GENERAL UNITED STATES POLICY TOWARD THE UNITED NATIONS

I. THE UNITED STATES AND THE UNITED NATIONS: GENERAL EXPRESSIONS OF THE UNITED STATES POSITION

Editorial Note

President Harry S. Truman on March 19, 1946, transmitted to the Congress of the United States the Report of the United States Delegation to the First Part of the First Session of the General Assembly of the United Nations, London, England, January 10—February 14, 1946, which had been submitted to the President by the Secretary of State, James F. Byrnes, on March 1. In his letter of transmittal to the Congress President Truman wrote in part:

"The participation of the American representatives in the actual establishment of the institutions provided in the Charter of the United Nations, and in the initial work of the General Assembly regarding the urgent problems confronting the 51 Members of the United Nations today is vital to all Americans.

"The United States supports the Charter. The United States supports the fullest implementation of the principles of the Charter. The United States seeks to achieve the purposes of the Charter. And the United States seeks to perfect the Charter as experience lights the way."

This presidential statement of the intent of United States foreign policy and diplomacy in the new dimension of international relations involving the United Nations was one of several notable expressions of official United States views on general aspects of United States—United Nations relations during 1946. The following statements, messages and addresses may also be noted:

(1) Message from the Secretary of State to the Conference on Lecturers on International Affairs sponsored by the American Platform Guild and meeting at the Department of State on January 3, 1946, and released to the press January 3 (Department of State Bulletin, January 6 and 13, 1946, page 6; hereafter cited as the Bulletin);

(2) Excerpt from the President’s Message to the Congress on the State of the Union, dated January 14, 1946, and released to the press on the same date (Bulletin, February 3, 1946, pages 135 ff.)

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(3) Address by the Secretary of State to the General Assembly, delivered on January 14, 1946, and released to the press on the same date (Bulletin, January 27, 1946, pages 87 ff.);


(5) Address by the Secretary of State to the Overseas Press Club in New York City, delivered on February 28, 1946, and released to the press on the same date (Bulletin, March 10, 1946, pages 355 ff.);

(6) Letter from the Secretary of State to the President, transmitting the Report of the United States Delegation to the General Assembly (Bulletin, March 31, 1946, pages 531 ff.). The complete report was printed as The United States and the United Nations, Department of State publication 2484, Conference Series 82 (Government Printing Office, 1946);

(7) Statement by the Honorable Cordell Hull, former Secretary of State, “in welcoming the United Nations Organization as its temporary headquarters are being established in New York. . . .”, released to the press on March 11, 1946 (The New York Times, March 12, 1946, page 5);

(8) Statements by the Secretary of State on March 18 and March 20, 1946, on the arrival in the United States and at Washington, D.C., of Mr. Trygve Lie, Secretary-General of the United Nations (Bulletin, March 31, 1946, page 529);

(9) Address by the Secretary of State delivered before the Society of the Friendly Sons of St. Patrick in New York City on March 16, 1946, and released to the press on the same date (Bulletin, March 24, 1946, pages 481 ff.);

(10) Letter from the President to the Congress, transmitting the Report of the United States Delegation to the General Assembly, March 19, 1946 (Bulletin, March 31, 1946, page 530);

(11) Messages from the President of the United States and the Secretary of State to the opening meeting of the Security Council in New York City on March 25, 1946, and released to the press on the same date (Bulletin, April 7, 1946, pages 567 and 568);

(12) Letter from the Secretary of State to Mr. Frederic R. Conder, President of the American Society of International Law, April 20, 1946 (Bulletin, May 5, 1946, pages 758 and 759);


(14) Address by President Truman to the General Assembly, delivered at the opening session of the Second Part of the First Session of the General Assembly in New York City on October 23, 1946, and released to the press by the White House on the same date (Bulletin, November 3, 1946, page 808).
II. ACCEPTANCE BY THE UNITED STATES OF THE COMPULSORY JURISDICTION OF THE INTERNATIONAL COURT OF JUSTICE

501.BF/10-545

Memorandum by the Legal Adviser (Hackett) to the Acting Secretary of State (Acheson)

[WASHINGTON,] October 5, 1945.

As a result of discussions among interested officers of the Department, there appears to be general agreement that (1) this Government should make a Declaration under Article 36, paragraph 2 of the Statute of the International Court of Justice,1 accepting the compulsory jurisdiction of the Court and to that end (2) the matter should be taken up promptly and informally with appropriate members of the Senate with a view to bringing about requisite Senatorial approval.

The matter is of immediate interest because (1) it is considered desirable, for its moral effect, that the United States should be able to deposit its Declaration either at the December or the April meeting of the General Assembly, and (2) because of the fact that a Senate Resolution has been filed (copy annexed)2 recommending that the President take this action.

The particular Resolution which has been filed has been carefully examined in the Department and appears to carry out the ends which we desire. Certain modifications of form were suggested at a meeting of an unofficial group sponsored by Judge Manley O. Hudson, and we understand that Senator Morse intends to introduce a new Resolution incorporating these changes (annex 2).3

As you will observe from the annexed drafts, the Resolution follows very closely the text of paragraph 2 of Article 36 of the Statute. It thus carries out the intention of the framers of the Statute that states accepting this jurisdiction will be submitting only those carefully defined categories of cases which involve the determination of points of law, the facts necessary to such a determination, and the determination of the remedy in case the petitioner is upheld. In other words, the Resolution envisages the submission of the identical type of case which the United States has always been willing to refer to arbitration upon the failure of negotiations. The position of the United States is safeguarded, on the other hand by the reservation of cases previously arising, of cases which are essentially within the domestic jurisdiction

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1 For the Statute of the Court, see 59 Stat. (pt. 2) 1031, or Department of State Treaty Series 993.
2 This resolution (p. 54) was introduced by Senator Wayne Morse on July 28, 1945 (S. Res. 160).
3 Not found attached to file copy; see footnote 4, p. 54.
of this country, and of cases which the parties may agree to submit to other procedures of settlement.

Signature of such a Declaration would thus appear to be in line with our policy, and will give evidence to the world that we are serious in our intention that the International Court of Justice shall play a significant role in the conduct of international relations.

In taking the matter up with appropriate Senators, it is suggested that this be done in terms of subject matter rather than of the particular Resolution that has been introduced. This is of special importance because of the political position of the sponsor of the Resolution.

A question requiring special attention is that of the effect of the Morse Resolution if adopted. The Resolution simply recommends that the President sign and deposit a Declaration. If a Resolution is adopted by two-thirds vote, and the President proceeds to carry out the recommendation, can anyone go behind this action and claim that it was done without the advice and consent of the Senate? It would of course be possible to amend the first line of the Morse Resolution to read: "The Senate hereby advises and consents that..." It seems to be agreed that if it is made clear on the floor of the Senate that its action by two-thirds vote is regarded as advice and consent, no further question could be raised. It would also be possible to transform the proposed Resolution into a Joint Resolution of both houses. You may wish to discuss with Senator Connally the Procedural question involved.4

GREEN H. HACKWORTH

[Annex]

THE MORSE RESOLUTION

Resolved, That the Senate hereby recommends that the President of the United States deposit with the Secretary General of the United

4 Senator Morse subsequently on November 28, 1945 introduced a revised resolution (S. Res. 196) which incorporated the following changes: one, the first lines were amended to read, "Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the deposit by the President of the United States with the Secretary General of the United Nations..."; and two, the second section incorporating the provisos was re-cast to read:

"Provided, That such declaration should not apply to—

a. disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or

b. disputes with regard to matters which are essentially within the domestic jurisdiction of the United States.

"Provided further, That such declaration should remain in force for a period of five years and thereafter until the expiration of six months after notice may be given to terminate the declaration."

Text found in Compulsory Jurisdiction, International Court of Justice, Hearings before a subcommittee of the Committee on Foreign Relations, United States Senate, 79th Congress, 2nd Session, p. 1.
Nations, whenever that official shall have been installed in office, a declaration under paragraph 2 of article 36 of the Statute of the International Court of Justice recognizing as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes hereafter arising concerning:

a. The interpretation of a treaty;
b. Any question of international law;
c. The existence of any fact which, if established, would constitute a breach of an international obligation; and
d. The nature or extent of the reparation to be made for the breach of an international obligation.

Provided, That such declaration should be for a period of not to exceed 5 years, and should exclude for its operation:

a. Disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of pacific settlement; and
b. Disputes with regard to questions which by international law fall exclusively within the jurisdiction of the United States.

Provided further, That the President be and hereby is requested to furnish the Senate for its information a copy of any declaration filed by him pursuant to this resolution.

501.BF/6-346
The Secretary of State to the Chairman of the Committee on Foreign Affairs of the United States House of Representatives (Bloom)

WASHINGTON, June 4, 1946.

MY DEAR MR. BLOOM: Referring to your letter of April 17, 1946,\textsuperscript{5} transmitting for the comment of the Department of State copies of H. J. Res. 291, a joint resolution “Authorizing the President, on behalf of the United States, to accept and recognize the jurisdiction of the International Court of Justice in certain categories of international legal disputes involving the United States”\textsuperscript{6}; I take pleasure in transmitting to you the Department’s views.

The action contemplated in the joint resolution would be in conformity with Article 36, paragraph 2 of the Statute of the International Court of Justice, which provides:

“2. The states parties to the present Statute may at any time declare that they recognize as compulsory ipso facto and without special agree-

\textsuperscript{5} Not printed.
\textsuperscript{6} Introduced by Congressman Christian A. Herter on December 17, 1945. The proposed action took the form of a joint resolution which “authorized and requested” the President to take action similar to that set forth in the revised Morse resolution. The Herter resolution in its operative part was identical, with minor exceptions, to the Morse resolution.
ment, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

"a. the interpretation of a treaty;

"b. any question of international law;

"c. the existence of any fact which, if established, would constitute a breach of an international obligation;

"d. the nature or extent of the reparation to be made for the breach of an international obligation."

It is noted in the first place that by making a declaration under this paragraph, the United States will be bound only with respect to those states accepting the same obligation. The joint resolution would exclude from the scope of the proposed declaration cases which arose in the past or which are essentially within the domestic jurisdiction of the United States, and would leave the parties free to seek some other form of settlement if they so agree. Each of these principles is already explicit in Article 2, paragraph 7, and Article 95 of the Charter of the United Nations.

I have had occasion to consult with the President regarding this important proposal and have consequently been able to reply to previous inquiries concerning the matter by stating that the President and the Department of State favor the making of a declaration accepting the Court's jurisdiction under the above-mentioned Article of the Statute. The Department has stated further that it considers that either H. J. Res. 291, which is the subject of your inquiry, or S. Res. 196 furnishes an appropriate legal basis for such a declaration. I enclose a statement recently issued by the Department on this subject.7

The Members of the United Nations have declared in the Preamble of the Charter their determination "to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained." Among the purposes of the United Nations as set forth in Article 1, paragraph 1 of the Charter is the settlement of international disputes "in conformity with the principles of justice and international law."

The United Nations Conference on International Organization, which drafted the Charter, also approved a Recommendation that Members of the United Nations, as soon as possible, make declarations

7The position of President Truman and the Secretary of State, regarding the general question of making a declaration of acceptance of the Court's jurisdiction and the particular question of a choice of the legal form as raised by the Morse and Herter resolutions, was made public in letters of February 23 and February 23, by the President and Secretary Byrnes respectively, to Mr. Raymond Swing, Chairman of the Board of Directors of Americans United for World Organization, Incorporated. The President's letter was printed in the New York Herald Tribune, March 1, p. 1, and the Secretary's letter in the Department of State Bulletin, April 21, 1946, p. 633. These letters were entered in the legislative record by Senator Morse on July 11; see Compulsory Jurisdiction, Hearings, pp. 14 and 15.
recognizing the obligatory jurisdiction of the International Court of Justice according to the provisions of Article 36 of the Statute. The completion of the procedure initiated by H. J. Res. 291 would have as one result the carrying out, by the United States, of this recommendation.

The Department of State concurs in the views thus expressed by the United Nations, first that the establishment of the rule of law is an underlying element in the achievement of international order, and second, that the general acceptance of the Court’s jurisdiction in proper (that is to say, legal) cases is an integral part of the accomplishment of this end.

It is, perhaps, desirable to make clear that the passage, above referred to, in Article 1 of the Charter is not to be interpreted as implying that all disputes between states which have accepted the Court’s jurisdiction under Article 36, paragraph 2, are to be submitted to the Court for adjudication. It will be noted that the Resolution under consideration, and the provision of the Statute which it seeks to implement, are carefully drawn so as to include within their scope only those cases which are appropriate for judicial action, namely, cases involving legal disputes. Since this country has always supported respect for law, and has carried out this policy by submitting thousands of cases to arbitration, the proposed step has the effect of undertaking an obligation to do that which is already a well-established policy of this Government.

Substantial gains are to be anticipated from this proposed step. The law cannot play an effective role so long as states retain the right to decide for themselves what the law is, regardless of the degree of good faith by which they govern their actions. The appropriate remedy for this situation would appear to be general and genuine acceptance of an international judiciary with powers adequate to enable it to fulfill the elementary function of a judiciary to decide all disputes of law. It is particularly appropriate that the United States should take this action, both because it is a leading advocate of the international system embodied in the United Nations Charter, and because it is a country which has always placed a high value on the law and on the judiciary.

It is to be anticipated that the great majority of the Members of the United Nations will deposit declarations similar to that proposed in H. J. Res. 291. A similar option was provided in the Statute of the Permanent Court of International Justice, and was exercised by forty-four of the fifty-one states which were members of that Court at one time or another. The Statute of the present Court includes a provision by which unexpired declarations made under Article 36 of the old Statute are continued in force and made applicable to the jurisdiction of the present Court. This provision is, of course, appli-
cable only as among parties to the Statute of the Court. As a result of this provision, it is estimated that some nineteen declarations are continued in force. The probability that many other states will deposit declarations is indicated by the fact that the majority of the delegations at the San Francisco Conference favored incorporating in the Statute a general commitment by which all members would accept the jurisdiction of the Court as to the categories of cases referred to. (United Nations Conference on International Organization, Report of Committee IV/1, Doc. 913, IV/1/74(1), pp. 10–11). In the interest of achieving unanimous agreement, however, it was decided to leave such acceptance to the option of the various states.

In conclusion, I may note that there has been strong sentiment in favor of general compulsory jurisdiction among professional groups in the United States, as indicated by resolutions of such organizations as the American Bar Association, the Federal Bar Association, the Inter-American Bar Association and the American Society of International Law.8

8 In the legislative process S. Res. 196 was taken up by the Senate Committee on Foreign Relations where on June 12 the Chairman of the Committee, Senator Tom Connally, appointed a subcommittee to hold hearings. These took place on July 11, 12, and 15, with Acting Secretary of State Dean Acheson and the Legal Adviser of the Department (Fahy) as the principal public witnesses. A number of witnesses appeared for important private organizations and the following documents were placed in the record on July 11: a letter dated July 8, 1946 from Prof. D. F. Fleming of Vanderbilt University; a statement by Dr. Quincy Wright, well-known publicist; a letter dated July 3, 1946 from Dr. Pitman B. Potter, Secretary, The American Society of International Law, enclosing a resolution adopted at the annual meeting of the Society at Washington, D. C. on April 27, 1946; and a memorandum by Mr. John Foster Dulles (texts of these documents are to be found in Compulsory Jurisdiction, Hearings, pp. 41–45).

During the period July 17–24 the full Committee considered the findings of the subcommittee and it was at this time that a complete discussion of the legal and constitutional issues involved led to the decision that the revised Morse resolution provided a more appropriate legal basis of the proposed declaration, based as it was on the treaty-making process. Regarding this question, it was pointed out in the Committee's Report (International Court of Justice, Report of the Foreign Relations Committee, No. 1395, 79th Congress, 2nd Session, p. 10) that "Inasmuch as the declaration would involve important new obligations for the United States, the committee was of the opinion that it should be approved by the treaty process, with two-thirds of the Senators present concurring. The force and effect of the declaration is that of a treaty, binding the United States with respect to those states which have or which may in the future deposit similar declarations. Moreover, under our constitutional system the peaceful settlement of disputes through arbitration or judicial settlement has always been considered a proper subject for the use of the treaty procedure. . . ."

On July 24 the Committee reported the resolution to the Senate for favorable action.

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this Report.

Sincerely yours,

JAMES F. BYRNES

Resolution of the United States Senate

IN EXECUTIVE SESSION, SENATE OF THE UNITED STATES

Friday, August 2, 1946

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the deposit by the President of the United States with the Secretary General of the United Nations, of a declaration under paragraph 2 of article 36 of the Statute of the International Court of Justice recognizing as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes hereafter arising concerning—

a. the interpretation of a treaty;

b. any question of international law;

c. the existence of any fact which, if established, would constitute a breach of an international obligation;

d. the nature or extent of the reparation to be made for the breach of an international obligation.

Provided, That such declaration shall not apply to—

a. disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future;

b. disputes with regard to matters which are essentially within the domestic jurisdiction of the United States as determined by the United States: 9 or

c. disputes arising under a multilateral treaty, unless (1) all parties to the treaty affected by the decision are also parties to the case before the Court, or (2) the United States specially agrees to jurisdiction. 10

Provided further, That such declaration shall remain in force for a

9 Section 2b of the Morse resolution read: “disputes with regard to matters which are essentially within the domestic jurisdiction of the United States...” The words “as determined by the United States” had been inserted on the proposal of Senator Connally (Cong. Rec., vol. 92, pt. 8, p. 10849).

10 This section did not appear in the Morse resolution. It was added at the request of Senator Vandenberg (Cong. Rec., vol. 92, pt. 8, p. 10760).
period of five years and thereafter until the expiration of six months after notice may be given to terminate the declaration.\footnote{11}

Attest:

Leslie L. Biffle
Secretary, United States Senate


\footnote{12} USGA/IN/LeCom./4

United States Delegation\footnote{13} Working Paper

SECRET

\[ \text{[London,]} \] January 19, 1946.

Privileges and Immunities Pertaining to UNO

\subsection{Factual Background}

Article 104 of the Charter provides that the Organization shall enjoy such legal capacity as it requires for the performance of the functions and the fulfillment of its purposes.

Article 105, paragraphs (1) and (2), provides that the Organization itself as well as its officials and the Representatives of Members shall enjoy such privileges and immunities as are necessary for the performance of their functions.

\footnote{11} The Declaration by the United States recognizing, in accordance with this resolution, the jurisdiction of the International Court of Justice as set forth under Article 36, paragraph 2, of the Statute of the Court, was signed by President Truman on August 14 and transmitted under cover of a note of August 16 by the Acting Secretary of State (Acheson) to the Secretary General of the United Nations for deposit with the Secretary General; for text of the declaration, see Department of State Bulletin, September 8, 1946, p. 452.

In a note transmitting the Acting Secretary’s note to the Secretary General, the Acting United States Representative at the United Nations (Johnson) said:

“My action today in depositing this Declaration, accepting on behalf of the United States the compulsory jurisdiction of the International Court of Justice, is further testimony to the determination of my Government to do all in its power to assure that the United Nations will fulfill the role assigned to it, which is nothing less than the preservation of world peace.

“One of the most elemental functions of the United Nations in the preservation of world peace is the development of procedures of pacific settlement. In these procedures, the role and functions of law is clear. We feel that international law is already sufficiently developed to serve as a guide and basis in international relations. We feel further that the best way of assuring its further development, and the only way of enabling it to fulfill its function, is by referring to a responsible international tribunal all disputes properly justiciable by such a tribunal.

“We accordingly look forward to a great development of the rule of law in international relations through a broad acceptance of the function of the Court in the spirit of the Charter.” (ibid., p. 452).

\footnote{13} Master files of the Reference and Documents Section of the Bureau of International Organization Affairs, Department of State.

\footnote{14} For Information regarding the United States Delegation to the first part of the first session of the General Assembly which convened in London on January 10, 1946, see p. 4.
Article 105, paragraph (3) provides that the General Assembly may make recommendations with a view to determining the details of the applications of paragraphs (1) and (2) of the same article, or may propose conventions to the members of the United Nations for this purpose.

The Preparatory Commission, in its Report (p. 60), recommends "that the General Assembly, at its First Session, should make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of Article 105 of the Charter, or propose conventions to the Members of the United Nations for this purpose." [14]

The Preparatory Commission also transmits for the consideration of the General Assembly a Study on privileges and immunities and a draft multipartite convention on the same subject, which might be adhered to by all the members of the Organization. [14]

The Study has as its purpose the drawing of attention to the various problems involved.

The Convention undertakes to crystallize the various topics in the form of draft articles. It contains provisions which are not in accord with the existing law of the United States, both as to points of major importance and as to subsidiary details. The major points will be considered subsequently in this paper.

Status of the Draft Convention

There has never been a decision by the Preparatory Commission recommending that the Assembly propose such a general convention. The convention was proposed by Canada in a subcommittee of Committee 5, and was espoused by the United Kingdom. It appeared fairly clear to the United States Delegation that it was intended to be a factor in the question of the site of the Organization, then under debate. Various objections to the draft were made both in the subcommittee and in Committee 5, but it was insisted in reply that it was understood that everything was reserved and that this was merely a working paper.

Policy of the United States

It is therefore not a foregone conclusion that a general convention should be proceeded with. There are three particular reasons why it appears undesirable to do so, at least at this time.

1. It is difficult to know at this time just what is required. The situation varies from country to country, depending on the state of their existing law. The basic question still remains open, namely what is the proper method of approach to the problem. This in itself is a complex problem, and it is doubtful whether sufficient time is avail-

able at this session to give it the study which it requires. *A fortiori*, it appears impossible to negotiate the details of a convention at this session, should this course be decided upon.

2. Since any decisions taken on this subject should be consistent with any special agreements arrived at between the Organization and the Government of the United States with respect to the permanent headquarters, and since we consider that the latter negotiations will be carried out in the United States and after the site is selected, the detailed discussion of the general question appears premature at this time.

3. The Office of the Secretary-General has a direct and legitimate interest in this question, since it concerns the status of the Organization and its officials. The legal section of this office is probably in the best position to give this subject the detailed and concentrated study which it requires. Also it is our view that the special agreement on the site will be negotiated, on the side of the Organization, by the Secretary-General.

The United States Delegation should therefore endeavor, first, to have it understood that a general convention is only one of several possible methods of approaching the question, and second, to have the whole question referred to the Secretary-General for study and report.\textsuperscript{15}

\textit{Major Points of Difficulty for the United States Contained in the Draft Convention on Privileges and Immunities Submitted With the Report of the Preparatory Commission (pp. 72-74)}

Even though it favors postponing the substantive discussion of these problems, the Delegation of the United States may find itself under the necessity of going on record as to the following major points.

\textsuperscript{15} The experts of the Delegation had also prepared a draft statement (dated January 19) for use by the United States member on the Sixth Committee in advancing this position. It was contemplated in the statement that a motion would be made requesting the Secretary-General to undertake studies and formulate recommendations on the whole question in the light of privileges and immunities already available. (10 Files, document USGA/1a/LeCom./3) Whether this view was ever presented is not clear from available records. The subject was referred by the Sixth Committee to a subcommittee on privileges and immunities on January 24 apparently without any discussion, and on January 28 was reported back by the subcommittee in a document which recommended that implementation of Article 105 should proceed with the formulation of a general convention. (United Nations, Official Records of the General Assembly, First Session, First Part, Sixth Committee, pp. 14, 16 and 44-45; hereafter cited as GA (1/1), Sixth Committee.) At the same meeting on January 28 the subcommittee was charged with the drafting of such a general convention.
Diplomatic Privileges and Immunities (Articles 5 and 6 of Draft Convention)

We agree that Representatives of Members and officials of the Organization shall enjoy immunity from legal process in respect of things done or omitted to be done in the course of the performance of official duties.

The question is whether Representatives and higher officials should be accorded diplomatic privileges and immunities. This would mean, in effect, immunity from all forms of legal process, civil and criminal, and inviolability of residential premises.

The Charter does not provide diplomatic status for such officials, but only requires that they be accorded such privileges and immunities as are necessary for the independent exercise of their functions. The Committee of the San Francisco Conference which drafted this article of the Charter (Committee IV/2) stated in its report that it considered this standard more “appropriate” than that of “diplomatic” status.

The United States takes the position that diplomatic privileges and immunities are not necessary to the independent exercise of functions in connection with the Organization. This is in line with H. R. 4469, recently enacted into law.36

The position of diplomatic envoys does not constitute a precedent for the Organization. The concept of diplomatic status derives from that of state sovereignty, and the privileged position of the sovereign. It has developed over a period of centuries, and has thus become sanctified in international law.

The situation with respect to the Organization is different. To concede diplomatic status to its officials and to Representatives of its Members would be to create a new privileged class in an age when the tendency is in the other direction. This tendency is exemplified by the decision of San Francisco, above referred to, and by making equal rights a basic principle of the Charter. Unless action of this kind is found to be necessary to the independent exercise of functions in connection with the Organization it would seem wisest to avoid it.

Diplomatic Status of Representatives of Members (Article 5 of Draft Convention)

If member states desire that their Representatives to UNO have diplomatic status, they may themselves make the necessary arrange-

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36 Public Law 231, 79th Congress, 1st Session (December 29, 1945), “An Act To extend certain privileges, exemptions and immunities to international organizations and to the officers and employees thereof. . . .” (cited as the “International Organizations Immunities Act”), 59 Stat. 669. For documentation regarding the interest of the Department of State in the enactment of this legislation, see Foreign Relations, 1945, vol. 1, pp. 1557 ff.
ments by conferring on them an appropriate title and status vis-à-vis the host state.

If diplomatic status for Representatives is adopted despite our objections, the United States will then have to insist upon a clarification of the categories of officials so affected. (Paragraph 4 of Article 5). In any event it would appear that diplomatic status for delegates and alternate delegates would be sufficient.

Officials of the Organization (Article 6 of Draft Convention)

This article is divided into two parts. Paragraph 2, conferring diplomatic privileges and immunities on the higher officials, has been considered above. Paragraph 1, conferring certain privileges on all officials, is objectionable to the United States in so far as it would exempt American citizens from its own tax and national service legislation (paragraph 1(b) and (c)). It is known that several other countries take the same view.

Freedom from Judicial Process, Requisition and Expropriation
(Article 2 (1) and (2) of Draft Convention)

The draft convention provides that the property and assets of the Organization shall enjoy immunity from every form of judicial process, unless waived. The United States law (H.R. 4489) contains a similar provision (sec.2(b)).

The draft convention next provides that the property and assets shall be immune from “search, requisition, confiscation, expropriation and from any other form of seizure”. The United States bill which relates to international organizations generally contained a similar provision in its original form, but the exemptions as to “requisition” and “expropriation” were deleted. The law now provides immunity from search and confiscation. The policy of the United States must therefore be deemed to be in opposition to immunity from requisition and expropriation for international organizations generally as distinguished from the United Nations specifically. (This must be regarded as applying to premises, and not to archives and similar property. There is a confusion of terminology involved, as “inviolability of archives”, to which we agree, undoubtedly means that they are free from requisition or subpoena, while “inviolability of premises” means that the local authorities are to stay off, but not that they are immune from expropriation procedures.)

As to premises in general (i.e., of specialized agencies and branch offices of the United Nations Organization as distinguished from the permanent headquarters of the United Nations, which are to be dealt with in a separate agreement), a good case can be made if it is determined to adhere to the Congressional policy. The right of eminent
domain is a basic attribute of sovereignty and exists for the protection of the people of the locality in such matters as health, conflagration, communications, etc. It is not to be conceived that the Organization will have any wish to impede the needs of the local authorities in such matters, nor is it to be supposed that the local government will ever exercise its sovereign rights in these respects as regards property of the Organization. Should it not, therefore, refrain from any attempt to invade the local sovereignty in such a basic matter?

It is to be noted that even if the words “expropriation” and “requisition” are deleted in Article 2(2), there will still exist in Article 2(1) a general immunity from “every form of judicial process”, which applies to property of the Organization. The same situation came about in our own legislation and is apparently not regarded as involving an inconsistency.

United Nations Passports (Article 7 of Draft Convention)

The United States does not favor United Nations passports. Such documents are regarded as superfluous, especially as most delegates will probably wish to carry their own national passports in addition.

Steps are being taken to obtain a policy directive from the Department. If this subject should come up in the meantime, we should reserve our position.17

501.BB/1-1946: Telegram

The Secretary of State to the Acting Secretary of State (Acheson)

SECRET US URGENT

LONDON, January 19, 1946—11 a.m.
[Received January 19—9:22 a.m.]

665. Delun 104. For Ross from Hiss. Please consult Visa and Passport Divisions with object of furnishing us with policy statement on United Nations passports (reference draft convention on privileges and immunities, Preco18 report, page 74). We are inclined to regard them as superfluous especially as delegates and officials will probably wish to carry national passports in addition but as relatively harmless. Since there are other points in draft convention which we must oppose on clear policy grounds, we are less disposed to take strong position on this question. We hope that convention will be referred to SYG and that substantial debate on it will not develop this session. [Hiss.]

BYRNE

17 See telegram 665, January 19, 11 a.m., infra.
18 Preparatory Commission.
SECRET

[Here follow list of names of persons (62) present (see the United States Delegation list, page 5), and a discussion of certain procedural problems. Each member of the Delegation then proceeded to give a review of the activities and progress of the General Assembly Committee on which he was sitting.]

Senator Vandenberg noted that he was making progress in Committee 5 because he now had thirteen votes on his side. He stated that a very shocking action had been taken by Committee 5. He pointed out that the Committee admitted that it had no power to exempt the salary of American employees of the Organization from American income taxes. This could only be done by the Congress of the United States. Nevertheless, the Committee had voted to increase the amount of the United States contribution to the Organization by the amount that was collected in income taxes from the American employees of the Organization. Senator Vandenberg said he thought this was an unconscionable act and he would not submit to it in London or

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38 On January 24 the Fifth Committee had received from a sub-committee, chaired by Senator Vandenberg, a report on the problem of tax equalization in respect of the salaries of United Nations officials. The report read:

"(1) The Sub-Committee believes there is no alternative to the proposition that tax exemption for United Nations Organization salaries is indispensable to equity among its Member nations and equality among its personnel;

"(2) It recommends that, pending this accomplishment, the budget should carry a contingent appropriation to equalize tax payments;

"(3) It recommends that all its files respecting staff contributions plans be referred to the Secretary-General for his information; and that further consideration of the matter be postponed pending his subsequent report and recommendation." (United Nations, Official Records of the General Assembly, First Session, First Part, Fifth Committee, p. 11 [hereafter cited as GA (1/2), Fifth Committee])

At the time that he submitted the report to the Fifth Committee for the sub-committee Senator Vandenberg was recorded as noting "... that this was a complex and controversial problem and that the report submitted was the best compromise possible taking into account the divergent views expressed in the sub-committee. The first paragraph had been approved unanimously, paragraphs (2) and (3) had been approved by 7 votes to 2 in each case the adverse votes being those of Australia and France with the United States of America abstaining." (Ibid., p. 11)

Fifth Committee consideration of the sub-committee's report continued into a second day (January 25) at which time successive amendments were moved which changed paragraph (2) to read: "It [the Committee] recommends that, pending this accomplishment, the budget of the Organization should carry a contingent appropriation to refund tax payments and that an amount equivalent to such refunds to employees because of income tax, be added to the budget contributions of the Members whose nationals in the service of the United Nations were required to pay income tax on their salaries and allowances received from the Organization." (Ibid., p. 17)
in Washington. He reported that he had spoken frankly in the Committee. He thought it was an ominous act. . . . [Here follows discussion of other agenda items.]

IO Files: USGA/IA/Site/4

United States Delegation Working Paper

SECRET

February [7 or 8,] 1946.

Position of the United States Regarding the Convention on the Site

Committee 6 now has before it a draft convention to be concluded with the United States with regard to the site of the United Nations; and a draft resolution relating to the convention. Both of these documents have been referred to the subcommittee on privileges and immunities.

I. The Draft Resolution

The Resolution constitutes an authorization by the General Assembly to the Secretary-General to negotiate with the competent authorities of the United States the arrangements required as a result of the establishment of the seat of the United Nations in the United States. The draft convention is transmitted by the Assembly to the Secretary-General for use in these negotiations as a basis of discussion. The Secretary-General is required to report the results of the negotiations to the General Assembly, which must approve any agreement with the competent authorities of the United States before being signed on behalf of the United Nations.

Recommended United States Position

The Resolution, with a few minor changes mentioned below, is satisfactory to the United States, and it is recommended that the delegation should vote in favor of it.

21 In the debate on the amendments Senator Vandenberg "urged the Committee to accept the wording of paragraph (2) proposed by the Sub-Committee without the addition suggested by the delegate for Mexico regarding an extra assessment. This proposal was in effect an attempt to obtain national exemption of taxation by indirect means. Such an attempt would be likely to produce the opposite effect to that desired. Countries like the United States which had a deep-seated prejudice against tax exemption would be best convinced of its rightness in this case by a simple and frank statement of the arguments." (GA (I/2), Fifth Committee, p. 17) The amendments were accepted by the Committee by 17 votes for, 11 against.

22 For the draft convention and the draft resolution, see United Nations, Official Records of the General Assembly, First Session, First Part, Plenary Meetings, p. 650, appendix II of annex 22 (hereafter cited as GA (I/1), Plenary). These drafts accompanied a report submitted by the sub-committee on privileges and immunities to the Sixth Committee on February 7 (GA (I/1), Sixth Committee, p. 45, annex 3a).
The United States is desirous of seeing to it that no draft convention on this subject is approved by the Assembly at this session, except as a basis of discussion in negotiations. The convention raises many difficult technical questions which cannot be determined at this time but must await the determination of a specific site and actual negotiations with the local state and municipal authorities. We therefore desire to see negotiations conducted by the Secretary-General in the United States after a site has been chosen. The Resolution accomplishes this purpose by authorizing the Secretary-General to negotiate, and transmitting the draft convention to him for use as a basis of discussion.*

It is the view of the United States that it will probably prove preferable not to have a single convention but a series of agreements with the federal, state and local authorities. We should make our position on this point a matter of record. The draftsmen of the convention have strongly adhered to the opinion that a single convention is better from the standpoint of the United Nations, but have been willing not to foreclose the question and have provided for an authorization to the Secretary-General to make “arrangements.”

In order not to require every detailed local agreement to come before the Assembly for specific approval, we believe that it would be better if the last paragraph of the resolution were amended to read:

“The General Assembly will, after receiving the report, determine which documents resulting from the negotiations shall require specific approval by the General Assembly before being signed on behalf of the United Nations. Provided: that nothing in this Resolution shall prevent the Secretary-General from entering into any arrangements necessary for the establishment of a temporary headquarters in the United States.”

II. THE DRAFT CONVENTION

The Draft Convention now before Committee 6 is more satisfactory to the United States than was the Draft transmitted by the Preparatory Commission. However, the present Draft is still unsatisfactory in a number of points. Three of the major unsatisfactory points are:

1. The Draft is unitary in character, i.e. it attempts to regulate all questions in a single agreement between the United States and the

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*It would be preferable from the standpoint of the United States if the draft convention were not transmitted at all, since it would give us a freer hand in the negotiations, but the sentiment among other delegations in favor of a draft convention is so strong that there is no possibility of securing a different result. The argument made in favor of the convention is that the Secretary-General must have some guidance from the Assembly in his negotiations. [Footnote in the original.]

22 Report of the Preparatory Commission, p. 75.
United Nations. We believe this to be unsatisfactory both from our standpoint and that of the United Nations. It would mean that the federal government would have to presume to be able to speak for and to enter into detailed agreements with the State and local authorities with regard to numerous local matters such as acquisition of, price of and title to land, immunities from state tax legislation, police protection, public utility services, etc. Apart from serious constitutional objections which may be raised, we believe that this would result in cumbersome and complicated administration and would make minor adjustments difficult. We believe it would be much more expeditious and practical for the United Nations to enter into direct relations with the state and, if necessary, local authorities. In order that the state where the headquarters are located may be able to conclude an agreement with the United Nations, it may be necessary for Congress to give approval to the agreement in order to comply with the United States Constitution. If it appears that such approval is necessary, Congress should be asked to give it.

2. Throughout the convention there are proposals which are not likely to prove satisfactory either to the federal government or to the state government where the headquarters are located. For example, it is proposed that obligation be undertaken to supply additional land apart from the original headquarters site whenever the United Nations wants additional land to construct an airport, railroad station, radio telegraphic station or “other purposes.” (Section 8)

Another provision calls for a “guarantee” of means of communication to and from the zone instead of providing there will be no impeding of methods of communication. (Section 19)

Still another provision guarantees the exercise of “all . . . powers” for supplying the headquarters zone with necessary public services which is to receive “an equal priority with the essential services of the United States Government itself” in these respects. Moreover, interruption of such services is to be prevented to the same extent that interruption would be prevented in the case of “services to the essential departments” of the United States Government. (Section 28)

Finally, differences of interpretation are to be referred “to the arbitration of an umpire appointed for the purpose by the President of the International Court of Justice.” (Section 39)

3. Certain of the provisions of the Draft relating to the authority of the United States and the United Nations with respect to the zone where the headquarters are located, are unsatisfactory. Thus, one of the sections reads:

“The United Nations may enact regulations making provision of an administrative character for the zone. Any such regulation shall pre-
vail over any provisions in the law of the United States of America
which are inconsistent with it. It is agreed that within the zone the
protection afforded by the Constitution of the United States to the
basic human freedoms of expression, worship and personal liberty
shall not be lessened and no form of racial discrimination shall be
permitted.”

In the draft transmitted by the Preparatory Commission, the United
Nations were given a much more extensive power to enact regulations
setting aside provisions of the law of the United States. This would
obviously have been altogether unacceptable to the United States since
it would, in effect, have given the United Nations a blank check to set
aside constitutional provisions or the civil or criminal law of the
United States. The present draft is less objectionable and its intention
appears to be only to permit the United Nations to enact regulations
relating to such matters as speed limits, use of streets and other matters
of a police nature. Other problems of this type relate to immigration,
police protection, use of headquarters zone as a refuge, etc.

4. The Draft has appended to it an Annex which contains provisions
relating to the immunities of the Organization, its staff and representa-
tives of Member governments. These provisions are to follow closely
the parallel provisions of the Draft General Convention on Privileges
and Immunities now under consideration by Committee 6. The most
significant objection to these provisions from the standpoint of the
United States is that they confer immunity from taxation and from
national service obligations on citizens of the United States who are
employed by the Secretariat. We object to these on the ground that
we do not desire to see the creation of a privileged class of our citizens.

There are also other objections to some of the provisions, such as
the extension of diplomatic immunities beyond the point provided in
our own legislation and the provision of a United Nations passport.

Recommended United States Position on the Draft Convention

The United States should abstain from discussing or voting upon
any of the provisions of the Draft Convention for the following
reasons:

1. It would be inappropriate for the United States as one of the
parties to the Convention to place itself in a dual position by partici-
pating in the framing of a draft as a United Nations member.

2. The United States would run a serious risk of committing itself
to the draft in advance of negotiations if it took any part in the dis-
cussions. Any argument against unsatisfactory provisions might be
held to imply acceptance of provisions against which no objections were taken. No formal statement of reservation would be sufficient to dissipate this risk.

For these reasons, it is recommended that the United States representatives in Committee 6 and its subcommittee should, at the outset of discussion of the Draft, make a statement along the following lines:

"Since the proposed Convention will become the subject of negotiation between the United Nations and the United States, the delegation of the United States wishes it to be understood that it will take no part in the discussion of the provisions of this draft and will abstain from any voting with respect to it. This position is taken because it would clearly be inappropriate for the United States to occupy a dual position in these negotiations and attempt to sit on both sides of the table. It should also be clearly understood that in abstaining from discussion and voting, the United States does not commit itself to any provision of this draft or with respect to any provision to be contained in any agreement or agreements which may eventually be concluded with the authorities of the United States or of any state or municipality thereof." 

(It should be understood that this policy of abstention \(^\text{24}\) with respect to the Draft Convention regarding the Site does not apply to the Draft General Convention on Privileges and Immunities. The United

\(^{23}\) For the statement made by Mr. Abe Feller to the Sixth Committee on February 8 see GA (1/1), Sixth Committee, p. 30. Apparently no explicit reservation was made of the position of the United States vis-à-vis the provisions of the draft convention as proposed here.

\(^{24}\) At this time there was frequent discussion within the United States Delegation whether the policy of neutrality should be continued (particularly in the Delegation's meetings on February 5, 6 and 8), the Delegation being considerably agitated over the high cost factor implicit in the report and recommendations of an intermin inspection group that the permanent site be located in the North Stamford-Greenwich (Connecticut) district (for the report see United Nations, Official Records of the General Assembly, First Session, First Part, I—Permanent Headquarters Committee; II—Interim Committee for the Selection of a Site for the Permanent Headquarters of the United Nations, pp. 31 ff., annex 1 [hereafter cited as GA (1/1), Headquarters Committee]). Senator Vandenberg obliquely gave voice to the Delegation's feelings in a meeting of the Fifth Committee on February 7, when, during the Committee's consideration of the Organization's budget, he said in pertinent part: "When initiating policies, delegations should always think of the bill which would have to be paid. The United States had deliberately refrained from taking any part in the discussions as to the site, but when the Inspection Group returned [from the United States where it had been examining sites from January 5 to February 2] with the proposal that a site of 45 square miles should be acquired in a most expensive area, such an idea could only be described as fantastic." (GA (1/1), Fifth Committee, p. 49) For the legislative history of the site question in the Interim Committee appointed by the Preparatory Commission on December 22, 1945 and the ad hoc Permanent Headquarters Committee established by the General Assembly on January 26, 1946, see GA (1/1), Headquarters Committee; see bracketed note, p. 76, for subsequent developments.
States position with respect to the latter is set forth in USGA/-Ia/LECom/4.)

IO Files: USGA/Ia/Del. Min./Exec/14 (Chr)

Minutes of Meeting of the United States Delegation (Executive Session), Held at London, Claridge’s Hotel, February 8, 1946, 9:30 a.m.

SECRET

[Here follow list of names of persons (18) present, and discussion of several agenda items.]

Privileges and Immunities

Mr. Walker said he would like to have instructions from the Delegation. Committee 6 was ready to send to the Assembly the rapporteur’s report on the general draft convention on privileges and immunities. The French and British had spoken against Mr. Walker’s reservation on the subject of tax exemption and military deferment. The Russians also had reserved their position on military deferment. The French Delegation was determined that this convention, including the tax exemption and military deferment features, be made a provisional rule for the next session of the Assembly to bridge the time gap until the convention had been generally ratified. The British and French had said that in view of its obligations under the Charter the United States had no right to reserve its position on tax exemption and military deferment. They felt that United States citizens in the Secretariat should be thought of as UNO citizens and could not do military service.

Mr. Walker thought if the United States position was going to be

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26 On February 7 the Sixth Committee received from its sub-committee on privileges and immunities a second report on the subject of privileges and immunities (the first having been submitted on January 28) with the text of a draft general convention: for the report, see GA(I/1), Sixth Committee, p. 45, annex 3a; for text of the draft general convention, see GA(I/1), Plenary, p. 642, annex 22. In the discussion of the draft text following its introduction into the Committee Mr. Walker was recorded as saying that he “reserved the position of his delegation with regard to paragraphs (b) and (c) of article V, section 18, concerning exemption from taxation on salaries and emoluments and immunity from national service obligations of [United Nations] officials as far as United States nationals were concerned. His reason was the right to exempt from taxation and exempt from national service obligations was a prerogative of Congress in the United States of America” (GA(I/1), Sixth Committee, p. 26).
consistent with its obligations under the Charter that the Senate would have to go along on tax exemption and deferment but he did not wish to tell the Senate what to do. Senator Vandenberg said those were rightly questions for the United States Senate and that before Mr. Walker's proposal was reached, Senator Vandenberg will have opposed the report of Committee 5 on the question of tax exemption. The Senator said he was going to call Committee 5's recommendations on tax refunds,27 the nearest thing he had seen to "perpetual motion".

Mr. Pasvolsky observed that member states under the Charter each had to decide on the privileges and immunities question. Mr. Hiss thought it depended on the power of Assembly Delegates as to whether there was authority to bind members to Assembly decisions on privileges and immunities. Mr. Hiss thought there was not sufficient authority in the United States Delegation. Mr. Pasvolsky thought Mr. Walker's reservation was in order and Senator Connally said Mr. Walker would stand on it. Mr. Hiss cited Article 105 of the Charter, paragraphs 1, 2 and 3. Mr. Hiss said perhaps Delegates from countries with parliamentary governments might have authority to adopt the privileges and immunities convention as a provisional assembly rule but that the United States Delegates did not have such authority to bind the United States Government in that manner.

Senator Vandenberg thought Mr. Walker had to stand on his reservation and that probably Mr. Walker as well as himself would get licked in the Assembly. The Senator observed that his point, however, did not come up under this convention but that Committee 5 had tried indirectly to get around the tax exemption question as raised in the convention.

Mr. Hiss thought Mr. Walker's position with respect to a reserva-

27 For the proceedings in the Fifth Committee on February 8 in which the Committee reversed its previous recommendations regarding tax refunds and extra assessments, see GA(1/1), Fifth Committee, pp. 50 and 51. In supporting a motion that would have this result Senator Vandenberg emphasized to the Committee that unless such a course were adopted the Committee would be endorsing a position "directly opposed, not only to the constitutional rights of the United States Congress, but also to Article 105 of the Charter which expressly asserted that on such questions the General Assembly could only make recommendations or submit conventions. If the present text [providing for tax refunds] were endorsed he would be forced to raise his objections in the General Assembly". The motion for amendment which was offered by the Netherlands delegate was approved by 13 votes for, 8 against. The new text then read: "In the case of any Member whose nationals in the service of the Organization are required to pay taxation on salaries and allowances received from the Organization, the Secretary-General should explore with the Member concerned methods of ensuring as soon as possible the application of the principle of equity amongst all Members" (ibid., p. 50).
tion was strong and that Congress had covered the subjects dealt with in the convention on privileges and immunities satisfactorily.23

[On February 13 the General Assembly took up the report of the Sixth Committee which included in pertinent part the recommendations and draft resolutions with accompanying texts of (1) a general convention relating to the privileges and immunities of the United Nations, and (2) a special convention between the United States and the United Nations regarding arrangements pertaining to the location of the seat of the United Nations in the United States; for the report of the Sixth Committee see GA (1/1), Plenary, pages 642 ff., annex 22. For the proceedings in the General Assembly relating to the adoption of the report and the two resolutions on February 13 see ibid., pages 448 ff.; Senator Vandenberg's remarks at this time regarding the provisions in the general convention relating to exemptions from taxes and national service obligations have already been noted in footnote 28, below; regarding the special convention Senator Vandenberg confined his remarks to a statement that the United States would abstain from voting "because the special Convention is one to which the Government of the United States will be a party, and we consider it would be inappropriate for us to prejudge the case here" (ibid., page 455). For texts of the resolution and accompanying draft general convention on privileges and immunities of the United Nations, see United Nations, Official Records of the General Assembly, First Session, First Part, Resolutions Adopted by the General Assembly during

23 The United States reservation was entered into the Report of the Sixth Committee to the General Assembly (GA (1/1), Plenary, p. 642, annex 22) which the General Assembly considered and adopted on February 13. The United States position was reaffirmed by Senator Vandenberg during the relatively brief discussion on the floor, in which he said "I rise only to make the position of the delegation of the United States perfectly plain in regard to the reports of the Fifth and Sixth Committees. We have reserved our position in respect of tax immunities in regard to the reports of both Committees. [For text in pertinent part of the Fifth Committee's report to the General Assembly see GA (1/1), Plenary, pp. 607, 608, and 612.] The Constitution of the United States gives the American Congress sole power to exempt American citizens from taxation. . . . The delegation of the United States also reserves its position in respect of national service exemptions under the general Convention reported by the Sixth Committee. This again is due to the fact that the Constitution of the United States permits no authority other than the American Congress to deal with this matter, and we are not in a position to prejudge that ultimate consideration." (GA (1/1), Plenary, pp. 454, 455)

the First Part of the First Session, pages 25 ff. (hereafter referred to as GA (I/1), Resolutions); for texts of the resolution and accompanying draft special convention between the United States and the United Nations regarding arrangements for locating the seat of the United Nations in the United States, see ibid., pages 28 ff.; in the serialization of General Assembly resolutions established later in 1946 both resolutions were designated as two sections of the same resolution, Resolution 22 (I); other sections of this same resolution dealt with privileges and immunities of the International Court of Justice and the coordination of the privileges and immunities of the Organization itself and the Specialized Agencies.

501.BB/1–1946: Telegram
The Secretary of State to the United States Representative at the United Nations (Stettinius)

SECRET
WASHINGTON, February 14, 1946—1 p. m.
1512. Undel 208. For Hiss from Ross. Undel 157, Delun 104. Following reactions to proposed UNO passport received from Passport and Visa Divisions:

(1) Passport Division considers it highly undesirable for US to consent to permit an international organization to decide who is or who is not a United States citizen or to document any person as a citizen of US. Passport Division notes that under existing US law only Secretary of State may issue and cause US passports to be issued. Passport Division considers that UNO officials should bear passports issued by countries to which they owe allegiance, when traveling internationally on United Nations or any other business but suggests that when UNO officials are traveling on UNO business they could in addition be issued credentials certifying to their official status in the organization and of the fact that they are traveling on business of the organization.

(2) Visa Division advises that it does not see how Dept can recognize passports issued by international organizations except as documents showing status of bearers as officers or employees of such organizations. Visa Division notes that a passport is a document of identity and nationality and therefore may properly be issued only by a gov-

29 For telegram Delun 104, January 19, see p. 65. Telegram Undel 157 (telegram 1145 to London) was despatched to the United States Delegation on February 1 as an interim reply to the Delegation's 104 and read: “Question of UNO passport is under study by Visa and Passport Divisions and we hope to transmit their views next week. Preliminary talks indicate such passports would have to be supplemented by national passports for purposes of US immigration laws.” (501.BB/1–1946)
ernment which recognizes and certifies bearer as one of its nationals with a right to return, even as a deportee, to the national territory.

Visa Division also finds objectionable provision of draft convention which appears to remove diplomatic or consular discretion in granting or refusing visas to aliens claiming to be officers or employees of UNO and gives them a priority over all other applicants at each office by prohibiting any delay in granting visas. Visa Division observes this would make granting of visas largely a ministerial function and there would be little reason for requiring visas in such cases. This does not mean however that Department should favor abolishing visa requirements.\(^{30}\)

In this connection however see Depts circular instruction of Jan. 24, 1946\(^{21}\) relating to special visa category established for international organizations officials by International Organizations Immunities Act. [Ross.]

BYRNES

[On February 14 the General Assembly received and adopted a report and draft resolution by the Sixth Committee that established the site of the permanent headquarters of the Organization "in Westchester (New York) and/or Fairfield (Connecticut) counties, i.e., near to New York City"; provided for a Headquarters Commission which was to "proceed as soon as possible to the region mentioned . . . with a view to carrying out an exhaustive study thereof and making recommendations to the General Assembly at the second part of its first session regarding the exact location to be selected within the aforementioned general region"; and located the interim headquarters of the Organization in New York City. For the report of the Sixth Committee see GA (I/1), Plenary, page 671, annex 29; and for proceedings of the General Assembly on February 14 see ibid., pages 535 ff. For text of the resolution, Resolution 25 (I), see GA (I/1), Resolutions, page 37.

The warm feelings of the United States Government and the American people were conveyed to the United Nations Organization by spokesmen of the United States at this time and earlier on February 13 on the occasion of the adoption of the two resolutions relating to the

\(^{30}\) The position established here by the Department was not set forth by the United States Delegation either in the Sixth Committee or the General Assembly in their deliberations on the draft general convention as the legislative process had been completed in the General Assembly on February 13.

\(^{21}\) Not printed.
(General) Convention on Privileges and Immunities and the (Special) Convention between the United States and the United Nations on the site. Senator Vandenberg had told the General Assembly on February 13 that "the purpose and the intention and the heartfelt desire, not only of the delegation of the United States, but of the American people ... is to extend every consideration, and to give every possible cooperation, to the UNO as it proceeds upon the greatest and most hopeful adventure in the history of human kind" (GA (I/1), Plenary, page 455). The United States Representative at the United Nations (Stettinius) told the General Assembly on February 14, after adoption of the resolution formally locating the seat of the United Nations in the United States, "On behalf of the people and the Government of my country, I wish to express our appreciation for the great honor that is bestowed upon the United States of America" (ibid., page 537).]

The Secretary of State to the Secretary-General of the United Nations

WASHINGTON, March 20, 1946.

My Dear Mr. Lie: I am transmitting to you herewith a copy of the International Organizations Immunities Act which grants certain privileges and immunities to international organizations designated by the President, together with a copy of the Executive Order of February 19, 1946 designating the United Nations as an international organization entitled to the privileges and immunities granted by the Act.\textsuperscript{32}

I wish to take this opportunity of assuring you that it is the policy of this Government to keep this Executive Order in effect with respect to the United Nations until it is superseded by such permanent arrangements as may be agreed to between the United Nations and this Government with respect to the legal status of the United Nations in this country.

Sincerely yours,

James F. Byrnes

\textsuperscript{32} For the International Organizations Immunities Act, see footnote 16, p. 63. For Executive Order 9698, February 19, 1946 which designated the United Nations Organization, the Food and Agriculture Organization, the International Labor Organization, the Pan American Union and the United Nations Relief and Rehabilitation Administration as public international organizations under Public Law 291, see 11 Federal Register 1809.
The Secretary of State to the Governor of the State of New York (Dewey)

WASHINGTON, March 20, 1946.

My Dear Governor Dewey: In connection with the establishment of the temporary headquarters of the United Nations in New York City and the possible establishment of the permanent headquarters in Westchester County, New York, a number of questions will arise regarding the privileges and immunities of the United Nations, the members of its Secretariat and Delegates of the Member States.

The International Organization Immunities Act grants certain privileges and immunities which have been made applicable to the United Nations by the Executive Order of February 19, 1946. Copies of the Act and of the Order are enclosed. The Act applies, for the most part, only to relief from provisions of federal law. There will undoubtedly be some questions that will have to be considered regarding relief from the operation of state and local requirements. I would greatly appreciate it if you would authorize your Attorney General to discuss this matter with representatives of the Secretary General and officials of the Department.

Sincerely yours,

JAMES F. BYRNES

Memorandum of Conversation, by the Acting Assistant Chief of the Division of International Organization Affairs (Halderman)

[WASHINGTON,] April 9, 1946.

Participants: OA–Mr. Stokes
Mr. Maktos
Mr. Reiff
Mr. Halderman

Le–Miss White
RP–Mr. Bevans

The purpose of the meeting was to give preliminary consideration to action to be taken with respect to the General Convention on Privileges and Immunities approved by the General Assembly and opened for adherence.

It was pointed out that an instrument containing the same provisions as the General Convention is attached as an annex to the Draft Convention between the United Nations and the United States with reference to the permanent headquarters, and that this instrument was intended to take effect until the General Convention is concluded.
The possibility was suggested of having this annex come into force as a protocol, accompanied by legislation necessary to give it effect. It was suggested that Congress might be more amenable to the proposals if it were first presented as a provisional arrangement. On the other hand it was suggested that the General Convention does not contain measures of a drastic character, and that it should not necessarily be anticipated that Congress would find it objectionable.

The other principal proposal as to timing was that the General Convention should be proceeded with at once. It was thought that the psychological effect would be good if the United States adherence could be concluded by the September meeting of the Assembly. It was also suggested that final action on both the General and Special Conventions should be taken at once instead of going through the procedure twice. This question was left open.

It was agreed that whichever approach is followed, it will be necessary to prepare authoritative answers as to the extent to which the Convention involves a change in existing legislation. It was agreed to undertake a study of this in OA and RP, and also to consult with interested divisions in the Department. When these studies are concluded, they can furnish a basis of discussion for the next meeting. At that time other officials of the Department will be invited, with a view to arriving at recommendations for subsequent procedure. It was considered that that would also be the appropriate time for undertaking consultations with other interested departments and agencies of the Government.

501 AD/4-2946

Memorandum of Conversation, by Carl M. Marcy of the Division of International Organization Affairs

[WASHINGTON,] April 29, 1946.

Participants: SPA—Mr. Hiss and Mr. Ross
                OA—Messrs. Maktos, Stokes, Halderman
                Reiff and Marcy

The meeting was held to discuss the draft commentary prepared by OA on the Draft Site Convention. The following matters were discussed:

1. There was discussion as to whether a treaty could be concluded between the United States and the United Nations. It was generally agreed, in line with the conclusion reached by Mr. Halderman in a memorandum on the subject, that such a treaty could be concluded.
2. The question was raised as to whether the substance of the Site Convention should be incorporated in a treaty or in an executive agreement, concluded with the consent of Congress. It was pointed out that the United Nations apparently prefers a treaty. It was felt, however, that there would be many advantages to having the agreement an executive one approved by a joint resolution since that method would bring the House of Representatives into active participation and since supplementary legislation will be necessary. Furthermore, it would be much easier to amend a joint resolution, in the event that is necessary, than to negotiate a new treaty.

3. It was agreed that the comments on the Draft Convention should be revised so as to leave open the question of whether the agreement will be a treaty or an executive agreement.

4. The question was raised as to whether the legal effect of an executive agreement is the same as a treaty. This question has been examined from a number of points of view, but will need to be re-examined with the site agreement in mind. Thus, it may be necessary in this agreement for the United States to relinquish jurisdiction over United States territory—query whether an executive agreement, with or without state consent, can do this?

5. There was considerable discussion of the extent, if any, to which a state may need to be a party to any agreement between the United States and the United Nations in view of the likelihood that some jurisdiction may be relinquished. It was pointed out that the Constitution requires the federal government to have state consent before the federal government can take jurisdiction over land which it acquires by purchase or by condemnation, and that when the federal government transfers its title to a third party, jurisdiction over the land reverts to the state. The question was raised as to whether this was true in the field of foreign relations, since, under the doctrine of United States v. Curtis-Wright Export Corp., the Supreme Court took the position that in the field of foreign relations the United States can do anything that a sovereign state can do. It was agreed that this question needs further examination.

6. Mr. Stokes outlined the inter- and intra-departmental conversations which have thus far taken place. He pointed out that in connection with the acquisition of land for the Organization, Mr. Flournoy had suggested the possibility of creating a corporation to act for the benefit of the United Nations. It was observed that although the idea of a corporation might be difficult to “sell” to the United Nations,

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33 Richard W. Flournoy, Assistant to the Legal Adviser.
it presented possibilities which should be kept in mind as the negotiations proceed.\textsuperscript{34}

[Here follows examination of certain sections of the draft convention.]

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501.AD/5-1346: Telegram

The United States Representative at the United Nations (Stettinius) to President Truman

SECRET URGENT NEW YORK, May 13, 1946—5 p. m.

[Received May 13—4:48 p. m.]

171. In light of the intimate and private conversations you and I have had on the question of the site of the United Nations, I am bringing directly to your attention the critical situation that has now arisen. I am sending a copy of this telegram to Acheson in order that you may have the benefit of his views.

The uncertainty of some top delegates and high officials of the United Nations as to whether the United Nations will remain at its present temporary location in New York beyond September has created a very serious problem. The decision to come to New York for a 3- to 5-year interim period was reached, you will recall, at the General Assembly in London. Dissatisfaction with temporary arrangements in New York during the past weeks has given rise to increasing speculation by delegates and United Nations Officials that the decision will be reviewed in the September Assembly. There is talk of moving away from New York and even of returning to Geneva. Any move to leave this country would, in my judgment, have serious repercussions upon the United Nations and would seriously damage the prestige and influence of the United States.

New York authorities are prepared to spend more than 3 million dollars to help set up interim facilities for the United Nations. They

\textsuperscript{34} During April, May, and June the Department engaged in an intensive study of the legal and constitutional problems pertaining to a site agreement between the United States and the United Nations which would spell out the conditions governing the acquisition and control of the permanent headquarters of the United Nations. Numerous working and position papers were drafted and a draft agreement was drawn to reflect United States thinking. Within the Department this activity tended to center in the Division of International Organization Affairs and in the Office of the Legal Adviser, while outside the Department close liaison was established with the Department of Justice where several papers were formulated on that aspect of the situation involving Federal-State relations. These papers are scattered throughout the Department's central indexed files, particularly the 501.AD file, and in the IO Files, specifically in series 8D/Le/1—
8D/HQC/1—, and a 1947 background book entitled "Arrangements Respecting Permanent Headquarters of the United Nations" (hereafter cited as "Background Book"). Appropriate information from these papers and the United States draft of the convention itself were passed on to the United Nations Secretariat in the course of preliminary and informal exchanges in May.

Exchanges between the Department and the Secretariat resulted in an agreement by May 23 to start formal talks in Washington on June 10.
are ready to go all out to help solve housing, transportation, and other problems and to make the United Nations stay in New York a success during a 3- to 5-year interim period. For obvious reasons, they are reluctant to spend such a large sum or make long-term arrangements if the General Assembly decides in September to shift the temporary headquarters to another location. If New York withholds or curtails its support, plans for the September meeting will be imperiled. This result would greatly strengthen the present inclinations of some people to move the interim headquarters elsewhere.

I am firmly convinced that the time has now arrived when the Federal Government must give strong support and assistance to working out plans for remaining in New York throughout the 3- to 5-year interim period. When the decision to come to New York was reached in London, the United States offered to assist in every way possible. May I have authorization to inform Secretary General Lie and other delegations represented on the Security Council that the United States Government firmly supports Lie in arrangements for temporary headquarters in New York for the interim period 3 years. Support from the United States will strengthen Lie’s hand in dealing with other delegations and with New York authorities. May I also be authorized to confirm to Lie and to other delegations that the Federal Government will give fullest possible assistance to the United Nations and to the City of New York in obtaining temporary housing facilities, transportation, and other essentials. New York authorities assure me that federal funds will not be needed, but it is clear that White House backing will be required to persuade federal agencies to make needed federal facilities available.

On the question of the permanent site of the United Nations, I believe we should continue to maintain the neutral position we have held thus far. The need for our full support and assistance on the interim location is so critical, however, that I am convinced we must act immediately in order to avoid a damaging situation in which several million dollars may be spent on interim facilities that would be used only for one meeting of the General Assembly.

STETTINIUS

501 AD/5-1446

Memorandum by the Acting Secretary of State to President Truman

WASHINGTON, May 14, 1946.

Subject: Mr. Stettinius’ telegram of May 13 with respect to Interim Headquarters of the United Nations

The Department has followed with some care the problems which the United Nations has had to face in establishing its temporary
headquarters in New York. We agree that the only practical course, in order to ensure the success of the meeting of the General Assembly scheduled for September 3, is to continue in effect the decision reached by the General Assembly this past February to have the interim headquarters located in New York for a period of at least three years. It is understandable that the New York authorities will not be able to make the necessary considerable outlays which will be required to assure the success of the next Assembly meeting unless they can be confident that the United Nations will remain in the New York area for at least three years. Consequently we recommend that you authorize Mr. Stettinius to support the General Assembly decision and so inform Mr. Lie, the Secretary General, and the other Delegations to the Security Council whose support is desired.

We also recommend that you authorize Mr. Stettinius to confirm that this Government will give all appropriate assistance to the United Nations in connection with arrangements for temporary headquarters. This latter recommendation will involve action by this Government from time to time of no inconsiderable importance. We can anticipate that we will be asked to grant priorities for residential housing construction for members of the Secretariat, to make available surplus Army and Navy transport equipment, and the like. We feel it important in the interest of the United States in carrying out our policy of full support to the United Nations that the Federal Government be prepared to assist in such instances as these. In order to ascertain promptly the specific types of assistance which the Federal Government may be called upon to give, we recommend that Mr. Stettinius be asked to obtain from Mr. Lie a specification of contemplated requests for assistance.

A message from you to Mr. Stettinius in response to his telegram under reference, drafted along the foregoing lines, is attached for your approval.

DEAN ACHESON

[Annex]

SUGGESTED DRAFT TELEGRAM TO MR. STETTINIUS

In response to your telegram of May 13, I am very glad to authorize you to inform the Secretary General that the United States Government will firmly support him in his effort to carry out the General Assembly's decision to establish the temporary headquarters of the United Nations in New York for an interim period of three years.

35 This draft, signed by President Truman, was dispatched to Mr. Stettinius at New York as telegram 59, May 14, 5 p. m.
You are also authorized to confirm to Lie and to other delegations that the Federal Government will give all appropriate assistance to the United Nations in connection with arrangements for temporary headquarters.

However, in order to enable the Federal Government to assist, it is essential to know in specific terms exactly what assistance the United Nations wants from the Federal Government. If you will discuss this also with Lie, we will be in a better position here in Washington to determine procedures in order to provide assistance with minimum delay.

Harry S. Truman

501.AD/5-2246

The Under Secretary of State (Acheson) to the Director of the Office of War Mobilization and Reconversion (Snyder)


My Dear Mr. Snyder: I refer to the President's letter of May 18 asking you to assume a coordinating responsibility with respect to Federal assistance in the establishment of temporary headquarters of the United Nations in New York.

This is a critical situation accompanied by severe criticism of the alleged failure of the Federal Government to grant the assistance which, as the host State, it should have accorded.

I enclose a memorandum giving the necessary background on the situation and outlining some of the problems that may be anticipated. Immediate action is required with regard to:

1. Prompt approval of necessary construction projects and the granting of priorities for materials involved in reconversion of the

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26 No letter dated May 18 has been found in the Department files. The carbon (blue) copy of a proposed letter dated May 17 is attached to a memorandum to the President from the Acting Secretary (Acheson) (also dated May 17) (501.AD/5-1740). Presumably the text of this copy is the same as that actually sent to Mr. Snyder on May 18. In it President Truman, after setting forth the text of his telegram of May 14 to Mr. Stettinius, informed Mr. Snyder: "These arrangements will include the granting of priorities for materials, the making available of physical facilities controlled by the Federal Government, and such other steps as may be necessary not only to provide the United Nations with adequate office space, conference rooms, assembly hall and other facilities to be used by it, but also to assure adequate housing and transportation for members of the Secretariat and the delegations of the Member Nations.

"In case of any differences of opinion as to the appropriate steps to be taken, I request you to exercise, by the issuance in your discretion of appropriate directives, the full powers which have been delegated to you under applicable statutes and executive orders. In any case where, in your opinion, action should be taken by any officials of the Federal Government in this matter which they are unwilling to take and which you are not authorized to direct, I would appreciate your bringing the matter to my attention for decision."

Relevant documentation regarding the implementation of this cooperative effort at different levels in Washington and New York is found in File No. 501.AD.
Sperry Gyroscope Plant at Lake Success, Nassau County, Long Island, the New York City Building at the World’s Fair Grounds, Flushing Meadows, and construction of a 550 unit housing project at Jamaica, Long Island.

2. Making available to the United Nations for the purpose of temporary housing of members of the Secretariat between now and approximately May 1, 1947, Fort Totten at Bayside, Long Island, now occupied by an ATC unit.

3. Providing necessary equipment for the maintenance of adequate transportation facilities between residential centers, the Sperry Gyroscope Plant, and Flushing Meadows.

The other Federal agencies which seem to be involved in this matter are the War Department, Navy Department, Civilian Production Administration, National Housing Administration, Public Buildings Administration, War Assets Corporation, and the Reconstruction Finance Corporation.

I suggest that you designate a member of your staff to take general charge of this operation. Mr. John C. Ross and his associate, Mr. I. N. P. Stokes, have been given the responsibility in the Department for following all matters relating to the headquarters of the United Nations and they will be glad to furnish all possible assistance. I suggest that whoever is to act for you in this matter get in touch with them.

Sincerely yours,

[Dean Acheson]

[Annex]

MEMORANDUM

Subject: Assistance to United Nations—Temporary Headquarters

Background

1. The General Assembly of the United Nations voted on February 14, 1946 to establish the interim headquarters of the United Nations in New York City pending final decision concerning the location of permanent headquarters. At the same time it was determined that the permanent headquarters should be in Westchester County, New York, and/or Fairfield County, Connecticut, but this decision is subject to reconsideration as explained below in paragraph 9.

2. In view of the fact that the United Nations Security Council was scheduled to reconvene in New York on March 21, representatives of the Secretary General decided on March 6 that the facilities immediately available at Hunter College in the Bronx would best suit the needs of the United Nations for temporary headquarters. Construction was started immediately, Secretariat offices were installed at Hunter, and the Security Council held its first meeting as scheduled.
on March 21. Since then the Security Council has continued to use these facilities, the Secretariat has expanded its staff to a total of approximately 800 and various commissions and committees have used the Hunter facilities for meeting purposes.

3. During the month of April it rapidly became apparent that the Hunter College facilities would be inadequate for the needs of the United Nations. The Secretary General, Mr. Trygve Lie, is the chief administrative officer of the United Nations and clearly has the responsibility and the authority to decide the best location within the New York City area for location of the temporary headquarters and to make all necessary physical arrangements. The Secretary General, after consultation with New York City authorities and other interested groups has now decided that the Secretariat offices, meeting rooms for the Security Council, Economic and Social Council, commissions and committees should be located at the Sperry Gyroscope Plant, Lake Success, Nassau County, Long Island, and that the United Nations Assembly should meet in the New York City Building at the World’s Fair Grounds, Flushing Meadows, Long Island. The next meeting of the Assembly is scheduled for September 3; the Security Council will remain in continuous session; other Councils, commissions and committees will continue to meet periodically. It is intended that office space for the various delegations to the United Nations will also be provided as required at the Sperry Plant.

4. It would probably be generally agreed that the arrangement described in Paragraph 3 is not an ideal one. Both the Sperry Plant and the New York City Building are some miles distant from Manhattan and from each other, and transportation will be a very difficult problem particularly since many of the delegations will maintain their office and residence headquarters in Manhattan. There will also be a number of difficult operating problems resulting from the physical separation of parts of the whole United Nations organization. Housing for members of the Secretariat and of the delegations will also be a very difficult problem but this problem would exist regardless of location.

5. On the other hand there are substantial advantages in the selection of the Sperry-Flushing Meadows location. For one thing the Sperry Plant is very modern and readily adaptable to use for offices and meeting rooms with large possibilities for expansion as may be required. The New York City Building at Flushing Meadows lends itself very well for adaptation as a large Assembly meeting hall without substantial cost to the United Nations. On the whole, careful investigation indicates that the Secretary General’s decision is the wisest one that could have been made in a very difficult situation.
6. This decision having been made, Secretariat and more particularly city authorities have been severely critical of the failure of the Federal Government to assist adequately in making this decision effective so that it would be possible to establish the United Nations in the new location on an operating basis before the Assembly meeting on September 3. The city authorities have obligated the city to spend more than $2,000,000 in preparing the Flushing Meadows buildings for the General Assembly, and in many other ways, with particular reference to housing, they are making outstanding efforts to achieve the desired results. However, a week ago the city reached the conclusion that they simply could not undertake the obligations involved without assurance on two points: first, that the Federal Government would get behind the project and assist in every way possible and, second, that all parties concerned would agree that the arrangements contemplated would stand for a three-year interim period subject to renewal for an additional two years.

[Here follows summary of exchange between Mr. Stettinius and President Truman.]

501.AC/4-2446

The Secretary of State to the Chairman of the Committee on Foreign Affairs, House of Representatives (Bloom)

WASHINGTON, May 22, 1946.

MY DEAR MR. BLOOM: I am now in a position to reply more fully to your letter of April 24, 1946, transmitting for the comments of the Department of State copies of H. Con. Res. 143, a concurrent resolution “To provide for United Nations passports.”

While I concur in the desirability of permitting travel in times of peace in all states Members of the United Nations or indeed in any portion of the world in which conditions are not abnormal, I consider that it is desirable that American citizens be documented by this Government. Moreover, Section 1 of the Act of July 3, 1926 provides that the Secretary of State may issue passports, or cause them to be issued by certain officials, under such rules as the President shall prescribe, for and on behalf of the United States “and no other person shall grant, issue, or verify such passports.”

In the cases of persons who are officials or employees of the United Nations, a United Nations credential may be recognized as a certificate of the status of the bearer as such an official or employee, but a national

76 Letter of April 24 and enclosure not printed; an interim reply had been sent on April 29, not printed.
passport may also be required in most instances, if obtainable, for the purpose of establishing the identity of the bearer as a national of the country to which he owes allegiance, there being no such status as that of a national of the United Nations.

The determination of American citizenship is at times a very difficult problem and should be made as far as practicable in the United States where evidence of citizenship is usually available. Without a passport issued by the Secretary of State or under his authority, an American national traveling abroad would be likely to have difficulty in establishing his identity and nationality for the purpose of obtaining protection or assistance from American diplomatic and consular officers.

Since the United Nations is not a government, it has no national territory to which bearers of its passports may be permitted to return after travelling in other countries. Deportation of an alien from the United States can generally be effected under our laws only to the country of which the alien is a citizen or subject or to the country from which the alien came to the United States, which latter country is usually unwilling to accept the alien as a deportee unless he is a citizen or subject of such country. So far as nonimmigrant travel is concerned, the Government of the United States could not accept into its territory the bearer of a United Nations passport who does not have definite assurance of being able to return to the country from which he came or to enter some third country after a temporary sojourn in the United States. It is not believed that the member states would consent to have the United Nations issue a travel document which required each member state to accept the bearer into its territory, as this would involve a question of interference in matters of purely domestic concern to each member state in connection with its immigration and nationality laws, a power specifically withheld from the United Nations by Article 2, Section 7 of the United Nations Charter.

If the proposed measures should be adopted United Nations passports might be obtained by nationals of one member state for the purpose of carrying on objectionable political activities in the territory of other member states, but, according to the provisions of the proposed Resolution, these passports would have to be "honored" by the latter states. In such a case, even if the objectionable activities were directed by the government of the bearer's country, it would be difficult to hold that government accountable, since the bearer would be traveling under the sanction of a document issued by the United Nations.

Since there is no apparent necessity for the United Nations to issue passports, and since there are valid and serious objections to such issuance, I am of the opinion that it would be highly undesirable for this Government to propose the course of action suggested in this bill.
The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

JAMES F. BYRNES

501.AC/5–2846: Telegram

The United States Representative at the United Nations (Stettinius)
to the Secretary of State

SECRET US URGENT

NEW YORK, May 28, 1946—6 p.m.
[Received 7:47 p.m.]

244. In a private conversation last evening, Dr. Quo 88 said that he and Sir Alexander Cadogan 39 had been discussing the question of diplomatic immunity for the representatives of the Security Council. He said he realized, of course, that granting immunity to 3,000 people of the International Secretariat was a serious problem. He wondered whether it would not be possible for the top representatives on the Security Council to be granted diplomatic immunity immediately just as if they were attached to Embassies in Washington. Later, Sir Alexander Cadogan spoke to me about the same subject, saying that the present system was a great nuisance. I assured both Sir Alexander and Dr. Quo that I would take the matter up immediately.

I appreciate that this request raises a number of problems. Would you please let me know what I may reply to these requests? 40

STETTINIUS

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Editorial Note

Formal negotiations for a site convention began in Washington on June 10 between representatives of the United States led by the Legal Adviser of the Department of State, Mr. Charles Fahy, and a United Nations team headed by the United Nations Assistant Secretary Gen-

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88 Dr. Quo Tai-chi, Chinese representative on the Security Council.
39 United Kingdom representative on the Security Council.
40 The Delegation was informed by telephone on June 18 that “serious consideration was being given to the possibility of amending the International Organizations Immunities Act to give full diplomatic privileges and immunities to principal representatives to the United Nations as well as certain high-ranking members of their missions. In view of the fluid status of the whole question of diplomatic privileges and immunities it was suggested . . . that an answer to telegram 244 be deferred until such time as the current negotiations regarding the site convention have been completed [see the editorial note, infra] and it is known whether or not an amendment will be sought to the International Organizations Immunities Act.” The Delegation meanwhile was reminded that certain privileges and immunities were already accorded to principal representatives at the United Nations by the provisions of the International Organizations Immunities Act. (Memorandum of telephone conversation between Mr. C. M. Marcy of the Department and Mr. Samuel DePalma of the Delegation staff, June 18, 501.AC/5–2846)
eral for Legal Affairs, Dr. Ivan Kerno. One representative each from the State of New York and the State of Connecticut also attended. In a statement issued to the press on June 11 entitled "Negotiations on Legal Arrangements for United Nations Headquarters" the Department of State emphasized that the negotiations were confined to legal matters and did not concern the question of where the actual site would be located; see Department of State Bulletin, June 23, 1946, page 1078.

Seven meetings were held between June 10 and June 18 and resulted in a draft text described as a "convention/agreement." The exact form of the instrument was left undetermined pending a decision on the part of the United Nations officials as to whether an agreement authorized by a joint resolution of the United States Congress would be a satisfactory arrangement from their point of view. In this connection Mr. Fahy on June 13 handed to Dr. Kerno at the latter's request a memorandum indicating in what respects an executive agreement approved by joint resolution of the Congress would have the same constitutional validity as a treaty. Minutes of the meetings of June 12-18 and other relevant documentation including the June 20 draft text and the June 13 memorandum are found in the "Background Book"; the June 20 text is also printed as United Nations document A/67, September 1, 1946 (found in United Nations depository libraries).

Subsequently the Legal Adviser described the contents of the draft text as follows: "Stated broadly, the principal provisions of the draft Agreement are as follows:

"1. It provides that the United States will acquire land, by condemnation if necessary, for transfer to the United Nations, (Section 3);

"2. It authorizes the United Nations to establish its own communications system and to establish an airport, (Sections 7 and 8);

"3. It provides that the area owned by the United Nations shall be inviolable, i.e. the area shall not be entered by federal, state, or local officials of the United States in performance of their duties except with the consent of the Secretary-General of the United Nations, (Section 10);

"4. It provides that federal, state, and local law of the United States is to apply within the zone except as otherwise provided in the agreement, (Section 15);

"5. It provides that regulations made by the United Nations for the purpose of establishing conditions within its area appropriate for the execution of its functions shall be operative within the United Nations area, and that any federal, state, or local law of the United States inconsistent with such regulations shall to that extent be inapplicable within the United Nations area (Section 16);

"6. Except as otherwise provided in the Agreement, the federal, state and local courts are to have jurisdiction over acts done and transactions taking place within the United Nations area (Section 17)." (Memorandum, the Legal Adviser to Mr. George T. Washington, As-
sistant Solicitor General, Department of Justice, August 15, 1946, document 6a in "Background Book")

Letters regarding the negotiations with accompanying draft text were submitted for comment during July and August to the Chairman of the Senate Foreign Relations Committee, the Attorney General, the Secretary of the Navy, the Secretary of War and the Administrator of Civil Aeronautics; the texts of these letters and the replies are found in Section 5 of the "Background Book". This step was taken in preparation for the final negotiations for a site agreement between the United States and the United Nations, when a firm decision had been made on the location of the site for the permanent headquarters.

591.AC/8-1046

The Acting Secretary of State to the Acting Secretary General of the United Nations (Sobolev)

WASHINGTON, July 30, 1946.

EXCELLENCY: I have the honor to refer to the letter dated June 10, 1946 from the Secretary-General[41] with which he enclosed five copies of the English and French texts of the Convention on the Privileges and Immunities of the United Nations. The Secretary-General asked what steps the Government of the United States of America has taken or intends to take in order to give effect to this Convention and expressed the hope that pending accession to the Convention, the American authorities will take into account the provisions of the Convention in their relations with the United Nations.

I am pleased to inform you that the Government of the United States of America now has the Convention on Privileges and Immunities of the United Nations under study. I shall communicate with you in the near future regarding the specific steps being taken with reference to the Convention.

Your Excellency’s attention is invited to the International Organizations Immunities Act, approved December 29, 1945 (Public Law 291, 79th Congress 1st Session), two copies of which are enclosed. This legislation, as applied to the United Nations by Executive Order No. 9698, February 19, 1946 (11 Federal Register 1809), extends to the United Nations and its personnel many of the privileges, exemptions, and immunities for which provision is made in the Convention on Privileges and Immunities of the United Nations.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

DEAN ACHESON

[41] Not printed.
The Legal Adviser (Fahy) to the United Nations Assistant Secretary-General for Legal Affairs (Kerno)

WASHINGTON, July 30, 1946.

My dear Mr. Kerno: This will confirm the understanding of the State Department regarding the proposed agreement between the United Nations and the United States with respect to the establishment of the permanent headquarters of the United Nations.42

The attached draft 43 embodies the changes in the document originally submitted to the Secretary-General by the General Assembly which have resulted from the extremely helpful and friendly negotiations recently held between representatives of the United Nations and the Department of State, in which representatives of the States of Connecticut and New York also participated.

An effort was made in these negotiations to reach a form of agreement which would be suitable regardless of the location and size of the headquarters, on the theory that, before the agreement is actually executed, the details which must be worked out after determination of the location and size would be incorporated in an annex. Very satisfactory progress has been made in this respect, but it seems unwise, for two reasons, to approve this document definitely now as representing agreement between the Secretary-General and the Department of State.

In the first place, the significance of several provisions of the proposed agreement cannot be adequately determined except in the light of specific locations which may be under consideration and with the benefit of consultation with representatives of the particular communities affected. This is especially true with respect to such matters as loss of local tax revenues and the effect on land values of the proposed option to acquire additional land in the defined "zone".

In the second place, although the Committee named by the General Assembly to assist in the negotiation of the agreement is no longer in session, the Headquarters Commission is continuing to explore with various local officials many of the legal problems which may be involved. These discussions are almost sure to shed new light on various matters which are covered by the proposed agreement and to result in suggestions for mutually agreeable modifications.

It is understood that the attached draft agreement will be included in the report of the Secretary-General to the General Assembly as

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42 Earlier exchanges had occurred between officials in the Department and the Secretariat on the working level; this documentation, found in the 501.AD file, is not printed.
43 Not printed; see United Nations document A/67, September 1, 1946.
representing the result of the negotiations to date; that it is to be regarded as an unfinished draft, with respect to which both parties remain free to request modifications in the light of various factors which may be developed as particular locations come up for specific consideration; that the Secretary-General’s report including this document will be made public; but that all copies of the draft agreement which are released either by the United Nations or by this Department will be plainly marked so as to indicate that it is an unfinished or working draft only and has not been finally approved by either party.

Allow me to express once more my appreciation of the friendly spirit, devotion to the ideals of the United Nations, and keen understanding of the many problems involved, which have been shown by you and your associates and the members of the Negotiating Committee in the course of our discussions of this subject.

Sincerely yours,

CHARLES FAHY

501.AC/5-2846

The Acting Secretary of State (Acheson) to the Acting United States Representative at the United Nations (Johnson)

No. 27 [WASHINGTON,] July 31, 1946.

The Acting Secretary of State refers to telegram No. 244, dated May 28, 1946, concerning a conversation with Dr. Quo and Sir Alexander Cadogan during which the question of diplomatic immunities for representatives to the Security Council was discussed.

There are enclosed for the information of the Acting United States Representative five copies of Senate Bill No. 2472 (79th Congress, 2d Session), to amend Public Law 291, the International Organizations Immunities Act. It will be observed that the proposed amendment is designed to give the Secretary General and the Assistant Secretaries General of the United Nations and principal resident representatives of Members and certain of their staffs the same privileges, exemptions, and immunities as are accorded diplomatic envoys of foreign governments. This amendment will, if enacted, give effect to Section 19 of the General Convention on Privileges and Immunities of the United Nations, and to Section 27 of the June 20, 1946 draft Convention/Agreement between the United Nations and the United States of America (SD/A/NC/8).

It would be appreciated if the Acting United States Representative would bring this legislation to the attention of the Assistant Secre-

*4* Not printed.
tary General for Legal Affairs of the United Nations as well as to the attention of such resident representatives of Members as may be interested.

There are also enclosed five copies of Public Law 291, which, as implemented by Executive Order 9698, February 19, 1946, but without the proposed amendment, confers many privileges, exemptions, and immunities upon alien officers and employees of international organizations, upon aliens designated by foreign governments to serve as their representatives in or to such organizations, and upon the families and servants of such persons. Among other privileges, exemptions, and immunities are exemption from federal income tax upon salaries earned in the United States, customs courtesies upon initial arrival, and immunity from suit and legal process relating to acts performed in official capacities. Persons of the above categories are also entitled to the same privileges, exemptions and immunities as are accorded under similar circumstances to officers and employees of foreign governments and members of their families so far as alien registration, fingerprinting, and registration of foreign agents, are concerned.

The privileges and immunities given by the International Organizations Immunities Act are not of course “diplomatic” privileges and immunities, but until such time as the proposed amendment becomes law it appears that representatives of Members must rely on Public Law 291 for such privileges, exemptions, and immunities as they may claim. The Acting United States Representative is authorized to use the information in this instruction in any way he deems appropriate.

501.AC/8-146

Memorandum of Conversation, by Carl M. Marcy, of the Division of International Organization Affairs

[WASHINGTON,] August 1, 1946.

Participants:  Mr. Fahy—Le
               Miss Whiteman—Le
               Mr. Halderman—OA
               Mr. Marcy—OA

At Mr. Fahy’s request, the meeting was held in his office to discuss steps which the Department of State should take in connection with the Convention on Privileges and Immunities of the United Nations.

After some discussion, there was agreement that it would be proper to submit the Convention to Congress for its approval by a joint
resolution. There was also agreement that the Department of State should submit the Convention to the Bureau of the Budget for clearance prior to submitting it to the Congress. It was agreed that OA would, in consultation with Le and RP, prepare the necessary communications.

501.4AD/8-246

The United Nations Assistant Secretary-General for Legal Affairs, (Kerno) to the Legal Adviser (Fahy)

NEW YORK, 2nd August 1946.

MY DEAR MR. FAHY: I acknowledge with thanks the receipt of your letter of July 30th, and the enclosed copy of the draft instrument relating to the establishment of the permanent headquarters of the United Nations.

It is also my understanding that the draft instrument does not, at this stage, represent a definitive agreement between the Secretary-General and the Secretary of State, and that further discussions may be needed when a specific location is chosen as the site of the permanent headquarters. I am certain that you share my hope that it will be possible to hold these further discussions during the forthcoming session of the General Assembly, with a view to submitting a definitive text before the Assembly adjourns.

It is the intention of the Secretary-General to report on this matter to the General Assembly and to transmit the present text with the explanation that it represents the results of negotiations to date and that a definitive text will be prepared at a later date, probably during the course of the session.45

In publishing the text, the Secretariat will use the following caption: “Working Draft—Not as yet finally approved by either party”. I would suggest that a similar caption might be used on any text released by the Department of State.

May I thank you again for the close and helpful co-operation which we have had from you and your associates, and in particular the broad comprehension of the needs of the United Nations which you have shown in our negotiations.

Sincerely yours,

IVAN KERNO

45 For joint report by the Secretary-General and the Negotiating Committee on the negotiations with the authorities of the United States concerning the arrangements required as a result of the establishment of the seat of the United Nations in the United States, see United Nations document A/67, 1 September, 1946.
The United Nations Assistant Secretary-General for Legal Affairs (Kerno) to the Legal Adviser (Fahy)

New York, 6 August, 1946.

My Dear Mr. Fahy: The United Nations Secretariat is receiving an increasing number of questions from Delegations accredited to the United Nations with regard to privileges and immunities accorded in the United States. These questions, which are of growing concern to us, will be disposed of when the general convention on privileges and immunities and the convention on the site come into force. However, it is apparent that a considerable interval will elapse before these instruments can be made effective. In the meantime, the convening of the General Assembly will most probably cause increasing difficulties in this regard. While the United States legislation has proved helpful, experience has shown that it is incomplete, and that some further regulation is necessary.

I should like to propose to you that consideration be given in the very near future to the conclusion of an interim agreement on privileges and immunities which might contain certain of the provisions in the general convention, and in the draft convention on the site. Such an interim agreement might have a duration of six months to a year.

I should very much appreciate having your views on this proposal.

Sincerely yours,

Ivan Kerno

The Legal Adviser (Fahy) to the United Nations Assistant Secretary-General for Legal Affairs (Kerno)

Washington, August 16, 1946.

My Dear Mr. Kerno: I have received your letter of August 6 proposing that consideration be given to the conclusion of an interim agreement on privileges and immunities to contain certain of the provisions of the general convention on privileges and immunities of the United Nations and of the convention on the site, pending their coming into force.

In reply, I am pleased to state that should the United Nations Secretariat indicate to this Department the specific privileges and immunities which are desired, and which may not now be obtained under the “International Organizations Immunities Act”, Public Law 291, 79th Cong., 1st sess., approved December 29, 1945, sympathetic consideration will be given by the Department to the matter.

Sincerely yours,

Charles Fahy
[For an opinion furnished to the Secretary of State by the Acting Attorney General (McGranery) at the request of representatives of the United Nations as to whether an agreement (regarding a site convention) would have the same binding effect as a treaty in superseding inconsistent State and local laws, see text of letter from Mr. McGranery, dated August 20, in Department of State Bulletin, December 8, 1946, pages 1068 ff.

The Acting Attorney General stated, in conclusion, "... there can be no doubt that the proposed agreement, if executed pursuant to congressional authority, will supersede incompatible State and local laws. As the Supreme Court stated ... 'It is inconceivable' that State constitutions, State laws, and State policies 'can be interposed as an obstacle to the effective operation of a federal constitutional power. ...'"

The Legal Adviser forwarded a copy of this opinion to Mr. Kerno in a letter of August 26, with the observation that, "In view of the Acting Attorney General's definite opinion that an executive agreement executed pursuant to authorization by a joint resolution of Congress would have the same force as a treaty, I assume that the United Nations will regard the choice between an executive agreement and a treaty as a matter for determination by the United States in accordance with its own constitutional requirements and governmental policies."(501.AD/8-2646).]

501.AC/9-346

Memorandum by the Director of the Office of Special Political Affairs (Hiss) to the Acting Secretary of State (Clayton)

[WASHINGTON,] September 3–9, 1946.

There is attached a draft letter to the Director of the Bureau of the Budget *6 requesting the usual clearance for sending to the Congress a letter concerning our accession to the Convention on Privileges and Immunities of the United Nations which was adopted by the General Assembly of the United Nations in February 1946. This Convention is open for accession by all states members of the United Nations. It is designed to implement the provisions of Articles 104 and 105 of the Charter of the United Nations which provide that the Organization and its employees and representatives to the Organization are to enjoy such privileges and immunities as are necessary for the fulfillment of the purposes of the United Nations.

We have discussed this matter with Mr. Fahy and he is in agreement that, even though Congress is in adjournment, the Convention

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*6 Not found attached to file copy.
should be transmitted to Congress. This will protect us when the General Assembly meets in late September against any charges of delay in taking steps looking toward United States accession to the Convention. The matter is especially important in view of the fact that the United States is host to the United Nations.

The draft letters to the President pro tempore of the Senate and the Speaker of the House review our problems in connection with granting privileges and immunities not only to the United Nations but to other public international organizations.\(^47\)

Attention is particularly invited to Article VII of the Convention which grants the United Nations authority to issue a laissez-passer (let pass). The Passport and Visa Divisions have indicated some doubts as to the wisdom of this Article and have suggested that the article be omitted or that we take a reservation. Copies of their memoranda on this matter are in the underlying file.\(^48\) The Legal Adviser’s Office (as indicated by underlying memoranda\(^48\)) concur with our view that it would be unwise for this Government to take a reservation on Article VII of the General Convention. Such a reservation would defeat the purpose of the provision which is to enable travel on necessary business by officials who because of special circumstances are unable to obtain passports. It should also be noted that the United States is the host state and that the United States Delegation did not make any reservation on this point in voting for this Convention, although it did make reservations on tax exemption and military service. Legal objections to permitting the United Nations to issue a laissez-passer to an American citizen would, of course, be taken care of by passage of the joint resolution attached to the draft letters to the Congress.

A[GER] H[ISS]

501.AC/9-646

Mr. A. H. Feller, General Counsel and Director of the Legal Department, Secretariat of the United Nations, to the Legal Adviser (Fahy)

NEW YORK, 6 September 1946.

DEAR MR. FAHY: I have received your letter of August 16th and am very pleased to hear that the Department of State would give

\(^{47}\) The draft letters are not attached to this memorandum and have not been found. A second draft dated October 10 and addressed to Senator McKellar, President pro tempore of the Senate, is not printed. A third draft dated November 1, not found in Department’s files, was transmitted by the Secretary of State to the Director of the Bureau of the Budget on November 1 for comment by interested departments of the Executive Branch, but no definitive action had been taken by the end of the year.

\(^{48}\) Not found attached to file copy.
sympathetic consideration to the conclusion of an interim agreement on certain privileges and immunities of the United Nations.

The most urgent questions in this subject have to do with personal immunities. Consequently, it would seem to us most suitable for an interim agreement, such as we have suggested, to include the substance of the following:

Article IV, Section 19 of Article V, and Article VI of the General Convention on Privileges and Immunities, and Article V of the proposed special Convention/Agreement between the United Nations and the United States. 46

It would appear to be desirable to put these provisions into effect by way of an executive agreement. As suggested in Dr. Kerno's letter of August 6th, the duration of such an agreement might be from six months to a year, or perhaps it might remain in force until the coming into effect of the general and special Conventions.

If you find the above proposals agreeable, we would be prepared to submit a draft incorporating these provisions. 50

Sincerely yours,

A. H. Feller

46 The contents of the enumerated articles of the general convention may be described in brief as follows: Article IV provided, among other things, for extending full diplomatic privileges and immunities to the principal resident members of Member States and such resident members of their staffs as might be agreed upon between the Secretary General, the United States, and the Member concerned. Amongst officials of the Organization full diplomatic privileges and immunities were extended also to the Secretary-General and the Assistant Secretaries General (Article V). Diplomatic privileges and immunities were extended to lesser officials of the Organization and experts on missions for the Organization only while they were performing their official functions (Articles V and VI).

Article V of the special convention, entitled "Resident Representatives to the United Nations", based on the draft of June 20, read: "Every person accredited to the United Nations by a Member as the principal resident representative of such Member or as a resident representative with the rank of ambassador or minister plenipotentiary, and such resident members of their staffs as may be agreed upon between the Secretary-General, the United States of America and the Government of the Member concerned, shall whether residing inside or outside the zone, be entitled in the territory of the United States to the same privileges and immunities as it accords to diplomatic envoys accredited to it. In the case of Members whose governments are not recognized by the United States of America, such privileges and immunities need be extended to their representatives, or persons on the staffs of such representatives, only within the zone, at their residences and offices outside the zone, in transit between the zone and such residences and offices, and in transit on official business to or from foreign countries."

50 In a letter of September 20 Mr. Fahy responded to Mr. Feller: "In so far as immunities and privileges contemplated by the provisions referred to are not covered by authorization of law, the Department would not be in a position to commit this Government to extend them. However, in specific cases relating to official acts, not covered by existing law, the Department will be pleased in appropriate instances, at the request of the Secretary General of the United Nations, pending the coming into force of the agreements referred to, to commend the request to the sympathetic consideration of the appropriate authorities." (501.AC/9-946)
Memorandum by the Director of the Office of Controls (Lyon) to Joseph A. Parkinson, Deputy to the Assistant Secretary for Administration (Russell)

[WASHINGTON,] September 17, 1946.

[Subject:] Convention on Privileges and Immunities of the United Nations with Particular Reference to Issuance of "Laissez-Passer"—Let Pass

With reference to our conversation this morning, I submit the following as the reactions of PD, VD, and CON to the proposed letters drafted by OA and addressed to Senator McKellar and Representative Rayburn.

I refer to the attached memoranda of Mr. Hiss (SPA) dated September 3–9, 1946 and that of Mrs. Shipley (PD) dated September 10 and other communications.51

I agree heartily with the opinion expressed by Mrs. Shipley in her memorandum relative to the issuance of a laissez-passer by UN. Also, I wonder whether the proposed authority would not create an undesirable precedent. In these days of international organization isn’t it quite possible that we may find ourselves faced with other international organizations desiring to have the same authority; i.e., International Monetary Funds and Bank; the International Labor Office; and possibly the World Federation of Trade Unions? This authority granted by the proposed Convention might well become a rallying point for other international groups to obtain the same privileges.

My ignorance of the operations of the defunct League of Nations doesn’t permit me to state categorically that their experience didn’t lend itself to requesting its member nations to seek such authority. If such a laissez-passer were unnecessary for the officers of that organization, I cannot perceive of the necessity existing today with UN.

With specific reference to the last paragraph of Mr. Hiss’s memorandum of September 3, I admit readily that I lack the imagination to perceive in what manner a reservation concerning the proposed use of authority by the Secretary-General of UN to issue a laissez-passer would defeat the purpose of the provision which is to enable UN officials to travel where, because of “special circumstances” and “unusual situations”, they are not able to obtain passports. “Special circum-

\[51\] The PD memorandum is not found in the files. Mr. Lyon had before him an internal memorandum of the Office of Controls dated September 12 which called attention to the fact that no reservations had been made at London by the United States Delegation with respect to the issuance of laissez-passer by the United Nations, and which urged that “The least the Department can do in submitting the proposed Convention through the Bureau of the Budget to the Senate would be to call specific attention to the ramifications arising from the proposals” (501.AC/9–1246).
stances" and "unusual situations" are apt to be misleading or, at least, difficult to interpret. To the best of my knowledge all member nations have passport issuing authorities, and I don't understand the necessity for the proposed laissez-passer. At least until such a time as the UN is a going concern in a practical sense I see no reason why we should abrogate any of our laws or regulations, particularly when by so doing no real advantage is gained and abuses may arise. I see no reason for superimposing a new travel document issuing authority on the already established and accepted international procedure. Perhaps if PD, VD, and CON were aware of the problem that this proposal is supposed to solve, and understood the "special circumstances" which prove the inadequacy of the existing procedure, we might have no logical reason to advance in opposition to this proposed concession. We do not feel, however, that merely because no reservations were made formally at the time of its original consideration by UN that the proposed convention should be labeled fait accompli.

We believe that the least the Department can do in submitting the proposed Convention, through the Bureau of the Budget to the Senate and the House, would be to call specific attention to the ramifications arising from the proposals.

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TO Files: US/A/M (Chr.)/3

Minutes of the Third Meeting of the United States Delegation, Held at New York, Hotel Pennsylvania, October 18, 1946, 10 a. m.

SECRET

[Here follows list of names of persons (24) present.25]

PERMANENT HEADQUARTERS CONVENTION

Senator Austin introduced Mr. Fahy, who opened the discussion of problems in connection with the establishment of the permanent headquarters of the United Nations in the United States. Mr. Fahy said that there were two problems involved: First, the question of the precise location of the permanent headquarters; and second, the legal arrangements which would be necessary in connection with the location of the headquarters. So far as the legal arrangements are concerned, Mr. Fahy said that an agreement had been negotiated between the United Nations and the United States which was as complete as it was possible to make it without knowledge of the specific whereabouts of the headquarters area. This agreement was a working draft and subject to change by both parties, depending upon the precise loca-

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25 For the composition and structure of the United States Delegation to the Second Part of the First Session of the General Assembly, see pp. 37–42.
tion of the headquarters. He said that the agreement, after completion, would, of course, be referred to Congress for its approval.

Mr. Fahy said that representatives of the States of Connecticut and New York had participated in negotiating the agreement and that when the working draft was completed there was substantial agreement among all parties. Subsequently certain local officials in Westchester County had objected to some provisions of the agreement. Representatives of the State of California have indicated, however, that the agreement is acceptable to them without change. Connecticut representatives also indicated approval of the agreement. Local Westchester objections centered on such matters as the problem of tax reimbursements, options to buy, the supplying of public services, and similar matters. Mr. Fahy said that the United States would want to suggest certain minor changes in the agreement on the basis of comments which have been received from other government agencies. Copies of the draft agreement, during various stages of development, have been sent to the Chairmen and ranking minority members of the Senate and House Committees on Foreign Relations and Foreign Affairs. Representative Bloom said that he had never received a copy.

Mr. Fahy said that the position which the State Department had taken in negotiating the agreement, was that the United States should be generous to the United Nations, making them welcome, giving them the freedom necessary for the accomplishment of their functions, and not to try to restrict their activities by unnecessarily rigid, restrictive provisions in the agreement.

Mr. Fahy pointed out that the advisers hoped it would be possible early in the meeting of the General Assembly to select the permanent headquarters and thereafter, while the General Assembly was still in session, to put the draft working document into a form which could be approved by the General Assembly before its adjourns. The document, with supporting legislation, would then be submitted to the United States Congress.

Representative Bloom asked how long it would take to select the site. Mr. Fahy said that he hoped the selection could be made this session of the General Assembly and that the negotiations regarding the site agreement could be completed this session. He added that it would undoubtedly be several years before actual construction of the headquarters would begin.

**Terms of Reference of Headquarters Commission**

Representative Bloom remarked that the terms of reference of the Headquarters Commission confined its activities to Westchester and Fairfield counties. He asked if the Federal Government was going to take land by condemnation. Mr. Fahy said that the condemnation
question involved the consideration of where the site should be, that is, whether or not the site should be in an area where it might be necessary to condemn land.

Mrs. Roosevelt suggested that the problems would be considerably simplified if publicly owned land could be taken for the permanent headquarters. She suggested that consideration be given to the former Odgen Mills, Vanderbilt and Rogers estates in the vicinity of Hyde Park, and also to the Harriman Section of the Palisades Interstate Park and the Pound Ridge Reservation. She felt that dispossession and tax problems were serious and valid objections which would be obviated by the selection of public lands or private estates.

Mr. Fahy said that the State Department felt it was unfortunate that the terms of reference of the Headquarters Commission were confined to Westchester and Fairfield counties, but that in view of the position of neutrality which had been taken in London on the entire site question, it had not been possible to intervene to broaden the terms. He said that the Department now felt that the terms of reference should be broadened and that the Delegation should take an active part in giving guidance and help where necessary in the selection of the permanent headquarters.

United States Attitude Toward Site Selection

Mr. Dulles said that he felt our trouble on the headquarters matter could be traced to our policy of neutrality, that this policy had given the United Nations the feeling that it could take any place in the United States it wanted for the Headquarters. He said this, of course, was not possible because only the United States Government could take property for the use of the United Nations. Mr. Dulles said that this Government must take the responsibility for telling the United Nations where it would fit in best. He felt that it was necessary for the United States to take an active part and tell the Organization when and where we will be willing to exercise the power of eminent domain.

Mr. Fahy agreed with Mr. Dulles and said that was the position we propose be taken. He said that the advisers proposed that the Headquarters Committee of the General Assembly be asked to create a sub-committee, with United States representation, and to make the terms of reference of the subcommittee broad enough so that the United States Delegation, in its assistance to the committee, would not be confined to the Westchester area.

[Here follows extended discussion of the problem.]

Mr. Ross said he thought it would be useful to have in mind the type of procedure which it was thought advisable for the Delegation to adopt in the Headquarters Committee of the General Assembly on this question. In order to do this he suggested that it may be appropri-
ate to distinguish between the bodies concerned. He referred in this connection to the Headquarters Commission and the Headquarters Committee. The Headquarters Committee was a proposed committee to be composed of representatives of the 51 nations and it was in this committee that the question would be considered in the forthcoming session. The procedure which the advisers have had in mind would avoid a general debate in a plenary session or in the 51 nation committee. He thought that it might be possible to get started on this problem without a long debate and discussion. What the advisers proposed was that as soon as the Headquarters Commission Report was presented to the Headquarters Committee, the Delegation should immediately suggest the creation of a subcommittee composed of representatives from the original member states represented on the Headquarters Commission, plus the United States and two to five additional members. That subcommittee should:

(a) Study between four and six possible locations.
(b) Determine which of the possible locations the subcommittee should recommend back to the Headquarters Committee.

Mr. Ross felt that it will probably be necessary, in view of the work which the Headquarters Commission had done, to consider seriously whether or not it was possible to find a site in Westchester. He pointed out that it must also be remembered that New York City was extremely interested in the possibility of locating the United Nations permanently at Flushing Meadows. There was also, he said, the problem of the intensified interest of Governor Warren and other Californians in the possibility of locating the permanent site in the San Francisco area. Mr. Ross said that he believes the delegation must give full consideration to four to six possible sites and that these sites alone should be used as a basis for discussion.

[Further discussion followed.]

**ATTITUDES OF UN MEMBERS TO SITE LOCATION**

There was brief discussion of the position of the various countries with respect to the location of the United Nations in Europe or in the United States. Reference was made to a circular telegram in which

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55 The Department was very much concerned at this time at what was described by Mr. Nelson Rockefeller as "great bitterness in United Nations circles against New York and Federal Government because of our failure to make available necessary office space in accordance with what they claim to be Federal Government's assurances to all delegations three months ago that space would be provided. . . ." (telegram 4892, October 3, from Paris, (501.BB/10-548)). The Director of the Office of Special Political Affairs (Hiss) had already on October 3 written a memorandum on the subject to the Acting Secretary of State (Acheson) in which he referred to "the international implications of failure of this Government to fulfill its commitment, and . . . the extremely critical situation in New York. . . ." (501.AD/10-346)
the Department of State inquired of American missions abroad the reaction of the various countries to this question.\textsuperscript{54}

The replies indicated a majority of the members favor location in the United States, although it was not clear that all of those favoring some part of the United States would favor any other section as against a site in Europe.

\textit{IO Files: US/A/M (Chr.)/13}

\textit{Minutes of the Thirteenth Meeting of the United States Delegation, Held at New York, Hotel Pennsylvania, November 1, 1946, 9:00 a.m.}

\textbf{TOP SECRET}

[Here follow list of names of persons (32) present and discussion of other items on the agenda.]

\textit{Headquarters Problem}

Mr. Ross reported that on the preceding afternoon the Secretary had sent a message expressing his view that in opening the site question consideration should be limited to the Metropolitan New York area and the San Francisco Bay area.

Senator Austin noted that the press had been begging for a position statement by the United States Delegation. He stated that he proposed to give them a statement that would point out the grief involved in removing people from their home. Emphasizing this, he would urge the expansion of the Committee’s authority and an enlargement of the Commission’s personnel so that examination could be made of other locations around New York. Specifically to be mentioned should be the Flushing and San Francisco sites. He would further advocate that the sites to be considered should be modest in cost. He asked for the Delegation’s views on this proposed statement.

Senator Vandenberg inquired whether it was intended to postpone the decision beyond this session of the Assembly.

Mr. Stokes replied that Senator Austin’s statement should emphasize the importance of speed.

Mr. Bloom said that he thought the press statement should make clear that sites could be examined within one hundred miles of New York City because in that area were a number of parks which would provide free land.

Senator Austin said he thought it perfectly possible to include these areas and had no intention of doing otherwise.

\textsuperscript{54} Telegram to chiefs of mission accredited to governments of Member States of the United Nations, September 19, 9 a.m., not printed.
Mr. Ross agreed that this was the case and said that there were a number of parks within fifty or one hundred miles of New York which should be examined.

Senator Vandenberg pointed out that in the opening of the proposed statement mention was made only of the New York area.

Senator Austin agreed that it would be desirable to leave out the word "metropolitan", and this was agreed to by the Delegation.

Mr. Dulles stated that he understood the essence of the position was that the United States was going to take an active part in the Headquarters Commission's [Committee's] work and join the Headquarters Commission. Mr. Stokes pointed out that the United States suggestion would be submitted as an amendment under Article [item] 15.

Senator Austin polled the Delegation on supporting the enlargement of the agenda item in the sense of his above statement and it was unanimously agreed that this should be done.\(^{55}\)

\(^{55}\) In a United States Delegation press release (\#62) on November 1 Senator Austin announced that the United States Government now planned to "take an active part in assisting the United Nations to reach a final decision on its permanent home at this session of the General Assembly", "in response to what we find to be the desire of other member nations..." With the Report of the Headquarters Commission (United Nations document A/69) in the hands of the Permanent Headquarters Committee on October 31, the U.S. Delegation on November 2 submitted a request to the General Committee that the General Committee recommend to the General Assembly that the item on the agenda of the General Assembly dealing with the selection of a site for the permanent headquarters (item 15) be amended as follows: "Item 15 of the agenda, 'Report of the Headquarters Commission and Appointment of a Planning Commission of Experts (Resolution of 14 February 1946)', is hereby amended to read, 'Report of the Headquarters Commission and consideration of possible alternative sites for permanent headquarters in the New York area and in the San Francisco Bay area which may be available without cost or at reasonable cost; and appointment of a Planning Commission of Experts (Resolution of 14 February 1946)'". In support of this proposal Senator Austin said in part before the General Committee on November 5, "... that, though the United States delegation had formerly believed it should maintain a neutral position on the question, the development of complications and difficulties in the acquisition of a site, and the fact that Congress would probably have to intervene in order to obtain a site, made it impossible for his delegation to stand by as simple observers. "The report of the Headquarters Commission had been limited to two counties in the State of New York. However, the offer of the City of New York to donate the site used at present for the General Assembly also deserved serious consideration, as did the City of San Francisco's offer of a site, up to three square miles in size in the San Francisco Bay area. Those offers accounted for the phrase "without cost or at reasonable cost" in the amendment." (GA/I/2, General Committee, p. 84)

For the debate in the General Committee on this U.S. proposal, see ibid., pp. 84–86.

A decision was made on November 7 in a meeting of the executive and political officers of the U.S. delegation that this proposal should be vigorously pushed in the General Assembly plenary debate (10 Files, document US/A/M/8).

The General Assembly adopted the proposal on November 9 with a United Kingdom amendment that widened the area under consideration to include "other parts of the United States of America" besides the New York and San Francisco areas, the United States being in stated opposition to the United Kingdom amendment (GA/I/2, Plenary, pp. 944–952).

Concurrently, the United States (Senator Austin) had on November 7 proposed
Senator Austin to the Acting Secretary of State (Acheson)

CONFIDENTIAL

New York, November 25, 1946—7 p.m.

US URGENT  [Received 7:23 p.m.]

854. Report from US representative on committee inspecting alternative sites for permanent headquarters of UN indicates that committee feels Presidio is best possible site in San Francisco area. Many members of committee feel Presidio is best possible site in US.

Following meeting of committee in San Francisco Sunday morning at which Presidio was fully discussed, the chairman, Zuleta Angel of Colombia, made formal request in name of committee to US representative to ascertain if at all possible before November 30 whether Federal Government is prepared to offer the Presidio. I should greatly appreciate it, therefore, if you would take this matter up with the Secretary of War and the President also if you deem it advisable.

I consider it very important that we make this offer. As you know I have taken a very strong stand in support of keeping the permanent headquarters in the US and of reaching a definitive decision on a specific site at this session of Assembly. In view of our strong position on these points and our policy of active participation in this matter, I feel that the Federal Government should be no less generous than the many American communities and individuals who have made very generous offers of large and valuable tracts of land.

An offer of the Presidio, whether or not the Assembly finally decides to accept it, would also help dispel for once and all the still lingering criticism that the Federal Government has not done all in its power to assist the United Nations in getting settled in the US despite our protestations in favor of keeping the permanent headquarters here. It would also help avert any last move by Russian bloc, in light of Stadnik affair, for example, to establish headquarters in Europe rather than in US.

in the Headquarters Committee the establishment of a sub-committee which would, first, consider the Report of the Headquarters Commission, and, secondly, after appropriate action by the General Assembly, then proceed to a consideration of alternative sites in the New York and San Francisco Bay areas (United Nations, Official Records of the General Assembly, First Session, Second Part, Permanent Headquarters Committee, p. 107; hereafter cited as GA(1/2), Headquarters Committee). After debate on November 7, 11, 13 and 14 the Committee on November 14 adopted the U.S. resolution as amended by a United Kingdom proposal to include specifically the Boston and Philadelphia areas in the sites to be investigated (GA(1/2), Headquarters Committee, pp. 107–119); for text of the amended resolution, see ibid., pp. 170 and 171, annex 5.

The Presidio of San Francisco, an United States Government military reservation immediately adjacent to the city of San Francisco, California, and overlooking the entrance to San Francisco harbor (the Golden Gate) and the Pacific Ocean, with an area of about 2½ square miles.

This refers to the wounding by gun-fire of one of the Ukrainian delegates who happened to be present in a New York City delicatessen store at the time of an armed robbery.
Such an offer would also be consistent with the views expressed by the President and the Secretary [of] State when we discussed this matter in White House as to desirability of making public lands available to UN.

I understand that Charles Fahy has had a study made indicating it would be possible legally to make the Presidio available.58

AUSTIN

58 A typewritten notation at the end of the telegram indicated that the text of the telegram had been transmitted to President Truman and the Secretary of War (Patterson).


Subject: Permanent Headquarters

SUMMARY OF PRESENT SITUATION

The Subcommittee of the Committee on Headquarters is expected to complete its inspection of sites on Saturday, November 30, and to meet on Monday, December 2, or the following day to consider its recommendations to the full Committee as to the site or sites which it deems best. As far as I have been able to sense the feelings of the Subcommittee, the prevailing opinion in the Subcommittee is as follows:

(1) The best site, considering local conditions only and without reference to distance from Europe, is the Presidio in San Francisco.
(2) The next best site is the Belmont Plateau and nearby lands offered as a gift by the City of Philadelphia and the Commonwealth of Pennsylvania.
(3) There are attractive sites in the neighborhood of New York, but they are expensive, not immediately adjacent to the City and the local opposition has created serious complications. No one seems to like the Flushing Meadows site which is offered as a gift by New York City.
(4) The sites offered in the neighborhood of Boston are not very suitable for building purposes.
(5) Most of the members of the Subcommittee would rather live in New York or Boston than in Philadelphia, but the beauty and convenience of the site offered in Philadelphia and the generous and clear-cut nature of the offer outweigh this factor.
(6) Our best information is that out of the 54 Member Nations 16 favor San Francisco, 15 favor the East Coast and the remaining 22 either have not decided or do not particularly care and would follow the lead of the United States. Of those favoring the East Coast six would follow our lead in either event. In all probability the site selected will be whichever one the United States favors. If this result is to be achieved, however, it is important that the United States position be made known before a vote is taken in the Subcommittee.
[Here follows a description in some detail of each of the sites examined by the subcommittee with a discussion of the respective merits and draw-backs of each location. 59]

501.AD/11-2946

Memorandum by the Attorney-General (Clark) to President Truman

CONFIDENTIAL

[WASHINGTON,] November 29, 1946.

You have requested my informal views regarding the proposal to transfer to the United Nations the army reservation known as The Presidio of San Francisco, for use as a permanent headquarters by the United Nations.

The Presidio is located on San Francisco Bay in the City and County of San Francisco, embracing some 1,400 acres. The original reservation was set apart from the public domain by Executive order dated November 6, 1850, and the United States has exclusive jurisdiction over it.

The Constitution provides in Article IV, Section 3, that “the Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States. . . . This provision has been uniformly interpreted as giving the Congress plenary and exclusive power over the disposition of the real property of the United States. 22 Op. A.G. 546: 14 Peters 598.

There is no general statute authorizing the sale or other disposition of army reservations of the character of The Presidio. It has been suggested, however, that sufficient statutory authority in the present situation may be found in the Surplus Property Act of 1944, and that any army post “which has been determined to be surplus to the needs and responsibilities” of the War Department can be disposed of as surplus property. But even if The Presidio, as a matter of law, is subject to disposal under the Surplus Property Act, a question concerning which I have some doubt, the problem still remains of determining whether or not it is in fact surplus. Whether or not such a determination can properly be made is, of course, primarily the responsibility of the Secretary of War. I should assume, however, that additional facilities would have to be established, and appropriated for, to replace The Presidio (which is the site of the Letterman General Hospital) in the

59 For the report of the Sub-Committee (which became known as Sub-Committee I), see GA (1/2), Headquarters Committee, pp. 171-206, annex 7. The recommendations, followed by lengthy appendices, read: “On the basis of the data set forth above, the Sub-Committee considers itself in a position to recommend to the Committee one of the following sites: in the first instance, the site of Belmont-Roxborough, Philadelphia, and the site of the Presidio, San Francisco, these two sites being regarded as of equal merit; in the second instance, the White Plains site, in Westchester County, New York.

“The views of certain members of the Sub-Committee are attached as annexes.” (Ibid., p. 188)
event that it is given up by the Army. This would, of course, be a
matter to be passed upon ultimately by the Congress.

Without indicating any final view as to the applicability of the
Surplus Property Act to the present circumstances, I should like to
point out that the entire problem of providing a site for the United
Nations will no doubt at some stage have to be considered and imple-
mented by the Congress: If the Congress should not agree with the
proposed transfer of The Presidio, it would be within its power to
render the transaction largely nugatory, as by imposing conditions
upon appropriations made for the benefit of the United Nations. I
would suggest, therefore, that the transfer be made contingent upon
approval by the Congress. Perhaps it would be possible to obtain the
informal consent of congressional leaders, thus enabling you to an-
nounce that there was no doubt in your mind that the transfer would
promptly be completed by joint action of the Executive and the
Congress.

I am taking the liberty of sending a copy of this memorandum to
the acting Secretary of State.

Respectfully,

TOM C. CLARK

501.AD/12-246

Memorandum of Telephone Conversation, by the Director of the Office
of Special Political Affairs (Hiss)

[WASHING TO N,] December 2, 1946.

Subject: Availability of the Presidio Site as United Nations
Headquarters

Participants: Under Secretary Acheson
Senator Austin

At 1:00 p. m. on Saturday, November 30, Mr. Acheson called Sen-
ator Austin by telephone and said that he was calling about the above
matter which the Senator had raised with Mr. Acheson on
Thanksgiving Day.

Mr. Acheson said that the matter had been discussed at the Cabinet
meeting and the President had decided that he would do all in his
power to make the Presidio available to the United Nations if they
should desire to select it for the site of their permanent headquarters.
Mr. Acheson went on to point out that there are legal difficulties in-
volved and that these had been discussed at the Cabinet meeting. In
order to make the site available by executive action it would have to
be declared surplus. The site is probably not surplus as the Army
would have to replace it with other quarters. The Attorney General is,
therefore, inclined to the view that Congressional approval will be
necessary and the President is planning to talk to leaders of Congress about the matter.

Mr. Acheson said that he believed in the light of the President’s decision, he is authorized to say that the President will use his best efforts and that the matter will probably require Congressional approval which the President believes will be forthcoming. The President would like to have us reserve the potential rights of Congress in this matter in connection with anything we may say. He, of course, does not wish to do anything he does not have clear authority to do. The President did not decide whether the site should be made available as a gift to the United Nations or by way of sale to the United Nations. He felt that the important immediate question was merely that of making it available to the United Nations. Mr. Acheson said that his own personal preference would be not to be in the position of trying to sell the United Nations anything.60

Mr. Acheson went on to say that at the next stage of consideration of this matter by the Assembly, i.e., after the report of the Sub-committee which has inspected various sites, it may be wise for us not to express any preference as between the Presidio and Philadelphia. But this, Mr. Acheson said, is a matter which is up to Senator Austin.

(Mr. Acheson authorized Mr. Hiss to forward to Senator Austin for the latter’s personal use a copy of the informal tentative memorandum given by the Attorney General to the President on the above subject.) 61

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60In a record made of the same telephone conversation at the Delegation headquarters in New York City on the same date the memorandum read at this point: “Mr. Acheson said that they had not reached any very clear-cut decision in the Cabinet yesterday in the matter whether The Presidio should be made available on a gift or sale basis. He said he had argued strongly in favor of an outright gift and he thought the other members of the Cabinet inclined equally to this view.” (IO Files, document US/A/Site/7)

61At a meeting of United States Delegation on December 3 Senator Austin reported that he had informed the Headquarters Sub-Committee on December 2 of the availability of The Presidio, carefully reserving the powers of the United States Congress in the matter (IO Files, Minutes of the 33rd Meeting of the Delegation, December 3, document US/A/M. (Chr.)/81) (the record of Senator Austin’s statement to the Sub-Committee is found in the Sub-Committee’s report, GA (1/2), Headquarters Committee, p. 174, annex 7).

On the same day (December 2) Senator Austin had made the United States position with respect to The Presidio a matter of public record in a morning press statement (U.S. Delegation Press Release No. 88) followed by an afternoon press statement in clarification of the earlier one (U.S. Delegation Press Release No. 90). In the first press release Senator Austin stated in pertinent part “that I am able to report that the Executive Branch of the Government of the United States would do everything in its power in cooperation with the Congress to make the Presidio available to the United Nations”; he went on to emphasize the constitutional position of the Congress in the matter (IO Files, United States Delegation Press Releases (1946), No. 88). Senator Austin in his second statement emphasized that the purport of the first statement constituted a “commitment and it represents an international act between the United States and the United Nations . . . . I am not going to try to commit the Congress in advance, but it would be a rather surprising situation if the Congress should undertake to repudiate a position taken by the Chief Executive in an international matter of the highest importance as this”. (IO Files, United States Delegation Press Releases (1946), No. 90)
Memorandum of Telephone Conversation, by the Acting Secretary of State

[WASHINGTON,] December 6, 1946.

Subject: Permanent Site for the United Nations

In connection with a telephone conversation which I had with Senator Austin this morning and which is reported in a separate memorandum, I telephoned him as follows:

I said that we had talked over in Cabinet meeting the question of what stand he should take on the United Nations headquarters site. The President and the Cabinet agreed that they would like to have him do everything that he could not to take a position between the East and the West, as they believed that it would be very much easier to get Congressional approval of whichever decision is made if we can maintain to the end a position of neutrality. It was also suggested that Senator Austin might make a speech which would point out why we wish our guests to make up their minds, that we think both of these sites are excellent and that we will be happy with either one and will do everything we can to try to carry out the decision. Senator Austin might further say that we think people should not yield in the heat of debate to the temptation to make extreme statements and that everyone should try to get together and go along with whatever decision is voted.

The President said that he did not think the Senator's vote ought in any way to be influenced by the threats of the Russians.

In a memorandum on the earlier conversation Mr. Acheson reported that Senator Austin "referred to the instructions from the President previously transmitted to him by me that on the question of the headquarters site he should not urge any particular site over another but should follow the trend of the debate and vote with the majority. He said that he was now in a difficult position because as the debate had proceeded [the Permanent Headquarters Committee began its consideration of the Sub-Committee's report on December 4] and the views of the other members of the Committee were expressed it appeared there was no definite trend toward either site and the vote would probably be close to a tie. He would therefore like to know before three o'clock this afternoon what the President wished him to do in this situation, which he pointed out was further complicated by the Russian statement in opposition to San Francisco". (Memorandum of Telephone Conversation, December 6, 501 AD/12-646). The position of the Soviet Union and the Ukrainian SSR on this subject may be traced in the official records of the General Committee, the Permanent Headquarters Committee and the General Assembly. These states seemed to be seriously interested in shifting the temporary and/or permanent headquarters of the Organization to Europe, one or the other having made specific proposals or strong statements to such effect (United Nations, Official Records of the General Assembly, First Session, Second Part, P6enary Meetings [hereafter referred to as GA(1/2), Plenary], pp. 945 and 946.
The President’s advice to Senator Austin was that, if he absolutely had to make a public announcement of his decision, he thought that we should be governed by the attitude of those nations which are most important to the success of the United Nations. He thought that if these nations were taken reluctantly and grudgingly to a site which they did not favor, the result would be unhappy. The President thought that this method of arriving at a decision would probably lead to Philadelphia, as he thought that city was the one favored by the most important countries.

Senator Austin agreed that if he followed this method Philadelphia would be the site he must favor. He said that France was the only one of the European countries which favored San Francisco. China and practically all the Latin American countries and the countries of the Pacific are in favor of San Francisco. New Zealand is an exception to this last statement. Their view in favor of Philadelphia is based on their belief that there is a moral obligation to stay on the East Coast, which the United States [Nations?] assumed when the decision to have the headquarters in the United States was made.

Senator Austin expressed himself as quite certain that he could not put off any longer the announcement of his decision for one site or the other. He said that if he made the announcement he intended to justify his position by a strong statement of the reasons why he was doing so.63

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63 For Senator Austin’s statement to the Permanent Headquarters Committee on December 6, favoring an East Coast site, see GA(1/2), Headquarters Committee, pp. 135–137. In part it said:

"In view of the pressure brought from all quarters, including other delegations and some officials of the United Nations . . . the time had come when a statement of the United States’ position could not longer be postponed. Such a statement was particularly needed on account of the incorrect impression which had become current after the United States declaration that the highly valuable Presidio site could be made available if it was desired as the headquarters of the Organization.

"The representative of the United States of America wished to announce that this Government was not in favour of placing the headquarters on the Pacific coast; it was in favour of situating it on or near the country’s Atlantic seaboard . . . that selection . . . had been made solely on the basis of the best interests of the United Nations. His Government had come to the conclusion that the headquarters of the Organization should not be far removed from Europe, which would be the centre of most of the activities of the Organization. In addition, the capital of the United Nations should be easily accessible from the capitals of most of the Member States. He hoped that the Secretary-General would explain to the Committee how the selection of a west coast site would involve additional burdens of transportation and communication . . . the United States would accept the decision of the majority without rancour." (GA(1/2), Headquarters Committee, pp. 136 and 137)

For the continuing debate on the Report of the Sub-Committee on December 9, see ibid., pp. 141–148. For a resolution offered on that date by the United States that “consideration of the question of which particular site in the United States shall be the permanent headquarters of the United Nations be postponed to the next annual session of the General Assembly. . . .”, see ibid., p. 206, annex 8.
Memorandum Prepared in the Department of State

[WASHINGTON,] December 10, 1946.

Basic Points of Memorandum to Dr. Zuleta Angel From
John D. Rockefeller, Jr.

This memorandum sets forth the terms and conditions of the offer made by me in my letter of December 10.

I have acquired a firm offer from Webb & Knapp to sell to the United Nations within thirty days after December 10, 1946, at $8,500,000 the following property:

Between 1st Avenue and Franklin D. Roosevelt Drive:

(1) the western portion of the block between 42nd and 43rd Streets
(2) the four blocks between 47th and 43rd Streets
(3) two small portions in the block between 47th and 48th Streets.

In addition, the representatives of the City of New York have assured me of their desire and willingness of the City to acquire and give to the United Nations the balance of the block between 47th and 48th Streets.

To make possible the acquisition of this property by the United Nations, should they decide to accept said offer, and to make it the site of the headquarters of the United Nations, I hereby offer to give to the United Nations $8,500,000 on the following conditions:

(a) that the gift shall be made at the time of the closing of the purchase of said property.
(b) that the City of New York should agree to give to the United Nations 43rd, 44th, 45th, 46th, and 47th Streets between First Avenue and Franklin D. Roosevelt Drive upon terms which shall permit the United Nations to close any or all of these blocks to all passage and otherwise to use them for its own purposes without restrictions or limitations.
(c) that the City of New York shall agree to acquire and give absolutely to the United Nations the balance of the block bounded by First Avenue, 47th and 48th Streets, and Franklin D. Roosevelt Drive not covered by the firm offer of Webb and Knapp.
(d) that the City of New York give to the United Nations all rights to bulkheads and piers along the river frontage of the East River between 42nd and 48th Streets.
(e) that each of the said agreements of the City of New York shall have been concluded in a form satisfactory to the parties in interest at or prior to the time of the making of my said gift.
(f) to make a satisfactory assurance to my attorney that the said gift will be free of all taxes of the United States and the City of New
York or any other tax authority having jurisdiction with respect thereto.  

501.AC/12-2746

Memorandum by the Director of the Office of Special Political Affairs (Hiss)  

[WASHINGTON,] December 27, 1946.

EXEMPTION OF U.S. CITIZENS FROM NATIONAL SERVICE OBLIGATIONS UNDER THE CONVENTION ON PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

THE PROBLEM

Section 18(c) of the proposed Convention on Privileges and Immunities of the United Nations provides:

“Officials of the United Nations shall . . . (c) be immune from national service obligations.”

When the Convention was approved and opened for ratification by the General Assembly on February 13, 1946, the United States Delegation reserved its position on this point in so far as it applies to United States nationals on the ground that the question is properly for Congressional determination. (31st Plenary Meeting, General Assembly Journal No. 31, February 14, 1946, p. 574). In the eleventh meeting of Committee 6 on February 7, 1946, the Ukrainian delegate made the same reservation and called attention to similar reservations by the U.S.S.R. and Byelorussia in the subcommittee which drafted the Convention.

It is anticipated that the Convention will shortly be submitted to the

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56 Marginal notation: “Transcribed from broadcast, not verbatim.” For text of this memorandum together with covering letter from Mr. Rockefeller to Dr. Zuleta Angel, both dated December 10, see GA (1/2), Headquarters Committee, pp. 207 and 208, annex 9. For the consideration of this offer by the Permanent Headquarters Committee on December 11, its appointment of Sub-Committee 2 to study the Manhattan East River site, the report of Sub-Committee 2, Senator Austin’s statement before the Permanent Headquarters Committee on December 12 offering a resolution to accept the Rockefeller gift, and subsequent debate and passage of the United States resolution with a minor amendment in the Committee, see Ibid., pp. 149-152, pp. 208-212 (annex 10), pp. 153-156 and 156-163, respectively. The Report of the Permanent Headquarters Committee recommending the Manhattan site is found in GA (1/2), Plenary, pp. 1564 and 1565, annex 79. For consideration of the Report by the General Assembly in plenary session on December 14 and adoption of the resolution accepting the Rockefeller gift, see Ibid., pp. 1370-1375; text of the resolution is in GA (1/2), Resolutions, p. 196.
57 Addressed to Senator Austin and the Legal Adviser (Fahy).
58 See footnote 28, p. 74.
Congress for approval prior to ratification. In the letter of transmittal,\textsuperscript{67} the Department of State takes no position as to whether the reservation should be made definitive, but calls attention to the preliminary reservation referred to above, and states that the Department will express its views on the subject if requested to do so.

The United Kingdom, which was the strongest advocate of exemption from military service, is the only state officially known to have ratified the Convention. This action is understood to have been without reservation.

RECOMMENDATION

1. If called upon to state its position, the Department should oppose the exemption of U.S. nationals from military service, and should favor a reservation as to Section 18(c).

2. At the same time, it would be appropriate if the Department representative were to point out that the opposite point of view which is apparently shared by the great majority of the United Nations, is thus left without a spokesman unless he himself should state the argument, or unless the Committee should request the attendance for this purpose of a representative of the United Nations. If asked to present the argument, he might appropriately place in the record the statement made in support of the proposition at the Plenary Meeting when the matter was discussed. (Statement attached hereto as annex.\textsuperscript{68})

DISCUSSION

The principal argument in support of the exemption from national service obligations is that the existence of such obligations with respect to employees of the Organization is incompatible with the idea of a truly international civil service. (See annexed statement.)

SPA is inclined to feel on the other hand that the question of principle does not really arise in this way. The United Nations does not have the type of international status on which this point of view would have to be predicated. Taking this into account, we do not feel that the needs of the United Nations in this respect are such as to outweigh the responsibilities of citizens to perform military service, which is, in an important respect, the highest and most far-reaching obligation in citizenship.

Since small numbers of men would be involved in any case, we do not feel that the decision should be influenced by considerations of hardship either to the United Nations or to the national defense requirements of this Government.

\textsuperscript{67}This might more appropriately read: “In the draft letter of transmittal...”; see footnote 47, p. 98.

\textsuperscript{68}Not printed here. For extract from the remarks of Sir Hartley Shawcross (United Kingdom) to the General Assembly on February 13, see GA(I/1), Plenary, pp. 453-454.