

Mr. FRASER. If the United Nations should utilize nuclear explosives to dig a canal, would that constitute—would that be permissible within the framework of the nuclear test ban treaty?

Mr. FOSTER. I will have to defer to my distinguished associate, the international lawyer, Mr. Fisher.

STATEMENT OF ADRIAN S. FISHER, DEPUTY DIRECTOR, ARMS
CONTROL AND DISARMAMENT AGENCY

Mr. FISHER. I think probably you would have to amend the treaty for that. The fact that the U.N. as an organization of nations was doing it, as opposed to the U.N. as an international agency, and it is the sum of its parts, but it probably could not do what the member nations have committed themselves not to do.

Mr. FRASER. They are not a signatory?

Mr. FISHER. That is true. I haven't thought of the U.N. as an entity for this purpose, but it is an entity for other purposes. But the U.N. doing it as a sum of its parts is a nice question. If it is a violation of the treaty by all of its members, you would have a hard time getting support from all the members, doing with your left hand what you can't do with your right hand.

It is a nice question and I hate to give you a horseback opinion.

Mr. FRASER. My horseback reaction would be just the opposite. If the United Nations did it, it would not be a violation by any signatory nation.

Mr. FISHER. In the Vietnam action we probably wouldn't have a nuclear explosion, but if we went to war, the treaty says it does not prevent use of nuclear weapons in the case of war.

Mr. FRASER. If we declared war on North Vietnam?

Mr. FISHER. Yes.

Mr. FRASER. In the absence of a declaration of war then—

Mr. FISHER. Say a state of war. I don't like to get into what would happen, and say if there was another Pearl Harbor and you had a period between the time of Pearl Harbor and action by Congress. I would say a state of war.

Mr. FRASER. What is the language in the test ban treaty that provides that exception?

Mr. FISHER. It is the whole purport of the treaty in terms of the other nuclear explosions being merely designed to—evasion of the nuclear test restriction by exploding something that you call not a test. This was discussed with the Soviets. They are under no misunderstanding of that because they regularly now advocate measures designed to ban the use of the bomb in war.

If they thought they already had an agreement to that effect, they would not be advocating those measures with all the precision they are now doing.

Mr. FULTON. Would you yield?

Mr. FRASER. Yes.

Mr. FULTON. The Soviets had already proposed to change the courses of rivers flowing north to have them flow south by the use of atomic explosions. Why would it be, in the case of the United States or the U.N., in the case of a canal, for us one ruling, and for the Soviet another in the case of rivers?