

A Communication

The UN Abused

Sirs:

The cover of the February 13 issue of *The New Republic* advertises a piece entitled "The UN Abused," attributed to "The Editors." There is hardly a single paragraph in the editorial which does not contain one or more errors of fact. Some examples:

1. "Ever since 1951, when the Soviet delegate inexplicably stayed away from the Security Council debate on Korea. . . ."

The year was 1950. Staying away was quite explicable. The Soviet delegate walked out of the Security Council in January 1950, and said that he would not come back until Communist China was occupying China's seat in the Security Council.

2. "They [USSR] vetoed the Middle East force in the fall of 1956. . . ."

It wasn't the Russians, it was the British and French; the Security Council did not propose to set up the United Nations Emergency Force. The idea for UNEF was introduced by Pearson when the General Assembly became seized of the Suez problem. The Soviets abstained on the vote setting up UNEF, thus, in effect, acquiescing.

3. ". . . after the murder of Lumumba they [USSR] vetoed any further Council action. . . ."

Lumumba was ousted in September 1960 and died by violence in February 1961. The Soviets openly turned against the Congo operation at the GA special emergency sessions in September 1960. The USSR vetoed no Security Council actions thereafter. The Security Council adopted resolutions on the Congo, in each case strengthening the mandate: on Feb. 21, 1961 the USSR abstained, on November 24 the USSR voted Yes.

4. "But the Soviets have been able to bring the UN to a grinding halt only because the United States raised first in the General Assembly, then before the World Court and finally in the Assembly again, the legal issue of collective responsibility under Article 19 of the Charter for financing all peacekeeping acts of the General Assembly."



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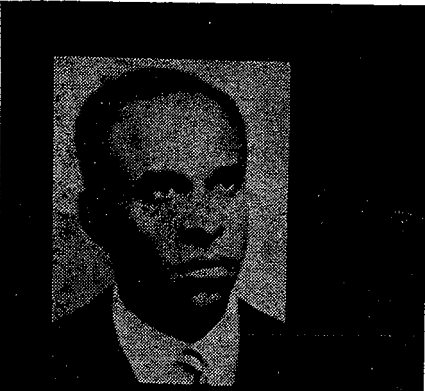
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Seldom has so much misinformation been packed into a single sentence. *First*, the US was not alone in the General Assembly on the issue of collective responsibility for peacekeeping. *Second*, it was the UN General Assembly which asked the International Court of Justice for an advisory opinion. *Third*, the question put to the Court was limited to the issue of whether the costs of the Congo operation and the Middle East operation "were expenses of the Organization" within the meaning of Article 17 (not Article 19!). *Fourth*, it was not a question of financing "all peacekeeping actions of the General Assembly" which was put to the Court, only the United Nations Emergency Force in the Middle East. The Congo operation was not authorized by the General Assembly but by the Security Council.

5. "The Russians (and the French) responded by asserting against the opinion of the World Court that such acts of the Assembly are 'illegal' because only the Security Council has the right to initiate them."

This is all right as far as it goes but it does not go far enough. The Russians maintain that the Security Council alone has the right to initiate, control and direct all phases of peacekeeping operations, and including authorization, composition of forces and financing.

6. "Ever since 1962, the State Department has been spoiling for a showdown; and now it is wildly hunting for ways to avoid one."

The Department did not raise the arrears issue during the many years that defaulters fell behind. Only when it appeared that Article 19 would come into play we pointed out that the Charter must be upheld. Failure to do so would obviate an important provision of the Charter and undermine the GA's assessment authority. We never wanted a confrontation or showdown. Beginning in March 1964 we sought talks with the USSR to reach a solution consistent with the Charter that would avoid a confrontation. The Department agreed to the "no-vote" procedure in late 1964, in response to widespread sentiment that an attempt be made to work out the current difficulties without having to go through a "showdown."

7. "It all started with the UN bond issue, initiated in 1962 by the United States. . . ."

The UN Bond issue was authorized by the UN General Assembly in 1961.

8. ". . . the fact that the US had been paying voluntarily 60 percent or more of the costs . . ." [of the Congo operation].

It wasn't 60; it was less than 50. It wasn't "voluntarily"; it was a combination of assessments and voluntary contributions.

9. "As an earnest of its intent, State initiated an action before the World Court asking for an advisory opinion."

The advisory opinion proceeding was initiated by the General Assembly in 1961 in a resolution which asked for that opinion.

10. The Court ruled that the Middle East and the Congo operations "were legal and assessments legally binding under Article 19."

The Court's opinion did not reach Article 19, only Article 17.

11. "Then, at the *urging* [emphasis supplied] of the State Department, both Houses of Congress passed a resolution last August unanimously urging that financially delinquent members of the UN be subject to the penalty provisions of Article 19 and lose their votes in the Assembly."

It was only after the resolution was started on its way through the Congressional mill that the State Department was asked for its opinion. Secretary Rusk, in response to a request of the House Committee on Foreign Affairs, said that he thought such a Congressional resolution would be helpful.

12. The General Assembly resolution, in reference to the ICJ's advisory opinion did not "endorse" it. The resolution "accepted" the ICJ's opinion.

13. ". . . the effectiveness of the world organization stems from its usefulness as a seat of negotiation, not a seat of legislation."

This is too narrow a view of the work of the General Assembly even if one concedes that, as a matter of fact, General Assembly resolutions — except for some organizational actions and financing resolutions adopted under Article 17 — do not have the force of law and cannot bind a member to any particular course of action. Under Assembly authority, and similar actions by the

comparable legislatures of other UN agencies, the UN system is spending \$500,000,000 this year. That's a pretty big "seat of negotiation."

14. "Moreover, Western notions of the 'rule of law' are unacceptable to a majority of member states."

When a nation joins the UN it agrees to abide by the letter of the Charter, and the principles set forth therein, and to abide by the rules of procedure of the various parts of the UN structure. Fortunately the noise against the "rule of law" greatly exceeds the actions of nations against it.

15. "...nobody seriously contends that the Department, much less the Congress, would accept as binding on America an assessment of the General Assembly for a peacekeeping venture, or any other kind of venture, authority for which was adopted over US objection."

The possibility of our doing this is a clear consequence of our having ratified the Charter 20 years ago. But this is

not the point at issue. The Russians did vote *in favor* of the UN Congo operation. (The French voted for or abstained on all Congo resolutions). They changed their minds a long while later and then decided to engage in some *ex post facto* objections. On UNEF resolutions, the Russians abstained and the French either abstained or voted in favor.

16. "One only need envision, for example, a new UN peacekeeping operation in the Congo which sought to replace Tshombe by Gbenye... In effect, the State Department has been trying to enforce on Russia and France a principle which it would never allow to be enforced against the US."

The example cited indicates that the author does not understand the nature of the "principle" which is here involved. The UN would have no authority to replace Tshombe by Gbenye, since this would constitute unlawful intervention in matters within a member's domestic jurisdiction. UN peace-

keeping operations may only be undertaken when there is a threat to (or breach of) international peace.

Moreover, the United States is *not* asserting the right of the General Assembly to initiate enforcement action (where member states are obliged to contribute armed forces which may be used against other member states). There is general agreement, shared by the Soviet Union and ourselves, that the Security Council has a monopoly on such operations and that the United Nations cannot undertake them in the face of a great power veto. But the peacekeeping forces in the Middle East and the Congo were contributed on a voluntary basis and were placed on the territory of member states with their consent. The United States—and most other United Nations members—believe that the General Assembly has the right to initiate such voluntary operations when the Security Council is unable to act, and that it also has the right to assess the members to pay for

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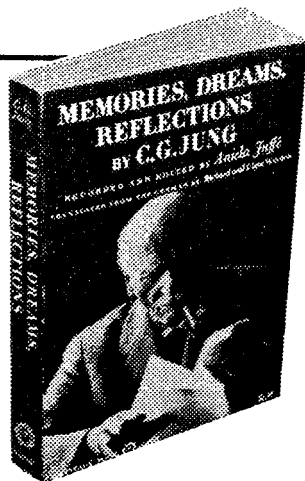
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them. The point is that the United States has been prepared to take whatever risk is inherent in the principle that *voluntary* peacekeeping operations may be initiated and financed by the General Assembly under Article 17 because we recognize a long-term interest in developing this means of containing violence in the nuclear age. As a matter of fact, the Congo and UNEF operations were initiated with the concurrence of the overwhelming majority of UN members—including the large and middle powers who bear the heaviest responsibilities for supporting such operations. Long before the Article 19 issue reached a point of crisis the United States put forward a proposal for a Peacekeeping Finance Committee of the General Assembly to insure that this would also be true of peacekeeping operations in the future.

17. "The UN 'umbrella' over US intervention in Korea..."

The UN Security Council's original resolution on Korea called upon the UN members to help the Republic of Korea resist the aggression. The resolution was in the Security Council works when the order was given to the US forces to go to the rescue. Inasmuch as some 15 other nations provided combatant forces, inasmuch as the Korean operation was under a UN command, the use of the phrase "umbrella over US intervention" hardly falls in the zone of fair comment by a responsible journal.

18. "The Assembly authorized the Gaza strip force after Russia vetoed the proposal in the Security Council..."

As noted earlier, it wasn't the Russians, it was the British and the French. And they didn't veto the Force but a resolution calling on the invaders of Suez to withdraw.

19. "What the Assembly patently cannot do, all legal arguments notwithstanding, is to make members pay for or participate in such operation if they want to opt out."

There never was any question about whether the Assembly could make UN members "participate in" peacekeeping operations. Never has either the Security Council or the Assembly ordered any member to participate in peacekeeping. All armed forces furnished to the UN have been furnished on a vol-

untary basis.

It is true that the General Assembly cannot make members pay for something they don't want to pay for. It has no power to garnishee salaries or put a legal arm-lock on national assets. But the GA can invoke the sanction provided in the Charter against those who refuse to pay their assessments. That sanction is "shall have no vote" provision of Article 19.

20. "... such a committee or staff ought to be ready to administer future peacekeeping operations even before they are demanded by member governments, rather than after."

There is more than the usual amount of confusion here. Nothing can be administered until it has been asked for, and authorized by the appropriate UN body. Furthermore, there is a difference between directing, supplying, controlling a peacekeeping operation (the usual meaning of the word "administer")—on the one hand—and making arrangements to finance such operations, on the other. The US proposal of September 14 had to do with financing.

21. "Both Russia and the UN have indicated a willingness to make such contributions once the Article 19 dispute is shelved."

How did the "UN" get into this act? If, perhaps the editors mean "US," then the statement is not accurate. Our position has been that voluntary contributions of adequate size must be made in order that Article 19 will no longer be applicable, not that contributions should be made after Article 19 is set aside.

22. "A fixed charge would remain in the UN budget for servicing outstanding bonds."

This is a nice thought, but the Russians are now refusing to pay that part of the "regular assessments" which goes to pay off principal and interest on the UN bonds. So we are right back where we started from: with two different rules—one rule for most of the members, and another one for the Russians. I hope the editors of *The New Republic* are not prepared to stand still for so double a standard; we certainly are not.

Harlan Cleveland

Assistant Secretary of State

for International Organization Affairs

In reply:

We are pleased to have Secretary Cleveland's comments and to pass them on to our readers. We remain of the opinion that the State Department has in effect tried to impose a principle on the Russians and the French which, in other circumstances, the US would not itself tolerate. As Senator Aiken put it the other day, "The Department was so concerned with rubbing the Russian and French noses into the legal interpretation of Article 19... that the Department was not able even to contemplate the discomfort of having the shoe on the other foot." It is this sort of action that abuses the UN.

Mr. Cleveland says that the Department wanted to establish "the principle that *voluntary* peacekeeping operations may be initiated and financed by the General Assembly. . . ." Then why didn't it do so? Once the question of compulsory assessments was raised, the question of *involuntary* participation had to be raised with it. If the Department did not wish to raise the question of compulsory assessments, why did it take the initiative, first in

the Assembly, then before the World Court and finally in the Assembly again, to establish the position that the costs of UNEF and UNOC (both were considered by the Court) were legal obligations of the UN membership *as a whole*. If this elaborate legal groundwork was not designed to pave the way, if necessary, for the Assembly to deprive Russia and France of their votes under Article 19, then what was it all about?


Mr. Cleveland takes us to task for "errors of fact," but nowhere does he illuminate the significance of these alleged errors. His comments further convince us that the useful "rules" of the UN game are first and foremost the product of careful and continuing political negotiation, not of legal hairsplitting. The UN would quickly lose its vital if necessarily limited effectiveness if serious attempts to impose a "rule of law" were made in an arena where law can do no more than give form to diplomatic agreements. For this reason alone it is lucky that a showdown in the Assembly between Russia and the US over the dues issue has not

yet come about - whether the State Department has sought one or not.

Mr. Cleveland is correct. The Russians did not veto Security Council action in the Middle East in 1956. The French and British vetoed a Russian text which in effect branded them as aggressors. Our point was that "the Soviets have done their best to weaken the UN as an effective police force," and the point stands. The French, on the other hand, have met their share of the costs of UNEF through making voluntary contributions.

On one matter we are apparently agreed: the UN should have some continuing committee to consider the financing of peacekeeping operations at the time they arise, not afterwards. It was our further thought that the UN bond issue might be refinanced to permit the building up of a small fund for future contingencies, on a voluntary basis, of course. Far from suggesting a dual standard, we meant to suggest a voluntary standard - one which all UN members, the United States included, could accept.

THE EDITORS



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