect with Congressional approval committing US forces to the Security Council, the President need not thereafter ask for the consent of the Congress to make those forces available for use by the UN Security Council.

In the circumstances of 1990, if the Security Council were to take the initiative to the United States and say let's negotiate a special agreement to place as available to the UN Security Council the forces the United States has in the Gulf, and the President were to go to the Congress and say, "please approve a special agreement authorizing those forces to be made available to the UN," thereafter, under the existing law the President would have the power to commit those forces to battle under the authority of the Security Council. That is the law of the United States as it stands today. I don't seriously believe that that scenario would work in

November, 1990, but, I go through all that to emphasize the point that the United States and the Senate in agreeing to ratification by a vote of 89 to 2, and the Congress by approving the UN Participation Act, were very serious about a wish to have the United Nations security system as the primary resource of the United States in protecting its own national security. The UN security system was serious. It was regarded as the backbone of the organization. It was carefully considered by the Senate Foreign Relations Committee. The Joint Chiefs of Staff had to certify that these arrangements were indeed in the national security interest of the United States and as a result of that the people and the Senate overwhelmingly accepted this collective security regime as the primary instrument for the protection of the national security of the United States thereafter. It broke down because you didn't have the cooperation with the Russians that was necessary to make it work. I have not the slightest shadow of a doubt myself that in 1945 that was what the US Congress and the President and the American people wanted.

JK: What about the military staff committee? How did they envision originally that that would function?

Finkelstein:

Well, I don't think it had been too well thought through.

The Charter is quite clear that in exercising its enforcement functions the Security Council is to be advised by the military staff committee which is under its authority. The military staff committee is to consist of the chiefs of staff of the five permanent members of the Security Council or their representatives. It is to be the body to help plan the UN strategy. It has certain functions of advice with respect to the UN's role in arms control and so on under the Charter. The question of how it would work, there is a very strange provision in the Charter that says that this shall be left for the future, which proves that they really hadn't gotten very far with it. But it is interesting. That same UN Participation Act that I mentioned, this US legislation authorizing us to participate, clearly accepted this military staff committee arrangement when authorizing the President to commit American forces to battle under the Security Council. There is in that Act no qualification of the Charter arrangements under which the UN "military staff Committee shall be responsible under the Security Council," I am reading now from the Charter, "for the strategic direction of any armed forces placed at the disposal of the Security Council." There is a provision putting off for future decision an important dimension of the military staff committee's function, name how such strategic direction should be conducted.

JK: At any rate it seems as though the concept really hadn't been thought through that carefully. So, the language isn't necessarily vague because of compromise but vague because it really was not thought through.

Finkelstein:

Article 47, clause 3 states that "the military staff committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently." I wasn't privy to those discussions and I've never looked into that provision but, it makes sense if you think about it in this way. When you were writing the UN Charter you could not really anticipate what the circumstances would be in which the Security Council might decide to use force and in which the strategic direction would be provided by the military staff committee. Would you have forces provided equally by the Soviet Union, China, France, Britain, and the United States to deal with a threat to the peace in Latin America? Or if the issue was going to be in Africa or if it was going to involve Asia, if it was going to involve small powers or big powers, you would have very different needs for the forces depending on the circumstances to which the Security Council was going to respond. Therefore, it makes sense to say that there is no way we

can anticipate what the command arrangement for UN forces should be in these circumstances that may be very different. What that says is that you have to decide it case by case. I don't think that is foolish. I don't know how you could have done it any other way. Maybe that is a lack of imagination on my part.

When in 1950 the UN Security Council did authorize the UN action, the police action it was called, in Korea the command of the forces was given to the United States because we had the predominant military force there. Similarly, you might guess that if the UN Security Council were to authorize the use of force in the Iraq/Kuwait affair today, because of the preponderance of the American forces there and because of the President's likely insistence that it be that way, the command would be given to an American general, under the UN. The UN would designate the American as the Commander in Chief.

You could visualize another circumstance in which the Brazilian general might be in charge or the Russian or the British depending on the nature of the problem.

JK: Was there any discussion about the UN having a naval capacity?

Finkelstein:

In the negotiations which did occur, yes. There is a provision in the Charter putting special emphasis on air

forces to be immediately available because of the general belief in air forces and that command of the air was an important condition. Nothing is excluded. When the United States put in its proposals as to the kind of force the UN should try to have as a basis for reaching these special agreements to make the forces available, we had a very fully worked out military plan, so many divisions, so many naval aircraft carriers, destroyers, and cruisers, and so many air wing. The military staff committee met for years, not really negotiating, but squabbling over these plans. The American military took it very seriously. They disagreed. The Russians wanted less emphasis on sea forces in which we were stronger and more emphasis on land forces in which they were stronger. Basically the thing broke down because you didn't have underlying agreement.

JK: The other question I have for you is about the role of the Secretary-General because he was given a prominent role in the concept of the Charter. What were some of the discussions about that and was it considered important that he have a prominent role?

Finkelstein:

I hope I'm not wrong in saying this but, my impression was that not very much attention was given to those issues in the Conference. In a sense there had been a

Great Power decision, and I think the United States led in this, that the head of the Secretariat should have a stronger legal base and be a more potent figure than the Secretary-General of the League of Nations. There was some dithering about what he should be called before they had arrived at the name Secretary-General. He is under the Charter an organ of the UN, which gives him a certain independent base. He has clear authority to administer the Secretariat and the affairs of the organization. But he is not intended to be a political leader of the organization. At least he is not authorized to be, except for the provisions having to do with his explicit authority to take initiative when he believes peace is threatened. That is what was thought to be an important power in the Charter and that provision was carefully considered, Article 99. "The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security." That makes him constitutionally an important actor in the international system. Later on, of course, Dag Hammarskjold particularly used that as a basis for developing powers of initiative and autonomy which he exercised very well and which have been supported by all subsequent Secretaries-General. But that provision itself has been rarely used. Secretaries-General have

been very reluctant to take the initiative authorized by that article in the face of disagreement among the other powers that they should do so.

JK: Was he seen as a mediator in the sense that his role has evolved into, or was his position primarily seen as administrative?

Finkelstein:

The position was considered primarily administrative. But it was known that the Secretary-General of the League of Nations had subrosa quietly performed many mediatory roles. I don't think it would have surprised any of the thoughtful people in San Francisco that that was likely to be a role for the Secretary-General. His function as the commander in chief and the political prime minister of the United Nations in the conduct of the UN's peace-keeping functions since the United Nations Emergency Force in 1956, none of that was anticipated in the Charter. That is the consequence of the collapse of the consensus needed to make the Security Council work using the military staff committee system as was intended. My hunch is that if you do maintain the kind of Great Power agreement we've seen emerging since about 1987, the Secretary-General's role will necessarily diminish because the Great Powers, if they are going to be acting, are unlikely to want to entrust the guidance of the affair to him.

I have written that with the Great Powers in the saddle they are unlikely to entrust the reins to the groom. It seems to me that we have to be prepared to see some diminution, thus, in this particular function of the Secretary-General which has been so important in the peace-keeping business. On the other hand, that could prove contentious because for the group of seventy-seven, the smaller countries, they may be uneasy about a Great Power condominium and, if so, they may regard the Secretary-General as their agent. Thus, I foresee some possible friction over this issue in the months and years ahead.

JK: What about the important role of quiet diplomacy and the good offices?

Finkelstein:

That is always going to be desired. It is interesting because one of the things that has occurred is that as the UN has been riven between the Cold War camps and North and South in another way, the tradition has developed of regarding the Secretary-General as the neutral embodiment of the UN separated from the membership body. That goes back particularly to Dag Hammarskjold's mission to China to release the American airmen in 1958. He very carefully identified that mission as being in behalf of the organization on his own authority rather than in behalf of the Security Council which had been at war with

China.

JK: I wanted to ask you something about the membership. Was it considered that there would be universal membership in the United Nations?

Finkelstein:

Yes, it is a kind of half-breed arrangement because the spirit and principle of universality undoubtedly dominated. On the other hand, the Charter contains a decision process for admitting members which allows the Security Council to veto. So, there is that kind of approach to membership. I think the concept of universality really was accepted. The problem was that you had some former enemy states, Germany, which had to prove that they deserved membership. But the expectation was that over time they would become members. The big struggle was in the early years and the ice jam was broken in 1956 when a political bargain let in applicants from both sides which had been prevented from entering. I don't believe that any membership application has been obstructed since. I think that any country since then that wants in, gets in.

JK: Well, we are near the end here and I want to thank you very much for taking the time to do this. If there are any further comments you'd like to add we could do that now.

Finkelstein:

Well, no, just that it was a great, hopeful event. I guess the other thing that I should mention is the spirit of the time. This great war was nearing its end, democracy was victorious against fascism, the Great Powers had collaborated in conducting the war, far from perfectly but reasonably well. It was a time of great hope. I was caught up in it. I was an idealist and an optimist. The city of San Francisco played its part. The hospitality was just extraordinary, the warmth of the reception, the hope the people of the neighborhood invested in what we were doing. It was really inspirational. I've never been involved in anything like that. I wish I'd been in Paris the other day. That may be the event that most resembles it in our experience in the past 50 years.

JK: Again, thank you very, very much.

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UNITED NATIONS ORAL HISTORY PROJECT
ORAL HISTORY AGREEMENT

I, LAWRENCE S. FINKELSTEIN (Interviewee) hereby agree to participate in the United Nations Oral History Project, sponsored by the Yale University Institution for Social and Policy Studies, and consent to the recording by magnetic audio tape of (an) interview(s) with Jean Krasno (Interviewer) on Nov 23, 1990 (Date) at La Grange (City), ILL. 60525 (State).

It is my understanding that a typed transcript will be made of such tape(s) and returned to me for any necessary corrections. I hereby agree that if for any reason I have not returned the transcript with my corrections to the Institution for Social and Policy Studies within three months of the time it was sent to me, the Project Staff may edit the transcript and make it available for research and other use as provided here below.

In the understanding that the tape(s) and transcript(s) will be preserved at the United Nations and made available for historical, scholarly and (as deemed appropriate by the United Nations) public information purposes, and that copies will be placed on deposit at Yale University for research and study, I hereby grant, assign, and transfer legal titles and all literary rights in the tape(s) and transcript(s) to the United Nations. However, it is agreed that neither the United Nations nor Yale University will publish or authorize publication of the transcript(s) or any part thereof during my lifetime without my written permission.

Lawrence S. Finkelstein
(Interviewee)

Nov. 23, 1990
(Date)

Jean E. Krasno
(Interviewer)

Nov. 23, 1990
(Date)

(For the Institution of Social and Policy Studies)

(Date)