

V. PROBLEMS CONCERNING THE FORM AND ORGANIZATION OF THE UNITED NATIONS

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(a) The Question of the Veto

82. At the San Francisco Conference and since that time the problem of voting procedure in the Security Council has been one of the most controversial issues in the United Nations. This debate has arisen from the wording of Article 27 of the Charter which states that "decisions of the Security Council on procedural matters shall be made by an affirmative vote of any seven members". Decisions on all other matters shall be made by an affirmative vote of any seven members, including the concurring votes of the five permanent members - provided that, in decisions under Chapter VI of the Charter, a party to a dispute shall abstain from voting.

83. The Charter contains few clear indications as to what matters shall be considered procedural and what matters shall not be so considered. In other words, there is no clear delineation as to which matters shall be subject to the veto (or the unanimity of the permanent members, as it is sometimes called) and which matters shall be decided by the vote of any seven members of the Council. At the San Francisco Conference the smaller powers submitted a large number of questions to the four sponsoring powers at that Conference (China, the United Kingdom, the United States and the Soviet Union). These questions were aimed at a clarification of the vagueness so evident in the portion of the draft Charter which dealt with voting procedure in the Security Council. On June 7, 1945, the four sponsoring powers issued a joint Statement in reply, and this Statement was immediately agreed to by France. In the Statement, these Governments pledged that: "It is not to be assumed, however, that the permanent members, any more than the non-permanent members, would use their 'veto' power wilfully to obstruct the operation of the Council". (This reference to the veto power of the non-permanent members arises from the fact that it would be possible for any five of the six non-permanent members voting together to block almost any action by the Security Council). It was on this assurance that the smaller powers reluctantly accepted the formula on voting procedure in the Security Council now contained in Article 27 of the Charter.

84. The last paragraph of this joint Statement at San Francisco contains a clause which has provoked some of the most bitter discussion in the United Nations. Because the Charter is not clear as to what subjects are to be considered procedural and what are to be considered non-procedural, the smaller powers at San Francisco addressed the following question to the four sponsoring powers: "In case a decision has to be taken as to whether a certain point is a procedural matter, is that preliminary question to be considered itself as a procedural matter, or is the veto applicable to such preliminary question?" The answer of the sponsoring powers was: "The decision regarding the preliminary question as to whether or not such a matter is procedural must be taken by a vote of seven members of the Security Council, including the concurring votes of the permanent members". In other words, this paragraph of the joint Statement was to the effect that the preliminary question, as to whether or not a matter was procedural, was itself subject to the veto. The interpretation of this statement by some of the permanent members in the Security Council has given rise to the procedure known as the "double veto". In the San Francisco Statement, the sponsoring powers declared that the Charter itself contained "an indication of the application of the voting procedures to the various functions of the Council" and that it was unlikely that any matters would arise in the future when a decision would have to be taken as to whether a procedural vote would apply.