AUSTRALIA AND THE NEW WORLD ORDER

W. J. HUDSON

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GARETH EVANS
Australia and the New World Order: Evatt at San Francisco, 1945

by

W. J. Hudson
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ABBREVIATIONS

AA  Australian Archives
CPD  Commonwealth Parliamentary Debates, Government Printer, Canberra
DAFP  Documents on Australian Foreign Policy, Australian Government Publishing Service, Canberra
LNA  League of Nations Archives
NLA  National Library of Australia
UNCIO  United Nations Conference on International Organization
About the Author

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Introduction

...the nations...are hovering, as it were, between two existences: the old order is dead, while the future order is powerless to be born.

(H.V. Evatt at British Commonwealth Conference, Canberra, 1947).

Partly because politicians so rarely retire willingly at the height of their popularity, and partly perhaps because democracy virtually demands of politicians that they be seen to debase themselves while allowing careerists in other fields to pursue ambition in some professional or corporate privacy, democracies seem rarely to recall their politicians’ memories with pleasure. The Australian democracy is as hard as any on political reputations. For the tiny minority who now know anything of them, Alfred Deakin and Andrew Fisher are accepted as good and able men, and rather more respect the name of John Curtin; otherwise, politicians tend to be heroes, if at all, only to their own parties.

Even so, the range and depth of hostility felt towards Herbert Vere Evatt was, and is, remarkable. A brilliant student at the University of Sydney in several fields, a notable historian, a barrister, a Labor member of the New South Wales parliament in the 1920s, a member of the High Court bench in the 1930s and then Attorney-General and Minister for External Affairs in the federal Curtin and Chifley Labor governments of 1941–49 (and Deputy Prime Minister in 1946–49), Evatt became leader of the Opposition in 1951 and played a major role in the great Labor split of the mid–1950s. Such was the ideological, sectarian and personal venom unleashed during the split that it is scarcely surprising that his political enemies of that period should view him with bitterness and hatred. Nor is it surprising that his later and distressing intellectual deterioration until his death in 1965 might have affected the attitudes of some.

What is surprising is the hostility, the personal animus, felt towards Evatt during his political hey-day as a federal minister in the 1940s. William Macmahon Ball, a leading Melbourne academic with generally
pro-Labor attitudes, wrote while on secondment in his service in 1947: 'Evatt...what a reflection it is on the people of Australia, or is it on the Australian political system, that we have such a man as Deputy Prime Minister'.

Francis Stuart, an amiable young diplomat in Evatt's Department of External Affairs in the 1940s, was so soured by experience of his minister that forty years later he could write: 'I found him, quite simply, evil' and 'I found working for him debasing'. On the other hand, some who worked for him at that time found him difficult and highly strung but exhilarating, and some saw in him positive goodness and found him capable of kindness and generosity. Paul Hasluck, one of Evatt's public servants in the 1940s and a trenchant critic of his performance as foreign minister, later could describe him as 'strangely lovable', and could find some aspects of his character 'tender and touching'.

Whether or not Evatt was a good man is not a question to be answered by those who knew him only during the eight years during which he was a minister, let alone by those who have merely studied the scrappy surviving records of those years. Such a question can be addressed only by a biographer who has immersed himself in the man over his whole life. The purpose here is to focus not on Evatt's moral qualities but on his performance as a foreign minister and, despite the assumptions of many, foreign policy and diplomacy are neither more nor less a matter of morality than any other kind of politics. Even in this context, however, a writer faces several major difficulties.

The first difficulty lies in this, that to write about Evatt as Minister for External Affairs is at once to risk loss of perspective as to his functions and activities. It is not just that he was also, and at the same time, a husband and father, a rugby league and cricket enthusiast, a member of parliament and a member of cabinet. He was also Attorney-General. In a federal system and at the national level that is at any time a demanding portfolio, but Evatt held it as a member of the reformist governments which entertained grand plans for economic and social change of a kind bound to involve the resolution of substantial legal issues. To the extent that international law and international politics constantly encroach on domestic law and domestic politics, there was bound to be some overlap between the responsibilities of an Attorney-General and a Minister for External Affairs. Still, it remains that each portfolio was demanding, each greatly engaged Evatt, each alone would have comprised sufficient burden

for one man during years of war and reconstruction. In justice to Evatt, then, it must never be forgotten when examining his performance as Minister for External Affairs that, while playing that role, he had also to meet the heavy obligations of a domestic portfolio, and that in terms of administrative responsibility and electoral busyness the domestic portfolio was, if anything, the more onerous. It is a pity that so much has been written about Evatt as Minister for External Affairs, so little about him as Attorney-General, and virtually nothing about him as both.

A second difficulty lies in conveying to readers in the 1990s, and especially to younger readers, the nature of the times in which Evatt worked in the 1940s. Seen through 1990s eyes, the intellectually more adventurous men and women of the 1940s can look incredibly naive and, on issues like White Australia, wrong-headed. And so in some ways they were, but every generation looks quaint and naive to its successors, and the most self-confident advocate of progressive views in the 1990s does well to remember that his grandchildren will boggle that he ever found such views tenable. The need is not for judgement but for historical understanding.

For many educated Australians interested in public affairs, and especially for intellectuals of Evatt’s kind, there was as the war came to an end in the mid-1940s an underlying conviction that democracy was good and that democracy was about lessening inequality and privilege and about increasing economic and social equality. Like most of his generation, Evatt might have been fascinated by the stated attempt of the Russians to produce a new ‘Soviet man’, to lift humanity to a higher plane of aspiration and behaviour, but there is nothing to suggest that Marxism or Leninism appealed to him. Despite long debate about the nature of Australian socialism and whether this or that Labor man or faction was truly socialist or not, the fact is that men like Evatt were true liberals of the Australian kind. They were not crude levellers, and certainly they were not violent revolutionaries. Happy in the British parliamentary tradition, their aim was to seek improvement within it, by legislation to improve the living and working conditions of the people to a point where extremes of unjustifiable poverty and of unearned privilege ceased to exist.

It was a time when Roosevelt’s ‘New Deal’ and a young generation of economists seemed to point to a future in which evils like poverty and unemployment could be removed without resort to state tyranny. With the defeat of fascism, and not fully aware of the nature of the grotesque barbarism in place further east, men like Evatt looked not only to national societies for democracy, reason and fair law but hoped that, after two dreadful world wars, crude power could cease to dominate international life, that some kind of world government based on reason and law at last was feasible.
Many were to claim Evatt for socialism, but the word that Evatt constantly used about himself was ‘democrat’ and his appeals mainly were to ‘democracy’. This grated on some then, and it can grate now, but it was what Evatt was about. And it is no coincidence that a fellow intellectual whose opinions he sought and valued was Frederic Eggleston, also a liberal democrat even if on the other side of politics. For some ‘the light on the hill’ was state socialism pure and simple, for some it was Catholic social justice doctrine, for Evatt it was democracy. For all, though, it was an adventure, a quest for something better than the war and want that their generation had experienced in such full measure.

All this is not to suggest that politics in the 1940s was uniquely rational and idealistic; party politics, indeed, was then a good deal grimier than in later decades. Nor is it to suggest that Evatt and his kind were secular saints pursuing only goodness and truth. What is suggested is that more than before or since, and in addition to all the usual party and administrative politics, there was something in the air. A spirit of optimism was abroad. A young economist of that time, H.C. Coombs, prefers the word ‘excitement’: he has written of the ‘excitement’ generated by John Maynard Keynes’ ideas in the late 1930s; he has written of the ‘intellectual excitement’ among those involved in post-war reconstruction. Manning Clark has described the mid–1940s as ‘heady times’; ‘the great dreams of humanity were about to come true’. This was the air Evatt breathed, and with pleasure.

A third difficulty in coping with Evatt even as foreign minister is that, just as a lot of ink has been spilled in praising him as a good man or damning him as a bad man, a lot has been spilled in praising or damning his performance as foreign minister and, unfortunately, much of the latter has been no more illuminating than the former. Too often, there has been reason to suspect the personal and political motives of his detractors and to doubt the impartiality and knowledge of his supporters. So silly has this dialogue become that one historian, P.G. Edwards, has urged a moratorium on ‘assertion–and counter–assertion’, suggesting that ‘for the time being, scholars should eschew attempts at the broad interpretation of Evatt in favour of detailed examinations of different aspects of his activities between 1941 and 1949’.

In taking Edwards’ point, there are at least two sets of reasons for making a detailed examination of Evatt’s performance at the founding of the United Nations Organisation at a conference in San Francisco in  

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April–July of 1945. The first is that, as even his critics allow, it was at that vast conference, attended by the sometimes very large delegations of fifty states, that Evatt emerged as a person of stature in the international community such that three years later he could be elected president of the UN General Assembly, in the early years of the UN a post of some significance. Alan Watt, a critical official, and an adviser at San Francisco, was to write: ‘It is my considered opinion that Evatt reached the peak of his international influence during the San Francisco Conference...’.7 Paul Hasluck, also an adviser at the conference, was to write: ‘...at the conclusion of the San Francisco Conference Evatt was at the peak of his international reputation, recognized by both his admirers and his critics as a figure of moment on the world scene’.8 A much more sympathetically critical official, Alan Renouf, agrees: ‘...it was at the San Francisco Conference that Evatt received more acclaim than at any time in his career...’.9 Well after the conference, but harking back to it, one of the world’s great newspapers, the New York Times, wrote very movingly of him: ‘There are just two kinds of power in the world. One is military...The other kind of power is in men’s minds... Dr Evatt speaks for this power in men’s minds. The Big Three, Four or Five will never be big enough to stand safely against it’.10 The major question here, then, is simply whether the ‘influence’, ‘reputation’ and ‘acclaim’ ascribed to Evatt by contemporaries (some by no means great admirers) are really justified by a close examination of his performance at San Francisco. Further, if San Francisco was, indeed, a triumph for Evatt, what kind of triumph was it, and how was it achieved? These questions are of some Australian domestic interest because they touch one of our few political legends.

Even in his own time, Evatt was seen by many as a tragic figure of almost Shakespearian proportions, a man of extraordinary gifts denied the political leadership of his country by ill fortune and flaws in himself. For admirers and detractors alike, he seemed larger than life. Few Australian politicians, and certainly few of the pre–television politicians, have attracted as much journalistic and scholarly attention as Evatt; few have been so invoked for decades after their political demise. His transformation into legend has been aided by various factors: Australians’ fascination with battlers who miss the prizes they seek; the mystery at the heart of a man who wrote little that was confessional, who left little personal documentation behind him; the apparent contradictions in him

7 Alan Watt, Australian Diplomat, Angus and Robertson, Sydney, 1972, p.64.
8 Hasluck, p.207.
between high intellect and at times uncontrolled emotion, between the austerely cerebral and the boyishly brash. But more than any other single factor there has been a sense of the tragic, that here was a man who played leading roles on the world stage but was never allowed the leading role on the Australian stage—a role which he sought so desperately and the denial of which so undid him. Evatt’s major world roles were played in the United Nations theatre, but were they really the leading roles he claimed for himself and were claimed for him by others—whether by critical officials, newspapers or party friends? Is the Evatt legend only a legend? The beginning of the answer is to be found at San Francisco in 1945.

Another reason is that, for all its faults and demonstrated inadequacies, the UN has survived for nearly half a century as a constant in the world’s affairs. There are, of course, flaws in customary thinking about the UN. Except to the extent that its Secretary-General, an international public servant, can take initiatives, the UN is a place and a facility rather than an entity in its own right, ignored or frustrated by the constantly changing governments of member states as they pursue their diplomatic ends. Even so, it has survived, it has given to small states a forum of value to them, it has been used on occasion by the great powers to constructive effect and in the wake of the Cold War great power cooperation at the UN could well increase dramatically. It has been central to some massive changes in inter-national society (not least, the decolonisation process), membership has become accepted as the badge of respectable independence, and its existence has forced members to declare themselves by vote and speech on a host of questions. And, in that the UN cannot entirely ignore its own charter, its constitution, any significant contribution to the framing of the charter is of historical interest.

The San Francisco Conference is also of special Australian historical interest because, as with the Paris Peace Conference which in 1919 produced a covenant or constitution for the UN’s predecessor, the League of Nations, it was one of those rare occasions when an isolated and minor industrial power like Australia could hope to have some impact on international society. Wars on the scale of 1914–18 and 1939–45 created hiatuses in which, at least in the context of international organisation, great powers found difficulty in resisting the importunity of small powers. Still, the great powers did not welcome the intrusion, and W.M. Hughes in 1919 and H.V. Evatt in 1945 had to shout very loudly to be heard. Indeed, it is curious how on each occasion Australia had representatives well suited to the task.

Except that both were short men with tall egos and unattractive voices, Hughes and Evatt did not have a lot in common. The wiry Hughes was an immigrant, modestly educated though a late qualifier for the law, a socialist turned conservative, with an earthy distrust of intellectuals, and with a very limited faith in international organisation. The paunchy Evatt
was a native, of awesome educational attainments, an intellectual with some real commitment to international organisation. And they operated in different circumstances: the League covenant was part of a vindictive peace settlement, and Australia then was part of the British empire so that Hughes sometimes spoke as an Australian and sometimes as an Empire man; the UN charter-making process was kept well insulated from peace settlements (the European war ended during the San Francisco Conference, but the Pacific war raged on), and Australia in 1945 was an independent state, even if some in Moscow thought it was not, and some in London and Washington perhaps wished that it was not. Further, their aims differed. Hughes fought to preserve his empire and his country from meddling internationalists and from interference from a League in which he could see little value; Evatt to a degree was a meddling internationalist, and he fought in part to save Australia and the world from great power domination of a UN which he hoped would thrive.

What Hughes and Evatt had in common, apart from mutual regard, was that both had to campaign hard to be heard, both battled for what they saw as Australia's interests, and both enjoyed some success against the odds. Evatt admired Hughes, once writing that Australia 'will be eternally indebted to Mr Hughes for insisting upon Australia's right to her national and international status'. 11 Evatt's, however, was the more difficult and interesting performance in that, whereas Hughes the nationalist and realist limited himself largely to damage control, Evatt the constitutionalist pursued positive internationalist goals while at the same time trying to protect Australian national interests. As Eggleston put it: 'Mr Hughes was a great nationalist. Dr Evatt was an internationalist who felt that the security of Australia could at this stage be guaranteed only by an extension of her external commitments and the establishment of a world order on sound foundations'. 12

Hughes' virtuoso performance in Paris was modestly successful: however unintentionally, by refusing to surrender Australian control over New Guinea taken from Germany during the war, he forced the internationalists to write into the League covenant provision for a mandates system, under which Australia would not actually possess the former colony but under which accountability would be very light and under which, subject to mild humanitarian injunctions, Australia could govern New Guinea as though it were Australian territory. He achieved a major Australian role in the administration of the formerly German Nauru, and thereby guaranteed Australian access under favourable conditions to

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the island's phosphate deposits. Seeing in it a threat to White Australia, he played a key part in frustrating Japan's attempt to have a racial equality clause written into the League covenant. Whether, in the process, he did much for Australia's longer term interests is more problematical.13

This last is the criterion against which Evatt fairly may be judged for his activities at the San Francisco Conference: first and foremost he was at the conference as Australia's Minister for External Affairs, and the major question has to be whether he worked effectively in the Australian interest. However, a further criterion applies in Evatt's case. Unlike Hughes, he presented himself as an internationalist seeking to contribute to the creation of an effective international organisation, and it is fair to ask whether his successful interventions had that effect and whether his unsuccessful interventions probably would have had that effect.

It is a quarter of a century since Evatt's performance at the San Francisco Conference last received close scholarly attention, and that was in a fine but unpublished thesis by Dr J.D.E. Plant.14 In the meantime, some conference participants have published useful recollections and further research has been pursued. Most to the point, the American State Department has published records not only of the frequent, lengthy and candid discussions within the United States delegation but also of discussions among the great powers, and those records throw a lot of light on how Evatt was perceived at the conference.15


15 See FRUS, 1945, Vol.1.
The Road to Dumbarton Oaks

For neither Evatt nor any of the other delegates attending the San Francisco Conference in 1945 was the notion of a world political organisation a novelty. With varying degrees of intimacy and enthusiasm, they had known the League of Nations from its lauded birth in 1919 as a mechanism for preserving international peace until its final failure to preserve peace in 1939. Its failure did not for them signal the futility of trying to institutionalise the peaceful resolution of conflict between states. On the contrary, from surprisingly early in the war (in the case of the Roosevelt administration, before the United States entered the war) politicians and officials were giving thought to an improved successor to the League. Factors associated with the failure of the League seemed obvious enough, and early thinking and later and firmer planning for its successor took these factors into account.

One major factor associated with the League’s failure had been its inability to command the support of the great powers of its time: its major sponsor in 1919, the United States, did not join it at all; of the victorious allies of 1919, Japan walked out of the League in 1933 and Italy followed in 1937, each a flagrant violator of the League covenant which they had helped to frame; for the rest, Germany entered in 1926 and left in 1933, and the Soviet Union was admitted in 1934 and expelled in 1939. The only great powers to retain membership throughout the inter-war years were the United Kingdom and France and, even if they had wished to play international policemen for the League, they had lacked the capacity. It seemed obvious, therefore, that a successor to the League must be based on the continuing commitment to it of the Big Three of the Second World War—the United States, the United Kingdom and the Soviet Union. This, in turn, would mean allowing them a major role in its functioning, but it also meant that the planning process must cater for their sensitivities.

This conviction that a world organisation must attract the continuing commitment of the great powers was to be a thread running through all the planning for the United Nations Organisation, but for small powers like
Australia it presented problems, and for an Evatt disposed to take notions of democracy into the international arena it presented special problems. For, while it was clear that the tail could not wag the dog, and that small powers could not hope by majority votes to force great powers to take action to which they were firmly opposed, it was also clear that middle and small powers could not accept a system utterly dominated by the great powers. It was much less clear just how great powers’ rights stemming from their greater responsibilities could be reconciled with small powers’ rights stemming from their sovereignty. In effect, how was any kind of democracy in international politics to be reconciled with gross inequality in the distribution of military and economic power among states?

Another factor associated with the failure of the League had been its covenant’s too scrupulous respect for the sovereignty of member states. This was most evident in the unanimity rule which applied to the decision-making of the League’s major bodies and which had the effect of giving every member a veto right. But regard for the sovereignty of members was also evident in the crucial area of collective security in that the League Council could only recommend that members take military action against an aggressor and not command it; each member retained freedom of action. As one authority, Inis L. Claude, has put it: ‘The League...was established in the faith that the goals of peace and security were to be achieved not by the revolutionary repudiation of sovereignty but by the fulfilment of the constructive and cooperative potential of sovereign, self-governing peoples’.1

The League faced a problem here in that its keenest supporters tended to be, if not quite pacifists, committed to peace, whereas collective security was essentially a military doctrine, assuming the proper and judicious use of force against any aggressive member of international society. Most to the point, though, it assumed that states would go to war and accept all the economic and social consequences of war to end a conflict of perhaps no direct interest to them, perhaps continents away from them, and perhaps despite public opinion. It assumed a very significant surrender of sovereignty. And such a surrender would not only affect military activity if an international collective were to work. A host of matters normally considered to be entirely within the domestic jurisdiction of sovereign states could be in hazard. Could a state’s policies with respect, say, to immigration be jeopardised by another state claiming to find them provocative and forcing international consideration of them by threatening to treat them as a *casus belli*? Could a state’s tariff policies or trading arrangements be endangered by an international organisation in which a majority of members favoured free trade or sought equal access to

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states’ primary products? Could a state lose control over its defence policy by being told what level of armaments it might maintain?

Because it never enjoyed universal membership, because it was born and lived in a period of high nationalism (as the membership of new creations like Czechoslovakia and Yugoslavia, and of revivals like Lithuania and Hungary, testified), and because it was put to the test so early in its life and found wanting (it could do nothing about wars between the Soviet Union and Poland and between Poland and Lithuania, or about the dismemberment of Armenia by the Soviet Union and Turkey), the League never was in a position to resolve these kinds of questions. Still, they were raised and they were in the minds of men thinking about a successor.

For Australia, a foundation member of the League and a reasonably dutiful participant in its activities, there had been an additional problem: a sense of remoteness from a Euro-centric League based in Geneva, a sense of isolation. The clearest example of the Australian predicament came with the ill-fated Draft Treaty of Mutual Assistance of 1923, drawn up by a League Assembly commission in an attempt to give some bite to the security provisions of the League covenant. The draft treaty envisaged a system whereby states disarming in accordance with League schedules would be guaranteed military and economic support by other parties to the treaty as directed by the League. It was doomed because the League’s member governments were simply not yet prepared to surrender decisions on peace and war to a Geneva collective, but what especially disturbed Australia was that the draft explicitly limited mutual assistance to members’ own continents, and that made it quite irrelevant to Australia. As the Prime Minister of the time, S.M. Bruce, commented bitterly to the League secretariat: ‘There is neither an obligation to assist, nor guarantee of receiving assistance, as far as Australia is concerned’.  

It is not surprising, therefore, that Australians thinking about a successor to the League initially were inclined markedly to favour a structure based on regional associations rather than a strictly unitary structure based on some distant power centre.

Moreover, although the League allowed membership to self-governing colonies precisely to accommodate the British dominions (Australia, Canada, South Africa, New Zealand and even India), an international organisation like the League really assumed a membership of autonomous states, and Australian ambivalence about her own autonomy was reflected in her attitudes towards the League. Until the 1914–18 war, Australia had been a colonial federation, even if effectively self-governing in most

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domestic respects, but in the 1920s Australia was dragged reluctantly by Canada, South Africa and the Irish Free State to the status of formal autonomy in a British Commonwealth of Nations. Despite this development, and while Australians, as ever, could react sharply to imperial insensitivity, there remained in Australia a predominant sense of Britishness and, above all, there remained a general conviction that in a hard and uncertain world it was safer to be part of a powerful British Empire than to be an industrially and militarily weak Commonwealth state proclaiming its separateness and, therefore, its vulnerability. As the federal Attorney-General, John Latham, put it in 1928: ‘...few Australians have the illusion that Australia could maintain her existence as a completely independent state’. In effect, in the inter-war years Australia did not see herself as a lone operator dependent on the League for her security (just as well in that the League could not provide it); for security, she continued to look to the empire or, more specifically, to the United Kingdom. Similarly, while seeking trade wherever it might be found, Australia did not see herself as a lone operator in the trading context: despite London’s often discouraging attitudes, she assumed a privileged relationship with the United Kingdom and sought solace in imperial preference arrangements.

All this made for variety in Australian attitudes towards the League. There was some nationalist defensiveness: annual public scrutiny by an often critical League commission of Australia’s administration of New Guinea was resented; there was some fear that the League might be used to interfere with White Australia; there was a rather more justified fear, at least in the League’s early years, that it might be used by industrial states to force general access to the primary resources of countries like Australia, thereby threatening Australia’s freedom to pursue imperial preference trading schemes. On the other hand, there was much goodwill towards the League: its virtues were propagated with enthusiasm by various institutes and associations; ministers like Bruce and Latham were regarded in Geneva as friends of the League; at the League in the 1930s, Bruce, by then High Commissioner in London and Australia’s chief representative at League meetings, made a name for himself by having the League take up the then adventurous issue of nutrition (a better fed world presumably would consume more of Australia’s agricultural products, but that did not have to be stressed). Indeed, Bruce cut such a figure in Geneva that in 1936 the Australian government nominated him for a Nobel Peace Prize (it went to another League enthusiast, the United Kingdom’s Viscount Cecil). Overall, the League was accepted, even respected, as long as it did not threaten Australian interests and, especially, as long as it did not

threaten Australia’s links with the United Kingdom, links seen as private
and privileged.

It might have been supposed that the Australian Labor Party would
have been among the League’s keenest supporters, but this was not really
the case. Badly scarred by the conscription controversies of 1916–17 and
then distracted by factional and ideological brawling, Labor in the
inter–war years tasted federal office only very briefly in 1929–31, when
economic depression preoccupied it. For a party uneasily covering secular
socialists and Irish Catholics, foreign policy could have deepened
divisions, and there was a tendency to seek safety in a degree of
isolationism. Further, while many paid lip–service to the notion of
collective security as a replacement for the treaties and alliances which
seemed to have pulled the world into war in 1914, anything smacking of
militarism was out of favour, and the prospect of Australian involvement
in foreign wars at the behest of Geneva was not attractive. The League
doubtless had its supporters in Labor ranks but, to the extent that such
generalisations mean much with respect to a period devoid of public
opinion polls and when elections were fought on domestic issues,
probably it would be true to say that the League appealed more to liberal
conservatives than to Laborites. The League gave off an odour of earnest
bourgeois dullness and, just as conservative internationalists had another
League, the British Empire, on which to focus, leftist Labor
internationalists had various overseas socialist connections on which to
focus. It was only in the late 1930s under the federal parliamentary
leadership of John Curtin, and helped by an international situation in
which growing threats to peace came from right–wing governments, that
Labor moved to a more positive attitude towards defence, at least in terms
of national self–defence, and by then the League was a lost cause.

The conversion of two independent MPs had no sooner allowed Labor
to achieve government in late 1941 than Japan brought war to the Pacific,
and Labor then proved to be second to none in its bellicosity. Evatt, who
had stepped down from the High Court bench to enter parliament only the
year before, was first and foremost a lawyer, and it was not surprising that
he was made Attorney–General. Given that this portfolio was demanding,
and given that Evatt’s overseas experience was minimal, his appointment
also to the post of Minister for External Affairs was perhaps surprising.
About the latter portfolio, however, several points should be remembered.
One is that the Department of External Affairs for which Evatt became
responsible was the Cinderella of federal departments: it had been
separated from the Prime Minister’s Department only six years before
under W.R. Hodgson, who had come from the world of military
intelligence and completely lacked diplomatic or even high level
administrative experience; as a foreign office, it was tiny, comprising only
a dozen or so officers in Canberra to serve the minister and administer
lightly staffed posts in Washington, Ottawa and Tokyo (a post at Chungking was opened a few weeks after Labor took office but, with war, the Tokyo post was closed). It is no wonder that Evatt tended to treat External Affairs as a ministerial secretariat rather than as a department of state. Second, the important high commission in London continued to answer to the Prime Minister’s Department, not to External Affairs. Finally, and perhaps of most importance, Curtin decided to keep in his own hands the Defence portfolio which, in time of war, was more than ordinarily concerned with overseas developments. And, where External Affairs was new and weak, Defence, still located in Melbourne, was large and powerful, and its secretary, the awesome Frederick Shedden, quickly established close rapport with Curtin.

It is likely, then, that Evatt’s second portfolio was not expected too greatly to engage him. Even three years after the Curtin government’s accession to power, it was the view of one close observer that Evatt’s second portfolio did not, in fact, too greatly engage him: ‘...when he has finished with his politicking, and his Attorney-Generaling, he has damned little time for External Affairs’.4

However, even if in the shadow of Curtin, who, it would seem, did not entirely trust his loyalty or good sense, and even if often distracted by domestic politics, Evatt did quickly emerge as a loud asserter of Australian interests. In taking this path of nationalist assertion, Evatt at times found himself out of step with Curtin who, despite some famous clashes with Winston Churchill, was comfortable in the British Commonwealth and in a Pacific war alliance led by the United States, but it should be noted that his nationalism often has been exaggerated. He was not a separatist. In private to an American, he once referred to ‘your country and Britain which I love deeply’; publicly, he referred to the ‘strong and progressive British peoples’ of Australia and New Zealand.5 Admittedly defending himself against a more floridly Anglophile Opposition, Evatt told parliament that ‘...we on this side are kinsmen of the British and our loyalty...is unquestioned’ and that ‘...one of the pivots of our policy is co-operation with the British Commonwealth, not on occasions but all the time’.6

It should also be noted that, even with Evatt as foreign minister, Australia was not yet operating quite like an independent state. Australia

might now have a few diplomatic representatives overseas, but she did not rely on them for information and influence. As for so long, Australia’s information on overseas developments came daily from the United Kingdom—some of it information for its own sake, some of it meant to allow Australia to comment and perhaps affect United Kingdom policy, some of it meant to keep Australia on side with the United Kingdom. In effect, Australia still had something of the dual status grabbed by Hughes back in 1919: she could act independently but, if she chose, she could also try to influence events by influencing the United Kingdom. When it suited, Australia could take the view that London spoke not just for the United Kingdom but for the (white) British Commonwealth, that it was the British Commonwealth and not just the United Kingdom which was one of the Big Three, and that the United Kingdom, therefore, should consult Australia and the other dominions and pursue policy more or less acceptable to them (when it suited, of course, Australia felt free to go her own way). Typically, then, Australian thinking about a post-war international organisation to replace the League partly was native to Evatt and some of his ministerial colleagues, and even more to their officials, but partly it developed in response to information from, and consultation by, the United Kingdom.

When Churchill and Roosevelt conferred off Newfoundland in August 1941, the United Kingdom’s military situation was parlous and the United States was not yet at war at all, but work already had begun in London and Washington on plans for a post-war security system involving some kind of international organisation. Understandably, these plans were still inchoate. On the American side, for example, a group led by the Secretary of State, Cordell Hull, held to Woodrow Wilson’s vision of a world body, an improved version of the League which would provide international order and through which the United States could prosecute policies of free trade. Another group led by an Under-Secretary of State, Sumner Welles, saw rather a world divided into regions, a notion repugnant to Hull, who saw in regional blocs possible obstacles to trade. Roosevelt at that stage was dubious about another League dominated numerically by small states, he was very sensitive on electoral grounds to isolationists’ aversion to international commitments, and he saw peace as best preserved by great power policemen. Thus, when Roosevelt and Churchill at their Newfoundland meeting decided to issue a joint statement on war aims (what became known as the Atlantic Charter), and when drafts prepared at an official level by Welles and the Foreign Office’s Alexander Cadogan both referred to a post-war ‘effective international organization’, and although the phrase was acceptable to Churchill, Roosevelt would have none of it. The final version referred only to ‘the establishment of a wider and more permanent system of general security’. There was no reference to any kind of organisation.
Just as there was conflict in Washington between regionalists and universalists, there was a comparable difference of emphasis in London. Some, most notably Churchill himself, thought in strictly regional terms reflecting the nature of a war being fought in regional theatres. Europe comprised a separate war theatre, and the most obvious potential threats to the United Kingdom lay in Europe—whether from a revived Germany or an expansionist Soviet Union. When Japan entered the war late in 1941 as an ally of Germany and Italy, the Far East and the Pacific also comprised a distinct theatre, involving a different enemy, and presenting different kinds of post-war problems. While the Foreign Secretary, Anthony Eden, and his officials at the Foreign Office in 1942 thought more of a world organisation along League lines, even they allowed a place for regional arrangements. Still, it was Churchill's extreme regionalism which was most in evidence.

In February 1943, Churchill let Roosevelt have his 'Morning Thoughts: Notes on Postwar Security'. In these notes he accepted that there would be a world organisation but within it he envisaged a European 'instrument...of government' and a Far Eastern 'instrument', and within the instruments there would be blocs. In a public broadcast in the following month, he spoke of councils for Europe and Asia made up of great states and groups of states. When he visited Washington in May 1943, Churchill was even more specific. He had in mind, he said, a world council comprising the Big Three and some others (he wanted France and he knew that the United States would want China) by right, plus some others periodically elected. Subordinate to the world council would be regional councils for Europe, the Americas and the Pacific, and with permanent members of the world council sitting on regional councils of interest to them (he saw the United States sitting on all three). The whole, he said, would amount to a 'three-legged stool'. Churchill justified his stress on regionalism on the grounds that only within a region would there be a real sense of urgency in containing threats to peace.

In 1943, structures for a post-war international organisation did not yet attract close political attention in Canberra, but Churchill's reported emphasis on regionalism was very well received. Thus, Evatt told a New York audience in April 1943, that 'Australia will be anxious to build a universal system and play its part in the general and regional organisation

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of such a system'. In the July, Curtin referred publicly to Pacific and Asiatic zones of security. In the August, Evatt envisaged a Southwest Pacific zone in which Australia would make common cause with the United Kingdom and the United States as well as with returning imperial powers. In mid-October, Evatt spoke of a peace guaranteed by the great powers but with a role for small powers, and it was this latter aspect, of course, which made regionalism so appealing to Australia: Australia would struggle to make her presence felt in a single world organisation (as she was struggling within the war-time alliance); in her region, she could aspire to higher status.

Unfortunately, just as Australia began to run with the regional ball, the concept began to slide from favour overseas. In July 1943, and after clearance by his own cabinet, Eden put to Washington a proposal for an international organisation which, while blessing regional groupings of states, stressed the universal peace-keeping roles of the great powers. This encouraged Hull, and in August the principal American regionalist, Welles, was replaced at the State Department by Edward Stettinius. While Roosevelt continued for a time to hanker after the idea of the Big Three acting as international policemen, he was electorally freed by Republican leaders, who in September cautiously approved American participation in a post-war international organisation, and by the House of Representatives, which in the same month adopted a resolution along the same lines. Both the Republican leadership and the House spoke in universalist rather than regionalist terms. At the same time, the Soviet Union was coming to see in regionalism a restriction on the range of her post-war activities, and in London the regionalism of Churchill increasingly was questioned as being likely to lead to conflict between regions and to isolationism within regions.

The result was that, when a conference of Big Three foreign ministers met in Moscow in late October 1943, to consider among other things the question of international organisation, the outcome was a document, the Moscow Declaration, in which regionalism was ignored. Paragraph 4 of the Declaration, to which China was made party to give it a Big Four imprimatur, read:

That they recognise the necessity of establishing at the earliest practicable date a general international organisation, based on the principle of the sovereign equality of all peace-loving States, large and small, for the maintenance of international peace and security.

That the Moscow Declaration was blandly universalist, ignoring regionalism, seems to have passed unremarked in Canberra, and Australia

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continued for a time to pursue regionalism. But the Declaration also passed lightly over another issue, the role of small powers in the formation and functioning of an international organisation, and that was remarked in Canberra.

The alert had been sounded, however unintentionally, by the United Kingdom. In line with its custom, London informed the dominions of the text which it proposed to submit to the Moscow meeting. Quite as interested as Washington and Moscow in discouraging the ambitions of small powers, London proposed that there be reference to an organisation in which all nations ‘great and small, may play their just part’. Curtin objected to the potentially inhibiting adjective ‘just’ and, partly in response to his objection, the United Kingdom amended ‘just part’ to read ‘their part’, but even that concept was absent from the Declaration. Further, a protocol to the Declaration, passed on to the Dominions, made it clear that the Big Three intended to keep planning in their own hands:

It was recognized as desirable that representatives of the United States of America, the United Kingdom and the Soviet Union should conduct, in a preliminary fashion, an exchange of views on questions connected with the establishment of an international organization for the maintenance of peace and security, the intention being that this work should be carried out in the first instance in Washington, and also in London and Moscow.

For Australia, then, regionalism remained an attractive concept. Just after the Moscow Conference, Curtin described regional arrangements as essential components of an international organisation. In the New Year of 1944, the Department of External Affairs declared that ‘...the emphasis placed by Mr Churchill on the creation of Regional Councils...is...welcomed’, adding that, while doubtless Australia would be associated with Churchill’s proposed Council of Asia, the Asian region could be sub-divided to allow for a South Pacific zone in which Australia had a special interest. As Curtin put it, Australia and New Zealand were in a pre-eminent position to speak with authority on the problems of the Pacific. But, besides regionalism, Australia now would be extremely and constantly sensitive to issues of status of the kind implicit in the Moscow Declaration.

This question of status was not just a matter of vanity, whether national or, in the case of ministers like Evatt, personal. In 1918–19, Hughes demanded a voice for Australia in the peace settlement. Given that voice, he used it loudly and abrasively to some effect, but subsequently Australia tended to slip back to the margins of international society, and

10 See Attlee to Curtin, 13 September 1943, in DAFP, Vol.VI, p.510.
11 Shedden Papers, in AA:A5954, Box 647.
12 Ibid.
during the inter-war years her voice was rarely heard except in London. When it assumed office in 1941, the Curtin government became preoccupied with waging war, and Evatt was concerned as Attorney-General primarily with applying, or seeking to extend, the powers of the federal authority in running the war economy. By late 1943, however, it was clear that the war would be won sometime, Labor that year had obtained its own electoral mandate at the polls, and Evatt gave more attention than formerly to his second portfolio, External Affairs. Above all, Evatt devoted himself to ensuring that Australia’s voice would be heard.

Evatt was especially peeved that at Cairo in November 1943, Churchill, Roosevelt and China’s Chiang Kai-shek made decisions about the post-war treatment of territories controlled by Japan without reference to Australia; his reaction has been described as one of ‘fury’.13 It was probably this, more than anything else, that led Evatt in January 1944, to turn Australia-New Zealand ministerial talks into the occasion of a remarkable assertion of status. Certainly, it was Evatt who in mid-conference decided that there should be a treaty, the first between British dominions, and persuaded the conference to agree.

The Australia-New Zealand Agreement was, to put it mildly, an ambitious document. It declared, for example, that no changes in sovereignty in the Pacific should proceed without the approval of Australia and New Zealand, that the two dominions must be represented on any bodies which would draw up armistice arrangements, and that Australia should call a conference to be attended by New Zealand, the United Kingdom, the United States, the Netherlands, France and Portugal to discuss post-war regional security and development problems. The United Kingdom’s response was ambivalent. Its High Commissioner in Canberra, Ronald Cross, might splutter about this Australian ‘Monroe Doctrine’, but the United Kingdom was somewhat fearful of American military and commercial imperialism in the Pacific after the war, and some in London saw the Agreement as, however clumsily, meeting a British interest. This, certainly, was the gloss placed by Evatt on the pact for United Kingdom consumption: it was, he said, ‘a counterblast to the United States’ and an example of Australia ‘discharging its responsibilities as part of the Commonwealth’.14 There was nothing ambivalent about the American reaction: it was one of ‘suppressed outrage’.15 Whatever the value of the Agreement (and a noted defender of

15 Ibid., p.240.
Evatt has described the treaty notion as ‘silly, unnecessarily provocative and meaningless’)\textsuperscript{16} it is to the point here to note that it fitted into a pattern of Australian assertiveness, but it is also to be noted that, as for so long, much of this assertiveness still was aimed at London in the hope that Australia could have an international impact through the United Kingdom.

It happened that on 14 December 1943, the United Kingdom informed Australia that the United States had suggested that other allies (already known as the United Nations at Roosevelt’s suggestion) be invited to adhere to Paragraph 4 of the Moscow Declaration—that is, the paragraph dealing with international organisation. The United Kingdom said it had replied that it would prefer further discussions among the Big Three before involving other states; the Soviet Union, however, had agreed with the Americans and the United Kingdom had withdrawn its objections. The United Kingdom explained its change of tack by stressing the ‘importance of United States participation in any new scheme’, adding that ‘in order to ensure this we should do everything we reasonably can to meet their views on procedure’.\textsuperscript{17} The United Kingdom obviously had in mind the absence of the United States from the League, but London was being obtuse if it thought that Australia needed convincing of the virtues of spreading involvement beyond the ranks of the Big Three. In any event, the Australian reaction was given by Curtin on 25 January 1944, in a joint cable with the New Zealand Prime Minister, Peter Fraser:

\begin{quote}
We feel it would be a great mistake if it were now agreed to confine the planning and establishment of the general international organisation referred to in the Moscow Declaration...to the four Signatory Powers. We regard it as a matter of cardinal importance that Australia and New Zealand should be associated in the initial stages with the elaboration of any general international system.\textsuperscript{18}
\end{quote}

On 3 February, the United Kingdom informed Curtin that the United States had changed its mind about involving other states ‘at this stage’.\textsuperscript{19} And a fortnight later the United Kingdom reported that the United States had suggested that the Big Three exchange papers between themselves preliminary to talks, also between themselves, later in the year in Washington. Australia reacted very crankily to this. Recalling the Curtin–Fraser cable of 25 January and its insistence that Australia and New Zealand should be admitted to early planning for the new organisation, the Australian government cabled the United Kingdom on 14

\textsuperscript{16} Ibid., p.251.
\textsuperscript{17} Cranbome to Australian Government, 6 January 1944, AA:A989, 43/735/1016/1.
\textsuperscript{19} Cranbome to Curtin, 3 February 1944, AA:A989, 4/43/1/1.
March that 'it objects to the procedure...as it means that the proposed talks in Washington would be on the basis of a preliminary exchange of views between the United States, the United Kingdom and the Soviet Governments only...our opinion is that the small Powers contributed as much as the greater Powers to the League of Nations and that it is out of place to commence a new world organisation in the way now proposed'.

Australia wanted to be involved in any exchange of views before the planned conference in Washington, and it asked the United Kingdom to adopt a 'definite line' in support of the Australian view that she be accorded an international status 'commensurate with Australia's contribution to the common war effort'. The United Kingdom replied that it was not now possible to suspend an exchange of views among the Big Three, but that Australia would be given an opportunity to comment on papers prepared by the United Kingdom.

Comment was all that Australia was in a position to offer. In 1944, a Post-Hostilities division was established in both the Department of External Affairs and the Department of Defence, in the case of the former replacing a Post-War Section, but post-hostilities planning involved much more than international organisation: surrender terms, war crimes, treatment of enemy states and a host of economic issues. During 1944, the post-war issue most to interest Evatt was that of war crimes. It must be remembered, too, that External Affairs still was only a foreign office in miniature: apart from typists, the department in Canberra still comprised less than twenty officers. To call a unit a Division was to give it some grandeur, but the mainstay of the Post-Hostilities Division at External Affairs was a single officer, Paul Hasluck (a Perth journalist recruited a couple of years earlier), with some assistance from two young economists—John Burton, back from a stint in Evatt's office, and Arthur Tange, on loan from the Department of Post-War Reconstruction. As Hasluck was to recall, "...we did not have the staff to produce papers of our own but concentrated on the study of material received [mostly from London] and on making the submissions and drafting comments that it might be appropriate for the Australian Government to make at successive stages of the planning'.

This limited capacity was evident in papers prepared for the British Commonwealth Prime Ministers Conference in London in May of 1944. Australia might by then be claiming the status of an independent state, but there is nothing to suggest that, when the Australian government looked askance at United Kingdom reporting of the Big Three's intention for the time being to keep planning for an international organisation in their own

hands, there was any thought of Australian appeals to the United States or the Soviet Union. Apart from habit in trying to use the London connection to influence events, and the supposition that the United Kingdom was a great power not as the United Kingdom but as the leader of an empire and commonwealth of which Australia was a part (the United Kingdom, it might be noted, had not been a member of the League, membership going to an entity called the British Empire), it is also the case that in late 1943 and early 1944 the United Kingdom had soothed Australian complaints of exclusion from high policy formulation by promises of discussions at the Prime Ministers Conference. But the voluminous documentation prepared for Curtin to take to the 1944 conference bears out Hasluck’s recollection that Australian thinking about international organisation had not gone much beyond pleasure at Churchill’s regionalism and general approval of a world body to which regional bodies would answer. Otherwise, space went largely to comment on what had been reported of Big Three attitudes and repetition of the Australian desire to be involved. One of the few points of real interest in the papers was the note taken of the tendency of some United Kingdom leaders to refer to the British Commonwealth or the British Empire as the Big Three entity, with earnest advice that London be nailed on just how the United Kingdom proposed to consult with, and speak for, the Commonwealth.

For all his past record as a socialist and a conscientious objector, and even allowing that Evatt’s nationalism often has been exaggerated, Curtin was much more conventionally imperialist than Evatt. Curtin habitually referred to the ‘motherland’, and his fondest hope at the Prime Ministers Conference was to have it agree to the establishment of a central Commonwealth secretariat so that the policies of the United Kingdom and the dominions could be co-ordinated more effectively (his suggestion fell on very stony ground, especially in Canada, and nothing came of it). Evatt wanted the conference turned into a full-scale imperial conference so that he and other ministers and their advisers might attend. Foiled in this, Evatt urged Curtin at least to take an External Affairs officer to London with him, but Curtin replied starchily that ‘my knowledge of Government policy’ was adequate. Curtin took as his principal adviser Shedden, who had been polished in London in the early 1930s while attached to the United Kingdom Cabinet Office.

Curtin’s behaviour in London tended to fulfil Evatt’s fears. Curtin expressed his loyalty in strictly orthodox terms: ‘Australia was occupied and defended by British people. The acceptance of American help had in no way affected the Australians’ deep sense of oneness with the United Kingdom or their loyalty to His Majesty the King. He was eager to see the

22 Curtin to Evatt, 24 March 1944, AA:A5954, Box 655.
prestige of the British Empire re-established'. Faced with very detailed United Kingdom documentation on how an international organisation might be structured, Curtin declared his unwillingness to become embroiled in minutiae and stuck to fundamentals: Australia's priority was national security, and that must be met by her own efforts and by imperial cooperation, both of which would be affected only to a degree by a wider collective security system. As he put it in terms which Hughes could not have bettered: '...the British Commonwealth must not put all its money on the uncertain horse of "world organisation" which did not win too many races'.

He was quite content for the Big Three to proceed with talks on international organisation provided that the results were, as promised by the United Kingdom, circulated to the dominions for comment. There was in his comments a distinct note of indifference, and some could as easily have come, if not from the lips of Hughes, then certainly from those of Robert Menzies: '...we, the nations of the British Commonwealth, were the outstanding example in the world of effective association... if... Russia and the United States stood out, he would prefer, while favouring and supporting the proposed world organisation in all appropriate ways, to get on with studying the security of the British Commonwealth'.

Curtin's reports back to Canberra during the conference dismayed Evatt, who cabled to Curtin that he must not approve the United Kingdom proceeding quietly in harness with the United States and the Soviet Union, and must insist that:

(i) Dominions should be associated from the beginning with arrangements affecting the post-war international order, with opportunity for expression of views at every stage.

(ii) Where Dominions are not separate parties to an arrangement or declaration what is done should (after full consultation between London and the Dominions) be in the name of the British Commonwealth and not the United Kingdom alone.

(iii) Where the primary regional responsibility is with a Dominion and not with the United Kingdom, the Dominion concerned should be as fully assured of proper support from the United Kingdom as the United Kingdom is of Dominion support in its own relations in Europe and special spheres such as the Near and Middle East.

Curtin replied curtly that 'there has been no sacrifice by me of Australia's interests by endorsing a procedure which deprives her of an effective

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23 PMM (44), 5th Mtg., Confidential Annex, pp.1–2, AA:A6712, Top Secret.
24 PMM (44) 9th Mtg., p.4, ibid.
25 Ibid., p.3.
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voice in anything concerning her interests'. 27 Australia's relations with the United Kingdom always had been principally the business of the Prime Minister and his department rather than of the Minister for External Affairs and his department. Dealings between the United Kingdom and Australian governments occurred at a prime minister to prime minister level or through the Dominions Office in London; they did not as a rule involve direct contact between the Foreign Secretary and the Minister for External Affairs. Because of this peculiar aspect of Australia's evolution towards independence in an imperial framework, it was the more important that the Prime Minister and the Minister for External Affairs should work easily in harness together. Curtin and Evatt often did not, just as Robert Menzies and Richard Casey often did not in the following decade. Again to quote Hasluck, Curtin in London in 1944 '...did not reflect the views held in the Australian Department of External Affairs nor the outlook of the Minister for External Affairs'. 28 It should be noted, however, that, even in his remonstrance to Curtin, Evatt himself still reflected old attitudes in seeking for Australia a dual status whereby on some occasions Australia would act as a separate and independent entity and on others would act as part of an imperial collective for which the United Kingdom would be no more than spokesman. Like the issue of consultation, which was almost as old as federation, this could never fully work because the United Kingdom could never slow her diplomacy or surrender sovereignty and freedom of action in the interests of a collective as diverse in its parts as the Commonwealth. What was somewhat novel was Evatt's view that in their various regions the components of the Commonwealth would to some degree act for the Commonwealth, but this view assumed much greater real equality between the United Kingdom and the dominions, and much greater common purpose, than the Commonwealth, for all its grand rhetoric, had yet known.

Although Churchill submitted a separate paper to the Prime Ministers Conference conveying his concept of regional bodies working to a central body, the major papers before the conference were produced by the Foreign Office and presented by the Foreign Secretary, Anthony Eden, and they reflected very little of the regionalism favoured by Churchill. Nor did they comprise a draft constitution for an organisation. Rather they raised issues and options, and sometimes indicated United Kingdom preferences, under a variety of headings: structure, principal organs and their functions, settlement of disputes, military resources, relations with economic and social agencies, and so on. Of special interest to Evatt, no doubt, was one paper ('E') dealing with next steps. This paper suggested

27 Curtin to Evatt, 16 May 1944, ibid., p.310.
28 Hasluck, p.136.
that the Big Three should confer with the aim of producing a draft covering general principles. This draft then could be published and examined by governments. The next step would be for a conference of the United Nations to approve and/or amend the draft. After that a body of some kind could be appointed to work out the fine detail of a convention, which would come into force when states had ratified it and when the Big Three thought the time appropriate. This scarcely amounted to the kind of continuous involvement of small states as sought by Evatt.

Hasluck's recollection that during 1944 Evatt was still only taking a limited interest in international organisation (or else was short circuited by Curtin) tends to be borne out by events between the Prime Ministers Conference in May 1944, and Big Three negotiations on a constitution for an organisation at Dumbarton Oaks, near Washington, in late August. Curtin had told the conference that he could not commit Australia until his government had considered papers placed before the conference by the United Kingdom but, after his return, no comment was offered even though late in May comments were offered by Canada and in part accepted by the United Kingdom. On 8 July, the United Kingdom sent to the dominions an amended version of the papers, with a special cable to Curtin asking for his comments. Even though the amended versions markedly buttressed the status of the great powers in any organisation, and even though New Zealand was upset by this and conveyed its agitation to Canberra, Curtin remained silent. On 17 July, the dominions secretary, Lord Cranborne, again cabled Curtin, warning him that the Big Three's talks at Dumbarton Oaks would begin soon, and asking him for 'earliest possible comment'. Still Curtin remained silent. It was only on 22 July that the Department of External Affairs on its own account, though presumably with the knowledge of Evatt, and referring to views expressed by Curtin in London back in May, cabled Cranborne that 'we' had no comment to make 'at present stage', though assuming that the dominions would be consulted before the United Kingdom entered any commitments. It seemed that, while Australia demanded consultation, she did not yet have much to say.

29 Cranborne to Curtin, 17 July 1944, AA:A816, 146/301/1.
30 Australian Government to Cranborne, 22 July 1944, AA:A5954, Box 655.
3 Dumbarton Oaks

The Dumbarton Oaks talks took place in two stages.¹ The first and major phase from 21 August to 28 September 1944, involved groups (not 'delegations', strictly speaking, because the participants had no authority to commit their governments) led by the American Under-Secretary of State, Edward Stettinius, the United Kingdom Foreign Office’s Permanent Under-Secretary, Alexander Cadogan, and the Soviet Union’s Ambassador to the United States, Andrei Gromyko. The second phase, which amounted to little more than confirmation of the first, involved Stettinius, Cadogan and China’s Wellington Koo. This arrangement was felt to be necessary because the Soviet Union was not then an ally of China against Japan, but it also reflected the doubtful status of China, which was ‘half in, half out of the Great Power club’.²

The talks were curious in other respects. For one thing, they were in diplomatic terms merely technical talks between officials meant to produce drafts but the American press took such a lively interest in them, and the issues so engaged American public opinion during what happened to be a lead–up to a presidential election, that their status became inflated almost to that of a formal international conference. For another, the issues turned out to be so complex and wide-ranging that the group leaders could not, as expected, handle everything themselves; they formed a steering committee and farmed out subjects to sub-committees at a more junior level, to a degree foreshadowing the structure of the San Francisco Conference. Finally, and this also was to foreshadow an aspect of the San Francisco Conference, the talks were conducted in what amounted almost to quarantine. They were conducted as though the war–time alliance remained intact. In fact, the Americans were becoming alienated by Soviet behaviour in south–eastern Europe and Soviet attitudes towards Poland (the Warsaw uprising ran its tragic course during the talks), and the


Russians feared the development of a *de facto* Anglo–American alliance against them. The Cold War was beginning while the hot war continued, but the planning at Dumbarton Oaks for an international organisation based on great power unity continued just the same.

Because of the felt need for speed and a disinclination to make differences too pronounced, some contentious questions were put aside for later discussion at a higher level but, these questions apart, agreement was reached without too much difficulty on broad outlines. This had much to do with the fact that, whatever their differences, the great powers were intent on projecting into the peace their dominance of the anti–Axis war–time alliance: post–war security, and an international organisation to under–pin it, would be in their hands or in none. Small powers might be allowed subsequently to discuss the great powers’ plan for an international organisation, but discussion would be based on a document previously negotiated by the great powers and jointly sponsored by them.

The Soviet Union proposed a short, terse charter for an organisation which would be controlled by the great powers and which would concentrate exclusively on international security. However, it was a much longer and much less exclusive American draft which was most in evidence in the *Proposals for the Establishment of a General International Organization* which emerged from Dumbarton Oaks and which, in turn, was to provide most of the main features of the United Nations Charter.

Thus, supported by Cadogan, Stettinius persuaded Gromyko to accept a Chapter I of four articles concerned with ‘Purposes’ and a Chapter II of six articles concerned with ‘Principles’. The United States would have liked Chapter II to have included a reference to ‘human rights and freedoms’ and to the right of member states to freedom from interference in their domestic affairs provided they undertook to respect such freedoms, but the Soviet Union objected to this unless there was also a reference to the ineligibility for membership of fascist states or states of a fascist character. Both references were omitted.

Chapter III of the *Proposals* comprised just one line stating that membership would be open to all peace–loving states, but a definition of ‘peace–loving’ was deferred. Also deferred for later decision was a Soviet claim for membership for each of her sixteen constituent republics. The Americans and the British were outraged by what amounted to a proposal to give the Soviet Union seventeen votes in the organisation’s Assembly, but it was just possible that the Soviet Union genuinely had misread recent developments in British imperial relations and supposed that the dominions would always operate as a bloc with the United Kingdom, a supposition which some war–time United Kingdom rhetoric could have reinforced. The Soviet Union also could well have seen nineteen Latin American states as clients of the United States.
There was no dispute over a Chapter IV listing the organisations' principal organs as a Council, an Assembly, a Court and a Secretariat. There was also fairly easy agreement on Chapter V, covering a General Assembly. Comprising all member states, it was clearly seen as a talking shop which would be subservient to a Council, and the Council would be dominated by the great powers. Thus, the Assembly must leave the framing of recommendations relating to peace and security strictly to the Council; it could suspend members against which the Council was taking action, but the lifting of suspensions would be for the Council; the admission of new members, the expulsion of members (provision for which was keenly sought by the Soviet Union) and the election of a secretary-general would be for the Assembly but on the recommendation of the Council. Initially, there was strong disagreement over whether the organisation should concern itself with economic and social issues: the United States, with late United Kingdom support, was keen that it should, arguing that economic and social grievances caused wars; the Soviet Union was emphatic that it should not, arguing that the organisation should not be distracted from its essential function of maintaining world security and that anyway the organisation could never guarantee universal prosperity. However, the Soviet Union finally gave way and it was agreed that, besides electing non-permanent members of the Council, the Assembly would elect members of an Economic and Social Council.

The Soviet Union, on the other hand, refused to give way on a major issue to arise in the context of Chapter VI, covering a Security Council (Executive Council in the American draft and World Council in the United Kingdom papers). It was agreed readily enough that the Big Three, plus China and France, would be permanent members of the Council, that these permanent members should enjoy veto rights, and that the Council would also comprise six non-permanent members elected for two-year terms by the Assembly. It was also generally agreeable that the Council should sit in continuous session (unlike the Assembly, which ordinarily would meet only for annual sessions), that the Council would have primary responsibility in matters of peace and security, that in some circumstances non-members could participate in Council discussions, and that all members would commit themselves to accept Council decisions. What proved to be beyond resolution at Dumbarton Oaks was disagreement over voting procedures to apply on the Council or, more precisely, over whether a permanent member should be able to vote, and thereby exercise a veto, when it was party to a matter before the Security Council. The United Kingdom thought the veto should not apply in such cases and, after reference to Roosevelt, the United States team took the same view. The Soviet Union insisted that great power unity must prevail in all circumstances. Late in the day, the officials at Dumbarton Oaks agreed on a compromise: a great power which was party to a dispute before the
Council could exercise its veto to prevent enforcement action but would not have a veto over decisions to do with the peaceful settlement of a dispute. Roosevelt, Churchill and Stalin, however, all rejected this compromise, and the whole issue had to be put aside for later resolution.

Chapter VII of the Proposals allowed for an International Court of Justice, though its statute was left for later discussion. Chapter VIII allowed the Council to take up any matter seen as involving a threat to the peace, whether on its own initiative or at the request of member states of the organisation, and to make recommendations except in matters held to fall entirely within the domestic jurisdiction of states (an obviously imprecise and potentially contentious exception which went right to the heart of what an international organisation could achieve). The Council could call on members to apply diplomatic and economic sanctions against aggressors and, if sanctions failed, to call for the use of the armed forces of members, each of whom would enter separately into an agreement with the organisation setting out what forces and facilities would be available. The Soviet Union was very keen that the organisation should have its own air force for quick use in emergencies but, while the United Kingdom saw some merit in the notion, the United States claimed constitutional problems. Regional security arrangements outside the organisation would be tolerated, even encouraged, but enforcement action under such arrangements would be banned except with the authorisation of the Security Council. This last provision was to cause a good deal of anguish at the San Francisco Conference.

One major question, the role of the organisation with respect to dependencies, was not addressed at all at Dumbarton Oaks. Moscow was not especially interested, opinion on the question was divided in Washington, and Anglo-American differences on the question had not been fully resolved. It was decided to put the question aside for later discussion.

Except to the extent that there was constant and substantial leakage to the press, the Dumbarton Oaks talks mainly were in private, and the odd standing of Australia and the other dominions was evident in that the talks were not, as it were, private from them. The United Kingdom sent them copies of the United States submission to the conference a month before it began; on the day it began, the United Kingdom sent copies of the Soviet Union’s submission. London then kept the dominions generally informed of progress at Dumbarton Oaks and, more to the point, Cadogan held regular meetings during the talks with the dominions’ diplomatic representatives in Washington.

An aristocrat prone to gross snobbery, Cadogan was not perhaps welcoming to rude colonials, whom he found ‘tiresome’, but the dominions’ privileged access by grace of the United Kingdom should have been especially exploited, one might think, by a dominion like Australia.
After all, the Dumbarton Oaks meeting clearly was the key part of a process whereby the great powers would reach prior agreement and then present a text to a wider international conference. It would be very difficult for small states at such a conference drastically to amend what the great powers jointly submitted to it. Australia had declared that junior allies like herself must be involved in planning for the new organisation from the outset but, if a great power fait accompli was to be avoided, the great powers had to be lobbied before they had reached their own agreements, and the dominions most enjoyed such a capacity because of their anomalous relationship with the United Kingdom. That opportunity was not, in fact, exploited.

When Cadogan held his first meeting on matters of substance with dominion diplomats, the Australian Minister to the United States, Owen Dixon, was merely embarrassed. New Zealand's Carl Berendsen let himself go with trenchant comment on the dangers of great power domination, on the need for pledges and security guarantees, and on the need for an international system of economic justice; the Canadian representative indicated some support for Berendsen; the South African representative was in a position to quote Jan Smuts at some length. Dixon could say only that 'so far as he was aware' the Australian government had not actually approved the United Kingdom's proposals. When Dixon reported his predicament to Evatt in Canberra, Evatt told him generally to support Berendsen, while adding the quaint suggestion that 'it is not too early even now to get some assurance that Australia as an important western Pacific power should be given membership of the proposed Executive body'. He had the grace to add that 'this may seem premature'.

It was not until 5 September, a fortnight after the Dumbarton Oaks talks had begun, that External Affairs was able to give the United Kingdom and New Zealand governments, and Dixon, 'our tentative views' on world organisation, views based mainly on the United Kingdom papers prepared for the Prime Ministers Conference back in May but also taking into account reported American and Soviet proposals. It was recognised that ultimately peace must be maintained by force and, therefore, by the united strength of the great powers, but it was felt that the settlement of disputes should not be left entirely to the Council. No alternative process was spelled out, but it was urged that all members of the organisation should be party to a declaration of principles, which they would be prepared to uphold, and duties, which they would be prepared to shoulder. For the rest, Australia wanted to see the Assembly as the organisation's central body and with the Council as an executive body but not in the

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3 Australian Legation, Washington, to External Affairs, 16 August 1944, AA:A816, 146/301/1.
sense of controller of the Assembly; recalling a favourite notion of the 1930s, Australia wanted priority given to sanctions, and especially oil sanctions, in putting pressure on aggressive states; and Australia wanted to see stress placed on welfare as the best basis for world peace. In her own interest, Australia also wanted eight rather than six non-permanent members of the Council to be elected by the Assembly, and with regional spread guaranteed.

Later, on 19 September, Evatt sent cables to Dixon in Washington and Bruce in London expressing his concern that the Dumbarton Oaks talks might founder on disagreement over whether, as the Soviet Union insisted, a great power might exercise a veto with respect to a dispute in which it was involved. While not endorsing the Soviet view, Evatt hoped that it would not be dismissed out of hand: the Soviet Union could not be expected to accept a situation in which the other great powers could swing the organisation against her. Evatt suggested that the Soviet view might be accepted 'provisionally', perhaps with discussion later by the organisation once it had been founded.⁵

Concern about the Soviet Union was not limited to Evatt. Immediately after the Dumbarton Oaks talks, the South African Prime Minister, Jan Smuts, urged Churchill to assume Soviet goodwill and to respect Soviet feelings, arguing that, if she stayed out of the planned international organisation, the Soviet Union would become the power centre of an alternative grouping of states. The Canadian Prime Minister, W. L. Mackenzie King, agreed with Smuts. Informed by Churchill of the views of the South African and Canadian leaders, the Australian government agreed that 'we have to be prepared to trust Russia' if only because there was no option: however outvoted inside the organisation, the Soviet Union was too powerful to be disciplined; if the Soviet Union stayed out of the organisation, 'the possibilities of obtaining collective security in the post-war years are slight indeed'.⁶

The Australian–New Zealand Agreement called for the governments of the parties to confer at a ministerial level at least twice a year, and such a conference was held at Wellington late in November 1944. With the text of the Dumbarton Oaks Proposals in their hands, and informed by the United Kingdom of the issues still to be resolved by the great powers, this Wellington meeting might have seen Evatt and his officials at last giving close attention to international organisation, clarifying just what Australia and New Zealand wanted, and opting for mechanisms whereby their wants could be registered either with the great powers or by some other means. This was not to happen.

⁵ Evatt to Bruce, 19 September 1944, AA:A3317/1, 52/45.
Greatly to Evatt's distress, Curtin decided that the Deputy Prime Minister, Francis Forde, should attend with Evatt, thereby severely inhibiting Evatt's capacity for leadership at the conference (Curtin is supposed to have said of Evatt that 'he needs watching', though adding that 'he can still do good things for Australia'). At Wellington, Forde, a worthy but limited man, took little interest in discussion on foreign policy, but Evatt did not capitalise on this: apparently upset by Curtin's decision to lumber him with Forde, who outranked him, and physically disturbed by a rough flight across the Tasman (he had a morbid fear of flying and on this and many other occasions showed considerable courage in forcing himself to face it), Evatt took virtually no part in proceedings. The talks in the main were conducted by officials—on the Australian side, by Paul Hasluck, John Burton and William Forsyth and, in the New Zealand side, by Alister McIntosh and J.V. Wilson, the latter formerly a senior official in the League secretariat in Geneva—though with the active involvement of the New Zealand Prime Minister, Peter Fraser.

The Wellington talks did not produce an antipodean alternative to the Dumbarton Oaks Proposals or a list of amendments to them. They saw agreement merely on a text comprising points which Australia and New Zealand wanted to see reflected in an international organisation and in its planning. As so often happens with texts negotiated by governments for public consumption, the outcome at Wellington was somewhat bland and vague. The Wellington text, which was subsequently approved by the Australian cabinet, advocated wide powers for the Security Council and acknowledged dependence on the leadership of the great powers, for example, while at the same time indicating uneasiness about this and about the relative status of the Assembly. Interesting questions raised by Hasluck in a paper prepared for the talks were, with Evatt largely out of action, ignored or skirted.

Thus, the Wellington text urged that the organisation's charter should refer to principles on which the organisation would be based, but Hasluck had asked whether there should be reference to specific principles such as justice, respect for treaty obligations and respect for international law. Again, with post-war boundaries in mind, the text allowed for orderly change but otherwise assumed the independence and integrity of members, but Hasluck had seen possible merit in a charter which, while stating that no state could interfere in the affairs of another, would allow the organisation as representing the community of nations to take note of a state's failure to live up to obligations regarding justice or human rights.

8 For the text of the relevant Wellington text, see Fraser to Curtin, 7 November 1944, AA:A981, 4/43/1/1.
With respect to the organisation’s Council, Hasluck had raised questions about the rights of states not members of the Council to address it when it discussed issues of interest to them, and about the right of states targetted, as it were, by the Council to some kind of recourse to the Assembly. On the vexed question of whether permanent Council members should have a vote on issues affecting them, as the Soviet Union was insisting, Hasluck had suggested that, while goodwill should be shown towards the Soviet Union, some qualification of the permanent members’ veto right was needed. On another front, the Wellington text sought a membership pledged to implement the organisation’s decisions for preserving peace, by force if necessary, but no attempt was made to spell out just what a member would be obliged to do whereas Hasluck, doubtless recalling that a major failing of the League had been that it left members largely free to decide for themselves what their obligations were in particular circumstances, had seen point in listing these obligations with some precision. Finally, the text did not refer to regionalism at all, whereas Hasluck had suggested value in having regional arrangements blessed in the organisation’s charter, though not to the point of encouraging great power spheres of influence or of providing for great power retreat into regional isolation. Given later controversy on the question, it is to be noted, however, that one point raised by Hasluck was reflected in the text. Hasluck had accepted that, while actual disputes and concrete threats to peace should fall within the competence of the Council, it might be advisable for the Assembly to have competence to deal with situations likely to lead to either.

Most of the loose ends from the Dumbarton Oaks talks were tidied up at a summit meeting of the Big Three at Yalta in February 1945. On the question of Council voting procedures, it was agreed that a permanent member could veto action against itself or its interests but could not veto decisions relating to the peaceful settlement of a dispute to which it was a party. An example given by Churchill was that, if China were to demand from the United Kingdom the immediate return of Hong Kong, neither the United Kingdom nor China could vote on methods for settling their dispute but the United Kingdom could vote on (and, therefore, veto) any proposal for action to be taken against her. Stalin linked acceptance of this compromise with Western acceptance of multiple representation for the Soviet Union in the new organisation, and it was finally agreed that, as well as the Soviet Union itself, two constituent republics, the Ukraine and Byelorussia (White Russia), would be recommended for membership. It was agreed, too, that an international conference to establish the new organisation would be held in San Francisco, starting on 25 April.

That left the colonial question. The League system, based on an expert Permanent Mandates Commission, which could examine and embarrass administering powers (including Australia with respect to New Guinea
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and Nauru), was limited to dependencies taken from Germany and Turkey in the war of 1914–18. These dependencies were allocated to various of the victorious allies not under colonial sovereignty but as mandated territories to be administered under the League’s supervision. In the Roosevelt administration, and especially at the State Department, there was an inclination in the early 1940s to undermine the old colonial empires by having all dependencies made subject to international surveillance. This was anathema to the United Kingdom, and to other European states hoping after the war to regain their imperial status, but neither did it much suit the War and Navy Departments in Washington anxious to see the United States retain control of Pacific islands taken from Japan. Because of these differences, and because Churchill went to Yalta with all rhetorical guns blazing in defence of the British Empire, the Big Three decided on further talks at a great power level before the San Francisco Conference and, in the meantime, agreed merely that a trusteeship system in the new international organisation would be limited to old League mandates, territories detached from World War II enemies and to territories voluntarily submitted. But even the submission of territories in the first two categories was to be by some kind of agreement, and it was resolved that there would be no discussion of individual territories at San Francisco. Information on this decision was slow to reach Australia, but trusteeship was one aspect of international organisation to which a good deal of thought had been given in Canberra, which Evatt had taken up and which was greatly to engage Australia at San Francisco.

Partly because Evatt had been fully occupied in the domestic political arena in 1944 (among other things in campaigning unsuccessfully for his government in a constitutional referendum in August seeking the transfer of a range of powers from the states to the Commonwealth), but mainly, of course, because the great powers had proceeded on their own to draw up plans for an international organisation, Australia had not enjoyed an impact on planning from ‘the initial stages’ (as Curtin had urged in January 1944) or ‘from the beginning’ (as Evatt had urged in May 1944) beyond expressing views on some questions to the United Kingdom. If Australia wanted to make a mark, it would now have to be at the San Francisco Conference and this meant, in turn, that Australia and other like-minded small powers would go to San Francisco with expectations very different from those of the great powers. For Australia, the Dumbarton Oaks and Yalta texts would comprise only ‘a basis for discussion’, and the conference would be seen as a constitutional convention;9 for the great powers, the texts were to be discussed and

explained but not lightly amended, and for them the conference would be an exercise in consultation.

However, this is not to say that, when Evatt left Australia in mid-March 1945, he yet had clear ideas about the nature of the campaigns to be waged or even yet saw that campaigns would be necessary. His officials were concerned to see the conference establish the principles on which an international organisation could act, clarify the functions of the mooted Assembly and Council, create bases for economic and social cooperation and set up a framework for the handling of colonial questions. Later that March, Evatt made a speech in California and that speech, while devoted mainly to the war and to Australian-American relations, showed that he was making his officials' concerns his own, but there was no spirit of contention in it and certainly no focussing on glaring inadequacies in the Dumbarton Oaks and Yalta texts. His only complaint seemed to be that the Dumbarton Oaks Proposals with respect to economic and social cooperation had been 'rather vague and indefinite'. 10 Admittedly, he noted that great powers did not have a monopoly of wisdom and that a way must be found whereby small powers could participate effectively in the work of the planned organisation, but these points seemed to be raised mainly to buttress his claim for a role on the organisation’s executive bodies for those states which actually were fighting the good fight in the current war. Indeed, the indications are that early in 1945 he was still concerned mainly about issues of status, of making sure that Australia was not again pushed out to the margins, telling the new Australian Minister in Washington, Frederic Eggleston, in January 1945, for example, that ‘it is most important in my view that at any given time Australia or New Zealand should be on the Council’ of the new organisation. 11

In view of the sometimes exaggerated picture drawn of Evatt’s devotion to international organisation, it is important to note that he and his department were no more inclined than Curtin and the Defence Department to put all of Australia’s security eggs in one basket. The major issue for them was always one of how international organisation best could contribute to Australian security in a wider, collective security context. It is worth quoting from a paper put out by External Affairs just before the Yalta conference but also reflecting what is known of Evatt’s views at that time:


...the following general principles of Australian policy as applicable to the present proposals for an international system of security can be formulated-

(a) Any international system of security must have the full backing of Great Britain, the United States and the Soviet Union to have any chance of success: the leadership of the Great Powers is conceded but at the same time there should be active participation by all members of the organisation and co-operation by all members in carrying out, by force, if necessary, the decisions of the organisation for the preservation of peace.

(b) Defence co-operation within the British Commonwealth should continue.

(c) Within the framework of world organisation, there should be regional arrangements for defence and security and in this regard Australia has a special interest in the South-West and South Pacific areas.12

It is to be stressed yet again, too, that the nationalist significance of Australia’s role at the San Francisco Conference easily can be exaggerated. In 1945, Australia still saw herself as part of a British Commonwealth collective. Even before the date and place of the conference had been set by the Big Three, South Africa proposed in January 1945, that it be preceded by a meeting of the United Kingdom and the dominions. Australia was quick to endorse South Africa’s suggestion and quick to accept a subsequent invitation from the United Kingdom to attend a ministerial conference in London for the purpose of ‘fullest discussion and mutual understanding’.13 The expression probably owed more to Curtin and his officers than Evatt and his, but Australia’s cable of acceptance referred to the benefit of ‘family consultation’.14 Curtin spoke in parliament of a ‘family discussion’ in London ‘so that all of us may have a clear comprehension of what is involved, and what may best be done on behalf of all’.15 Evatt had made it clear that he did not expect the United Kingdom and Australia necessarily to agree on every issue and that differences between them should not necessarily be seen as occasions of scandal, but it is likely that he anticipated a good deal of common ground and hoped that the United Kingdom either would take Australia and the other dominions into the company of the great powers by having the British Commonwealth rather than just the North Sea kingdom treated as a

14 Commonwealth Government to Cranborne, 27 February 1945, ibid., p.71.
15 CPD, Vol.181, 28 February 1945, p.175.
great power or would to some degree break Big Three ranks to push British Commonwealth causes. The United Kingdom, of course, had no interest in the former and only rarely was to show much interest in the latter.
It was not until 6 March 1945, that the United States Legation in Canberra passed to Evatt an invitation from the United States, acting also on behalf of the United Kingdom, the Soviet Union and China, to Australia to send representatives to a conference to open in San Francisco on 25 April. The purpose of the conference would be to prepare a charter for a general international organisation for the maintenance of peace and security, and the Big Four (the 'sponsoring powers', as they would be called) suggested that the Dumbarton Oaks Proposals and decisions made at Yalta be taken as 'affording a basis for such a charter'.1 This reference to the great powers' decisions as providing a basis for a charter, it might be observed, was somewhat disarming, even misleading. What Roosevelt, Stalin and Churchill had announced on 12 February at the end of their Yalta talks had been that the conference would prepare a charter 'along the lines proposed at Dumbarton Oaks',2 and even this formula had been more permissive than their attitudes justified.

Curtin, however, did not wait for the formal invitation before arranging for Australian representation at the conference. Advised during the Yalta talks on 10 February by the United Kingdom that the conference would begin at San Francisco on 25 April, Curtin announced to the press on 19 February that Forde and Evatt would lead the Australian delegation at the conference. This announcement began what was to become the most bizarre chapter in the history of Australian diplomatic representation.

Curtin's expectations of the proposed United Nations Organisation were modest and his interest in it largely was limited to its potential as a provider of collective security. This, together with a desire to contain Evatt, was very evident in his choice of a delegation. As well as being Deputy Prime Minister, and on that score out-ranking Evatt, Forde was also Minister for the Army. Further, Curtin announced in Parliament on 1 March the names of five men who would be 'in attendance': Lieut.-General Sir John Lavarack, Air Marshal Richard Williams,

1 Johnson to Evatt, 6 March 1945, AA:A1066, H45/765–77.
2 Keesings Contemporary Archives, 10–17 February 1945, p.6991.
Commander S.H.K. Spurgeon, P.E. Coleman (Assistant Secretary, Department of Defence) and Sir Frederic Eggleston (Dixon's successor as Australian Minister in Washington). On the following day, Curtin told Forde and Evatt that Coleman's function would be to serve at the conference as 'the central point for co-ordinating action and assisting Ministers' on defence matters, but that any major defence questions to arise at the conference were to be referred by cable back to him (Curtin) as Minister for Defence. Evatt could scarcely have been more isolated—and contained. Of the five experts to attend the conference, four would represent the Defence interest; only one, the now elderly and frail Eggleston, was an Evatt man, an External Affairs man.

On 1 March, Curtin also announced the names of eleven 'assistants' to the delegation. They comprised two Government MPs (Senator Richard Nash and Reginald Pollard), two Opposition MPs (Senator George McLeay and John McEwen), a newspaper editor (the Age’s H.A.M. Campbell), an employers' representative (O.D.A. Oberg, president of the Australian Council of Employers' Federation), a Labour representative (J.F. Walsh, federal president of the ALP), an academic (W. Macmahon Ball, of the University of Melbourne), a returned serviceman (E.V. Raymont, general secretary of the RSL), a women's representative (Jessie Street, described as a leading member of women's organisations) and a senior public servant (Roland Wilson, Secretary of the Department of Labour and National Service). Most of these assistants were to serve as little more than decoration at San Francisco, but the list might well have created the impression that Evatt was being isolated. Of the eleven, only one, Ball, had links with External Affairs and that was only because recently he had been called in to edit a book of Evatt's speeches. One, Wilson, was a formidable bureaucrat and not, it would seem, well disposed towards Evatt.

In including Opposition politicians among the delegation's assistants, Curtin ignored an urgent plea from New Zealand's Peter Fraser to leave them out. Fraser argued that international negotiations were the business of executive government, but he also feared that the inclusion of Opposition MPs in the New Zealand delegation would add to the Opposition's capacity for mischief. In the event, Canada included Opposition MPs in its delegation, and the United Kingdom's delegation reflected the nature of the coalition government led by Churchill; South Africa and New Zealand kept their delegations to government members and public servants. In Australia's case, though, the Opposition MPs were symbols of a government's generous spirit or hostages to its hope for bipartisanship, and little use was to be made of them in San Francisco—much to the distress of McEwen, who took very seriously his

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3 Curtin to Forde and Evatt, 2 March 1945, AA:A5954, Box 1838.
Aside from the military experts and politicians, Curtin insisted that the 'assistants' to accompany the ministers were chosen not as representatives of groups but as individuals with something to contribute to the conference. This can be taken with a grain of salt. In an Australia so isolated from like societies, overseas travel long since had become an aspect of official patronage, and Australian delegations to annual League Assembly sessions, for example, often had included 'substitute' delegates of eminence in their fields but scarcely qualified to substitute for delegates. Campbell and Ball might have had genuine claims as individuals, and Wilson was included to buttress Forde, but it is difficult to see Walsh, Oberg, Street and Raymont as other than representatives of major interest groups worthy of patronage (very fair-minded patronage in the case of Oberg, a loud critic of Labor governments).

If, as seems certain, Curtin chose a team deliberately weighted against Evatt and External Affairs (it has been suggested that initially he did not plan to include Evatt at all), he was oddly unconcerned about another group attached to the delegation, the 'advisers'. Between 19 February, when Curtin named Forde and Evatt as the ministers to attend the San Francisco Conference, and 1 March, when he announced the names of the sixteen who ultimately were to be merged under the heading of 'Assistants and Consultants', Evatt proceeded to pick a team of expert advisers to serve him at San Francisco. They comprised Paul Hasluck, John Burton, Keith Waller and William Forsyth from the Department of External Affairs in Canberra, Alan Watt and J.B. Brigden from the Australian legation in Washington, and Kenneth Bailey (Professor of Law at Melbourne but at that time a consultant to the Attorney-General’s Department and highly regarded by Evatt—and everyone else who worked with him). At some point the name of L.F. Crisp from the Department of Post-War Reconstruction was added to the list (Crisp’s minister by then was John Dedman, but he was essentially a protege of the Treasurer, J.B. Chifley).

Curtin by now was ill and exhausted, and it may well be that he simply did not give much thought to the role of ‘advisers’ or else supposed that they would merely assist their ministers in the usual anonymous public service way. In the event, it was these advisers’ presence and quality which were to allow Evatt first to dominate the Australian delegation and then to emerge as one of the luminaries of the conference. He needed them for the former because Curtin did not publicly name a leader, a chairman of the Australian delegation.

The Australian press, noting that the new American Secretary of State, Edward Stettinius, would lead the United States delegation at San Francisco, had expected Evatt to lead the Australian delegation. It is not clear whether, when Curtin told the press on 19 February that Forde and Evatt would lead the Australian delegation, he also conveyed explicitly that Forde would be the leader or whether journalists assumed that Forde’s status as Deputy Prime Minister gave him automatic seniority. In any case, most press reports named Forde as head of the delegation (though the New York Times saw him as the ‘nominal head’, with Evatt as ‘chief spokesman’). Evatt was appalled and complained strongly to Curtin. Judging by Hasluck’s recollection of Evatt’s behaviour at that time, and by Evatt’s account of events a few months later, it would seem that Curtin was persuaded after all to let Evatt have the leadership of the delegation, but that he put nothing on paper and made no public announcements, and that he then changed his mind again. According to Evatt, ‘...what Curtin told me at the last was that I should recognise Forde’s seniority but at the same time Forde must recognise that all the matters at the conference related to foreign affairs and that these were my primary responsibility’. As Evatt added, ‘this seemed an almost impossible plan...’

There can be no doubt that Forde went overseas thinking that he was leader of the delegation (some of his cables back to Curtin made this explicit, and Curtin was the one person to whom he could not make false claims) and that Evatt accepted that Forde was the titular head. It is curious, though, that at San Francisco Forde made little effort to assert his leadership, so that Australia’s delegation, for example, was the only one without a single designated chairman. One is left with the impression that, despite Evatt’s bitter complaints to the contrary, Forde tried as far as possible to observe Curtin’s unsatisfactory mandate and to share leadership with Evatt. It will be seen, however, that Evatt did not rely on Forde’s generosity. One unfortunate consequence of this leadership problem was that the Australian delegation was not to act as a unit. There were to be Forde’s men, Evatt’s men and the rest, with Evatt and his men coming out on top.

It is to the point here to clarify use of the term ‘delegation’. As David Plant has noted, when Curtin announced on 19 February that Forde and Evatt would go to San Francisco, he described them as leading a

7 Evatt to Beasley, 1 May 1945, DAFP, Vol.VIII, p.155.
8 Ibid.
delegation of ten or so. Subsequently, he conveyed that Forde and Evatt would be Australia’s representatives and would comprise the Australian delegation, with others ‘in attendance’ or ‘assistants’, but he still referred at times to the whole lot as the Australian delegation. In this, Curtin was reflecting normal variation of usage. Strictly speaking, Forde and Evatt were Australia’s delegates, holders of delegated authority to speak and act for the Australian government; strictly speaking, Australia sent a two-man delegation to the conference. But it was also normal at the conference, and since, to refer to everyone from Forde down to the most junior typists as members of the Australian delegation. Moreover, it was anyway the case that often Australia’s views had to be put, and her interests watched, by public service advisers even though Evatt tried to handle all matters of moment himself and this because two men could not possibly sit for Australia on more than a dozen committees and many sub-committees at the same time. This usage and practice was not limited to Australia: two of the most influential members of the United States delegation were Leo Pasvolsky of the State Department and John Foster Dulles who at that time represented, if anything, Protestant church groups; both were ‘advisers’ to the named delegates but, as with many other ‘advisers’, they carried weight in United States delegation discussions and at times spoke and politicked for the United States. Where Australia was unusual was in having such a small true delegation. Canada, for example, had seven delegates; most of the small Latin American states had half a dozen.

The whole Australian team did not attend the British Commonwealth meeting held in London in early April 1945, to discuss policies for San Francisco. Accompanied by their wives and some of their officials (Hasluck, Burton and Forsyth in Evatt’s case, and Wilson and Coleman in Forde’s), Forde and Evatt travelled to London via the United States. Bailey, already in London on other business, joined the Evatt group on its arrival.

Questions of status continued to dog the Australians. While Forde and Evatt were on their way to London (and doing their best to ignore each other), Curtin cabled to them that Bruce, the High Commissioner in London, was to attend the Commonwealth meeting ‘as an additional Australian delegate’. He also informed the United Kingdom government that Bruce would attend ‘in addition to Mr Forde and Dr Evatt as a representative of Australia’. Evatt replied cheekily that Bruce’s presence would be ‘quite satisfactory so long as he understands that responsibility must rest on the two Ministers and not on the advisers’. In fact, Bruce attended the London conference as a delegate and not as an adviser, and he contributed occasionally to discussion. Not that Evatt was beyond trying to enlist Bruce’s support for the notion that his expertise justified treatment of him as leader of the Australian delegation (Forde told Bruce that, despite complaints from Evatt, Curtin had directed that he should lead the delegation). Evatt, it would seem, also asked the United Kingdom government to treat him as delegation leader but was refused.

It was obvious from the opening day of the conference that Evatt would not take a back seat to Forde. As was customary, the conference began with general statements from each delegation. Forde spoke for

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1 Curtin to Forde and Evatt, 24 March 1945, AA:5954, Box 1821.
2 Curtin to Cranborne, 24 March 1945, ibid.
4 Bruce, Note of Conversation with Sir Eric Machtig, 3 April 1945, AA:M100, item April 1945.
Australia but, although he concluded by saying that he spoke also for Evatt and Bruce, Evatt at once made a short statement of his own, repeating a couple of points already made by Forde and evidently aiming only to establish at least an appearance of equality with Forde. As the conference progressed (it ran from 4 to 13 April), it became apparent that Forde, while tending when dealing with generalities excessively to stress that he spoke as Deputy Prime Minister of Australia, was taking Bruce’s advice that he should not try to compete with Evatt on matters of detail, and Evatt did most of the speaking for Australia. Indeed, one could say of some sessions that he did most of the speaking.

It was only in London that Evatt at last came fully to grips with the detail of the Dumbarton Oaks Proposals and the Yalta formulae and with his officers’ commentaries on, and queries about, them. Nor did he limit himself to External Affairs papers: before leaving Australia, he had asked the Solicitor-General, George Knowles, to let him have an analysis of the Dumbarton Oaks Proposals, and this arrived in long cables just in time for the London talks. Working in bursts of intense concentration, he mastered massive quantities of paper with assistance mainly from Hasluck and Bailey. Hasluck was to recall of Evatt that ‘his intellectual powers never impressed me so vividly as they did during this period of rapid learning in London... the more furiously he worked, the better his mood and manners’.

No one expected the Commonwealth representatives to talk out differences and then to operate at San Francisco as a bloc. The United Kingdom’s status as a great power co-sponsoring the Big Four’s formulae put that possibility out of court. What most anticipated was a relatively cosy gathering at which the United Kingdom government would explain and elucidate agreements reached at Dumbarton Oaks and Yalta, and at which the dominion representatives could seek further information and perhaps on some issues sway United Kingdom thinking and, thereby, ultimately Big Four thinking. What the London talks got was Evatt in full flight. Evatt’s contribution stood out the more in that Canada was represented only by officials and South Africa by the mellifluous and charming Smuts, now an elder statesman more at home on the high moral ground than in earnest debate. With much of the discussion based on questions framed by a committee of officials, among whom Hasluck and Bailey, closely supervised by Evatt, seem to have contributed most, the atmosphere was not always entirely cosy.

A degree of disharmony was not slow to emerge. On the second day of the meeting, the United Kingdom Colonial Secretary, Oliver Stanley, addressed the issue of trusteeship, a matter of simmering dispute between

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Australia and the United Kingdom. By the end of the day it was manifest that agreement of any kind was impossible and that the United Kingdom on the one hand and, on the other, Australia and New Zealand would go to San Francisco with very different policies. Because this dispute over trusteeship so early in the conference helped to set the stage for increasing emphasis by Evatt on Australia's right as an independent state to pursue its own policies at San Francisco, and because at San Francisco, too, trusteeship was to be a subject of acrimony between Evatt and United Kingdom representatives, it is appropriate here briefly to sketch the background to the dispute.

The notion that causes of war would be lessened if colonies were no longer treated as prizes of victory in war saw concrete expression in 1919, when the winning great powers took dependent territories from defeated Germany and Turkey and allocated them among themselves and their smaller allies but under mandates to be supervised by the League of Nations. The mandates were of several kinds but even the most permissive (South Africa's for South-West Africa, Australia's for New Guinea and New Zealand's for Western Samoa, among them) did not see sovereignty transferred to the mandatory powers; the mandated territories did not become the colonial possessions of the mandatory powers. Further, it was declared in the League covenant that the indigenous inhabitants of the mandated territories must be tutored by the mandatory powers to the point where they could stand by themselves, this tutelage being a sacred 'trust' exercised by the mandatory powers. Finally, to ensure that what Article 22 of the League covenant called the 'well-being and development' of the mandated territories were, in fact, pursued by the mandatory powers, there was created a Permanent Mandates Commission to which mandatory powers must report annually, which could question representatives of the mandatory powers and which could comment publicly on the performance of the mandatory powers. To the extent that adverse publicity generated by the Permanent Mandates Commission could cause some diplomatic embarrassment to the mandatory powers, this amounted to a mild form of international accountability.

For reformers, this was well and good, but for them two problems remained: first, dependencies taken from Germany and Turkey after their military defeat comprised only a very small fraction of the world's colonies, and it seemed unreasonable that their inhabitants should enjoy a degree of international protection denied to the rest; second, in that there was never any question of taking back a territory from a mandatory power (if only because they had been allocated by the great powers of the day, and not by the League), sanctions against the mandatory powers were limited to adverse publicity flowing from the surveillance of the Permanent Mandates Commission, which comprised not representatives of states but experts inevitably drawn mainly from colonial powers, and, as
Australia found with respect to New Guinea, the mandatory powers could live with some unfavourable publicity. During the inter-war years, then, liberal intellectuals tended to argue for a more rigorous system of accountability which would apply to all colonies.

Evatt, personally well informed about the League mandates system, and from late 1942 also drawing on the advice of William Forsyth, a recently recruited External Affairs officer with a special interest in Pacific and colonial questions, opted early for the term 'trusteeship' to indicate his government's approach to colonial administration. In vogue in progressive circles since the 1920s, it was a term meant to convey that colonial administration was a responsibility rather than an exercise in exploitation, but in itself it carried little precision.

It happened, however, that Evatt had an early opportunity to express with some precision just what he took trusteeship to involve. In December 1942, Clement Attlee, then Dominions Secretary as well as Deputy Prime Minister, advised Curtin by cable that the United Kingdom was worried by evidence of American hostility towards British colonialism and proposed to suggest to the United States an Anglo-American declaration on colonialism, to which other colonial powers might be invited later also to subscribe. It was envisaged that in such a joint declaration 'parent states' (a term apparently coined by the American Secretary of State, Cordell Hull) would undertake to promote the welfare and political development of dependent peoples, to see that colonial economic policy took account of international interests (Americans took a very dim view of exclusion from trade with many colonies), and to cooperate with each other in regional commissions. The Australian government's very long reply was clearly the work of Evatt and his officers rather than of Curtin. It generally approved Attlee's approach but it added an extra and radical ingredient: parent states (not that Evatt liked the term, preferring mandatory, guardian or trustee) should accept accountability to an international commission 'through machinery analogous to the Permanent Mandates Commission'. Atlee responded amiably but advised that 'after very full consideration' the United Kingdom could not accept the notion of accountability to a body like the Permanent Mandates Commission. Canberra then repeated its conviction that 'some provision for the accountability of all trustee States to some international body is both

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8 Attlee to Curtin, 8 January 1943, *ibid.*, p.199.
practicable and essential if trusteeship is to be a reality'. 9 There the matter rested. The notion of a joint Anglo–American declaration came to nothing, and that did not disturb Evatt, who preferred to see colonial and most other issues left for later international discussion in which Australia could participate.

There then followed a period during which Australian silence on the accountability aspect of trusteeship policy seemed to encourage genuine misunderstanding in the United Kingdom of Australia’s position. First, during 1943 Evatt indicated publicly that he took trusteeship to involve the preparation of dependent peoples for self–government, economic investment in the development of colonies (as opposed to the doctrine of economic self–sufficiency, a sacred cow of Australian administrations in Papua and New Guinea as much as of others), and the acceptance of some kind of obligation to international society. There was nothing in his speeches to indicate any sense of hostility to the interests of other imperial powers (and Australia herself was a little imperial power). On the contrary, while seeing some dependent states like India and the Philippines as ready for immediate self-government, he welcomed the return of colonial powers to South–East Asia and the Pacific, and he assumed Australian cooperation with them in security arrangements and in colonial administration. And in his public statements there were no explicit references to international accountability.

Second, even the Australian–New Zealand Agreement of January 1944, clear and emphatic in many of its articles, retreated to bureaucratic imprecision in its articles on dependency administration. The ‘doctrine of trusteeship’ was espoused in terms which could be seen as favouring the application of the mandates system to all dependencies, but this was qualified by the phrase ‘in broad principle’, and stress was placed on regional cooperation along lines favoured by the United Kingdom. In their joint report to the United Kingdom on the agreement, Curtin and Fraser made no mention of accountability.

Third, and most to the point, at the British Prime Ministers’ Conference a little later in 1944, Stanley very candidly expressed the United Kingdom’s aversion to any kind of accountability, even to the continuation of the mandates system. The United Kingdom would be progressive and humane in its administration of colonies at many different stages of development, but for Stanley international cooperation meant regional cooperation by administering powers among themselves. The United Kingdom’s was a policy of ‘voluntary benevolence’. 10 Curtin, who

9 Commonwealth Government to Attlee, 11 January 1943, ibid.
spoke mainly on the security aspects of colonial policy, indicated no disapproval. Indeed, when New Zealand’s Fraser argued for reporting on colonial administration to, and discussion by, a central international body, United Kingdom ministers and officials understood Curtin to be standing with Stanley in opposing him.

This was another instance of Curtin, advised by Defence Department officers and not himself greatly interested in a subject, differing from Evatt, advised by External Affairs Department officers and with a lively personal interest in it. At the beginning of the conference, Evatt cabled to Curtin that ‘the present Australian Government has consistently held the view that there should be general agreement to bring all colonial territories under the supervision of an international agency’. There was nothing vague or ambivalent about this, but it was not policy which Curtin expressed in 1944, and it was more than a year since Evatt last had referred to it publicly.

It has been seen that Evatt played little part in proceedings of the Australian–New Zealand conference at Wellington in November 1944, in the main leaving things to his officials, but it was at that conference that colonial accountability was clearly and publicly enshrined as Australian and New Zealand policy. A resolution adopted by the conference could not have been clearer: all colonial powers should report to an international body ‘analogous’ to the Permanent Mandates Commission and that body, besides publishing reports, should be empowered to inspect dependent territories (not a power, it might be noted, held by the Mandates Commission). The dismay in London was considerable. As Bruce reported to Curtin, this resolution ‘...has fairly put the cat among the pigeons...reactions are very strong...electricity in the atmosphere’. Within days there followed a cable from the Dominions Secretary, Lord Cranborne, expressing ‘surprise and regret’, and declaring that the United Kingdom could not possibly accept the Canberra–Wellington view.

Curtin was ill at the time, and it was Evatt who then cabled to Fraser in Wellington that he and Forde were ‘surprised and indignant’ at Cranborne’s cable and favoured a strong reply. The reply to Cranborne, evidently framed by Evatt, certainly was couched in indignant terms. Arguing that at the Prime Ministers’ conference Curtin had expressed personal views rather than those of his government, and that the United Kingdom should not read into the Wellington conference resolution any

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11 Evatt to Curtin, 3 May 1944, AA:A5954, Box 655.
14 Evatt to Fraser, 16 November 1944, ibid., p.648.
desire by Australia to see international accountability amount to international control of colonies or interference in the sovereignty of colonial powers, the cable’s main defence against a United Kingdom charge that Australia had switched policy without consultation was to remind London that Australian policy had been conveyed to Attlee back in January 1943. Evatt’s claim that Curtin had expressed only personal views was very lame: if a prime minister is not expressing government policy when he addresses a matter of substance at an international meeting, when is he? But Evatt was right in saying that the Wellington conference resolution was only what had been conveyed to Attlee, and argued about, early in the previous year. Equally, the United Kingdom reasonably could have supposed that Curtin’s silence in the face of Stanley’s rejection of the mandates system and his failure to support Fraser indicated a change in Australian policy from international accountability to regional cooperation. The Australian cable, while insisting that the dominions were entitled to pursue their own foreign policies, and that differences between them or between them and the United Kingdom did not prejudice ‘their very intimate and special association’, concluded by suggesting early consultation.  

Evatt followed this with a personal cable to Cranborne expressing the hope that their differences could be reconciled. Cranborne replied personally and benignly.

It seemed for a time that the reconciliation desired by Evatt might well be achieved. Late in December 1944, a paper by Stanley on colonial policy was sent to the dominions for their comment. In his paper, Stanley advocated the abolition of the old mandates system, so that there could be no question of basing a United Nations trusteeship system on it. On the other hand, and besides approving regional commissions to facilitate cooperation among colonial powers, Stanley gave his blessing to a notion that functional bodies attached to the world organisation (the International Labour Organization, for example) should receive reports on relevant aspects of colonial powers’ administrations and might even indicate what matters these reports should cover. Evatt applauded Stanley’s paper. He was not happy to see the mandates system abolished, if only because Australian control of New Guinea might be jeopardised, but he was pleased by Stanley’s recognition that colonial administration was a matter of international concern, and he saw merit in reporting to functional bodies as mooted by Stanley. Stanley’s paper, cabled Evatt, seemed to mark a ‘definite advance’ towards the Australian-New Zealand position, and he now urged agreement within the British Commonwealth on a common policy.  

15 Commonwealth Government to Cranborne, 18 November 1944, ibid., p.655.  
By the time of the London meeting, however, Evatt had new grounds for complaint. At Yalta, the great powers limited the scope of any trusteeship system to the old mandated territories, territories taken from Italy and Japan during the present war, and any territories which colonial powers might voluntarily submit to it. Further, it would be a ‘matter for subsequent agreement’ after the San Francisco Conference as to which territories in these categories actually would be placed in a trusteeship system. And the great powers agreed to discuss the issue among themselves before San Francisco. In fact, trusteeship was the matter first discussed at the London talks precisely so that Stanley could have policy accepted by his own cabinet and then proceed to great power talks in Washington.

Addressing the London meeting, Stanley repeated that the United Kingdom had not liked the mandates system and did not want to see its traits translated to a trusteeship system, but it now accepted that the old mandates system could not be abolished by unilateral action and probably must continue. However, any notion of accountability beyond the mandates system, or a revamped version of it built on a regional commission concept, was now abandoned. Submission of territories to a trusteeship system would be voluntary, and the United Kingdom had no intention of submitting any of her many territories to such a system.

Evatt professed to be outraged. In a very long response, he complained about the United Kingdom’s failure to consult the dominions before making arrangements with other great powers for dealing with the trusteeship issue and before herself opting for a system based on voluntarism and one in which she would not be a volunteer. As for accountability, he argued that most colonial powers had nothing to hide and nothing to lose in a system involving reporting to a United Nations body which could also inspect territories for itself (though, he also saw conditions in some colonies as needing ‘considerable improvement’ and saw accountability as an incentive to improvement). He repeated the argument that it was unreasonable for the inhabitants of ex–enemy colonies to have rights denied to the inhabitants of other colonies. If a trusteeship system were to be voluntary, he said, the United Kingdom should offer a ‘shining example’ by voluntarily submitting her colonies to it; this would give a lead to colonial powers whose records were not as good. Like the lawyer he was, Evatt also tried to find implied support for international accountability in various practices and policies of the United Kingdom.17 Evatt was supported by Fraser, but Canada’s representatives kept quiet and South Africa’s Smuts in the main came down with the United Kingdom: mandatory powers must hold on to their mandated

territories; the mandates system needed modification; submission to a trusteeship system could not be forced on sovereign colonial powers.

There could not now be significant reconciliation, and Australia and the United Kingdom would go to San Francisco with very different trusteeship policies. It was apparent during the discussions on trusteeship that there was a difference in approach as well as in policy. Stanley and Smuts gave the impression that for them negotiations on the establishment of an international organisation and on its functions were like any other international negotiations in which states’ representatives must seek above all else to protect and advance their own states’ interests. Evatt gave an impression that, while never contemplating positive danger to Australian interests and while doubtless seeing an Australian security interest in an enlightened international regime for colonies, he was approaching international organisation as a constitutionalist seeking to erect new structures cemented by legal obligations. It was clear, for example, that the United Kingdom did not want her colonies exposed to external influences because those influences could be mischievous or ill-informed. Evatt allowed that a United Nations body at the apex of a trusteeship system must be ‘properly constituted and competent’, but he seemed to take this for granted and gave little emphasis to it; others were less sanguine. His repeated claim with respect to an obligation to report to an expert and competent body that ‘he could imagine nothing less onerous in the case of Powers such as the United Kingdom, Australia and New Zealand, which discharged their colonial obligations honestly and to the best of their ability’ took a lot for granted.\footnote{\textit{Ibid.}, p.111.} The Permanent Mandates Commission, not normally the harshest of critics, had made it explicit enough on occasion that it had not thought that Australians had administered New Guinea ‘to the best of their ability’. Depending on the political complexion and ambition of such an ‘expert and competent body’, accountability might be for colonial powers a very light burden or it might turn out to be a very heavy burden.

The conference then moved on to consideration of the veto right to be enjoyed by the five great powers (despite her current condition, it was assumed that France would return to that status) which would be permanent members of the new organisation’s Security Council. In view of the campaign he was to wage at San Francisco, Evatt was surprisingly modest in his contributions on this issue at the London meeting. Thus, with respect to the Yalta agreement allowing a permanent member to veto enforcement action in a dispute to which it was a party, Evatt conveyed that Australia, like Canada, did not much like such a privilege for the Big Five, but that he could live with it. Smuts regarded this provision as essential, and there was in most delegations an awareness that the
organisation could never take action against a great power, veto or no veto. Only Fraser came out in opposition. On the question of whether the veto should apply to Council consideration of a dispute, Evatt, like all the dominion representatives, came out briefly and firmly in the negative. On the question of whether in other respects (for example, the election of the organisation’s Secretary-General) the veto right should apply, Evatt, like all his dominion colleagues, came out against, though again it was Fraser who expressed himself the most trenchantly.

The United Kingdom ministers mollified the dominion delegates by allowing that, while the United Kingdom was bound by agreements reached at Dumbarton Oaks and Yalta to support the veto right in principle, it might modify its position at San Francisco in terms of the applicability of the veto in certain circumstances. They tended also to fudge the veto issue by arguing, for example, that, while the Dumbarton Oaks and Yalta formulae allowed any of the Big Five to veto consideration of a dispute by the Council (as long as it was not a party to the dispute), it was anticipated that the Secretary-General or any member state of the organisation could bring a dispute before the Council as comprising a threat to security, that this would put the dispute on the Council’s agenda, and that whether the Council proceeded to discuss the matter could be held to be a procedural question to which the veto could not apply. This argument was not altogether to impress the other great powers at San Francisco.

On the question of whether some states should be given an advantage in periodic elections of non-permanent members of the Council by the General Assembly, Canada argued strongly that states like the dominions, which had shown a clear capacity for military activity and could be expected in the future to participate in enforcement action, should be regarded in Evatt’s terminology as ‘security powers’ and should be given some kind of advantage. Evatt, with some indications of contempt for the Latin American states, which would comprise a large voting bloc in the organisation but which had contributed little to the present war, Fraser and Smuts all expressed the same view. Indeed, the United Kingdom agreed to support the dominions’ case, with Attlee coming up with a regionally-based system whereby Australia or New Zealand would always be a member of the Council, and with Canada more or less permanently a member. There was a difficulty here, of course, in that the dominions knew that only assertive displays of their independence would convince other states that membership of, say, Australia and Canada, of the Council, where the United Kingdom would be a permanent member, would not amount to three votes for a British bloc. The term ‘British Commonwealth of Nations’, did not sound like an association of independent states, and clearly it was not an alliance or regional grouping of the usual kind.
On one question related to the Council there was substantial disagreement between the dominions and between some of them and the United Kingdom, and that was the question of sanctions. The Dumbarton Oaks Proposals empowered the Security Council to call on all members of the organisation to apply economic and military sanctions against designated states. Canada argued that it could not surrender control of its own armed forces or damage its trade at the behest of a body on which it might not be represented. The Canadian delegates suggested several alternatives: Council consultation with the General Assembly before calls for sanctions; participation of non-Council members in some Council decisions as, in effect, temporary members; and an approach by the Council to states whose cooperation was sought. Smuts agreed that states could not be expected to implement sanctions decisions to which they had not been party, but he thought that consultation with the Assembly would cause delays, and he proposed that in the first instance sanctions should be applied by Council members favouring them (meaning, of course, that preservation of the peace would be the business principally of Big Five policemen). Even New Zealand’s Carl Berendsen agreed, declaring that the old slogan ‘no taxation without representation’ now could become ‘no shedding of our people’s blood without a voice’; he thought that reference to the Assembly would be a way of giving all members a voice. Evatt on this occasion sided with the United Kingdom, urging that the main purpose of the organisation would be to provide collective security and that this could be achieved only if all members pledged themselves to be bound by Council decisions: if a Council majority could bind its own members, including dissentients, surely it could bind other members as well. Cranborne entirely agreed with Evatt: any state tempted to resort to aggression must know that it faced the certain retaliation of the entire membership of the organisation.

With the London talks forced to conclude by 13 April to give delegates time to establish themselves in San Francisco by 25 April, other questions to do with the Council were covered quickly. All were agreed that the Council should have nothing to do with armistice arrangements. All were agreed that the Council should have the power to recommend conditions of settlement of disputes which threatened the peace and, if the parties agreed, to consider disputes which did not threaten the peace (though for the latter Evatt thought some other tribunal might be preferable). All were agreed that the organisation’s charter should bar members from using force to subvert other states’ integrity and independence. By and large it was agreed that in signing the charter all members would undertake explicitly to resist aggression against a member. On the issue of aggression, Evatt warned that a premium should not be placed on aggression. What he had in mind was the danger that a state, if unable to get a hearing for a case for, say, expanding its borders, might ensure a
hearing and possibly a happy outcome if it went through the motions of resorting to force such as to invite Security Council investigation and conciliation.

One aspect of the Security Council veto to be enjoyed by the Big Five especially concerned Evatt, and that was its application to amendment of the new organisation's charter. Under the Dumbarton Oaks Proposals, amendment of the charter negotiated at San Francisco would need two-thirds majority support in the General Assembly but, even then, would not take effect until ratified by the Big Five and a majority of other members of the organisation. In effect, any one of the Big Five could refuse to ratify, and thereby veto, an amendment however high the level of support among member states. Doubtless affected by his experience of the Australian constitution as a lawyer and as a politician, Evatt in London showed much stronger interest in charter amendment than other delegates. He did not want charter amendment made too easy but nor did he want it subject to veto by a single great power.

In statements at the talks, but more especially in speeches made outside them, he explained that this for him was not simply a matter of constitutional principle or numbers democracy. He saw the charter to come from the San Francisco Conference as a temporary charter, which would serve for a transitional period after the war but which would then need revision to meet the needs of a different kind of international environment. Most to the point, he saw the veto right itself as a mark of this transitional period and not something to be enjoyed by the great powers in any context in perpetuity. As he told a Royal Institute of International Affairs audience on 9 April:

"...the Dumbarton Oaks plan as at present drafted bears very many characteristics of a mere prolongation into the years of peace of the type of 'Big Three' leadership that has been found necessary in order to win the war. This is the explanation and justification of the veto plan. At the same time and for the same reason it would be wise to regard the plan as being of a transitional rather than permanent character. If that were conceded the organisation could start off in the expectation that the charter would be progressively modified and altered to fit the normal conditions of international relations after the period of post-war rehabilitation has been completed. It follows that the constitutional arrangements for amending the Charter are exceedingly important."

Evatt went on to make the point that there was for him a connection between the wide veto privilege to be accorded to the Big Five on security matters and extension of the veto right to amendment of the charter, with happy (if temporary) accommodation of the former dependent on an

absence of the latter. The question of charter amendment did not receive much attention during the formal talks although, once he raised the issue, other delegations indicated some support for Evatt’s view that the charter should be capable of revision as times changed. Rather more attention was paid to another aspect of security, and that was the regional aspect. Addressing the question of whether regional defence arrangements should require the approval of the world organisation and, more especially, whether military action of the regional level should need the approval of the Security Council, Evatt argued that, because the veto of one great power could prevent collective action in defence of a member of the organisation, members should have a second string to their bows in the form of regional defence arrangements. He was inclined to think that the organisation probably should be informed of such arrangements but not necessarily asked to approve them. In this Evatt was in conflict with the Dumbarton Oaks Proposals, which banned enforcement activity at a regional level without Security Council authorisation. Other delegates tended to stand by the Dumbarton Oaks Proposals, arguing that there must not be local wars in which some great powers might feel free not to involve themselves, and that the veto on regional action was the price to be paid for a cohesive organisation offering collective security to the whole world. Evatt clearly feared a situation in which Australia faced some kind of threat and with China or the Soviet Union, say, able to veto not only intervention on Australia’s behalf by the United Nations but also by regional allies. The question did not evoke great heat, but it was another on which there could not be a common Commonwealth approach at San Francisco.

On the assumption that great power domination of the organisation through the veto power at the Security Council level would be temporary, Evatt took a moderate position in discussion of the role of the Great Assembly, especially compared with that of Fraser. The general disposition among dominion delegates was to give the Assembly higher status than the Dumbarton Oaks Proposals seemed to allow. Evatt shared in this to the extent that he wanted to see the Assembly empowered to take up virtually any kind of matter not expressly reserved for the Council and to have the Council obliged to keep the Assembly informed of its activities. However, as long as the veto did not apply to charter amendment and could not be used to maintain great power privileges for ever, he was happier than Canadian and New Zealand delegates to allow the Council a dominant role in security matters. If only temporarily, Evatt was prepared to accept a Council with ‘unlimited executive power’, admitting that ‘so great a power has never before been conferred upon any international body’. The New Zealanders took up the most extreme

\[20\text{ Ibid.}\]
position, complaining that the Dumbarton Oaks Proposals made the Assembly a mere appendage of the Council, urging that on the contrary the Council should be the servant of the Assembly, and arguing (to a degree with Canada) that, except in the most urgent situations, Council decisions on enforcement action should have Assembly approval.

Evatt placed great stress at the London talks on having an international organisation which would attend not only to security issues in their overt military form, but which would also seek to remove causes of war by encouraging higher living standards within member states. He wanted the Economic and Social Council mentioned in the Dumbarton Oaks Proposals raised in status from that of what he called a 'discussion group on economics' to that of a principal organ of the United Nations and able to initiate studies, frame conventions and coordinate the work of other bodies. While he perhaps spoke at greater length than other delegates on this subject, and at times led the discussion, other delegates seemed in the main to share his views.

Overall, then, and judging by the official record, Evatt's behaviour at the London talks was busy and constructive. In no sense did he emerge as a left-wing ideological warrior. If anyone came close to earning that label it was Peter Fraser with his warning, for example, that in the event of conflict between Communist and non-Communist states 'the working classes of all capitalist countries would rally to the support of Russia'. Nor did Evatt emerge as an especially brash nationalist or, indeed, as a brash anything. Only on the issue of trusteeship did he come down hard and vehemently against the United Kingdom and virtually promise a fight at San Francisco. On most issues his views were not too dissimilar from those of other delegates, and it is to be noted how often his contributions were followed by quiet statements of agreement from Smuts. Thus, it is difficult to accept the view that 'it is certainly possible to argue that some of the issues Evatt pursued and the stands he took were naive or contrary to Australia's best long-term interests'. Admittedly, he talked a lot, but that was Evatt's way when intellectually engaged. He was like a barrister with a new and fascinating brief and, with Canada lightly represented, he was bound to stand out.

It is true that some from the United Kingdom were alienated by him. Eden did not take to him, much preferring the old and gentle Smuts who, he later told Stettinius, had 'stood out head and shoulders above the rest at the Commonwealth conference'. After the discussion on trusteeship,

21 Minutes of the British Commonwealth Meeting, 9th Mtg., 11 April 1945, AA:A5954, Box 720.
Cadogan confided to his diary that ‘I can’t make up my mind whether Evatt and Fraser are more stupid than offensive’. But Britons of this kind could be very hard to please: a liberal conservative Anglo-Australian with impeccable British credentials, R.G. (later Lord) Casey, was dismissed by Cadogan and his kind in similar terms; even Bruce, regarded by some Australians as an impossibly haughty Anglophile, could be treated with reserve in London because he criticised United Kingdom men, even prime ministers. As an American defender of Evatt has remarked with sarcasm in this context, ‘Evatt was not a gentleman’.

Evatt lacked personal grace and style, and he was an argumentative colonial. Worse, he could not be patronised. Cadogan, a son of the aristocracy, finally could conclude of Fraser that, while he was ‘tiresome’, he was ‘rather a dear old thing’. Evatt was to remain ‘the most frightful man in the world’. That Evatt grated on such people should not of itself necessarily be taken as evidence of virtue, but nor should it be taken as evidence of naivety or silliness.

One vital question was delicately skirted during the London talks, and that was the freedom to be allowed to smaller powers to seek to change what the United Kingdom and her great power colleagues had settled between themselves at Dumbarton Oaks and Yalta. Evatt clearly anticipated that the San Francisco Conference would act as a constituent assembly for which the great powers’ proposals would provide a useful basis for discussion but which essentially would write its own charter. Churchill, for one, clearly had quite a different kind of conference in mind, promising no more than that ‘amendments suggested by the smaller Powers would, of course, receive the utmost consideration by the great powers’. Here lay the seeds of certain conflict.

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26 Dilks, p.745.
27 Minutes of the British Commonwealth Meeting, 4th Mtg., 6 April 1945, AA:A5954, Box 720.
After the conclusion of the London talks, Forde and Evatt made a short official visit to France, where Evatt took the opportunity to confer with the French Foreign Minister, Georges Bidault, and officials at the Quai d'Orsay. The French indicated sympathy with Evatt's concern to see that middle ranking powers like Australia were given appropriate status in the organisation to be established at San Francisco; they were not in sympathy with his trusteeship policies. The Australians returned to the United Kingdom and flew from there to the United States.

Evatt had cabled to the Australian Legation in Washington that 'I specially desire to have opportunity meeting President Truman', but the White House, still coping with Truman's succession on the death of President Roosevelt on 12 April, could not fit him in. He had talks, though, at the State Department, and he called on a key member of the United States delegation for San Francisco, the Republicans' Senator Arthur Vandenberg. Evatt impressed Vandenberg, not least by his apparently firm attitudes towards the Soviet Union and very flattering attitudes towards the senator, and Vandenberg was left with the conviction that 'he is going to be a tower of strength at Frisco'.

Evatt and his officials travelled across country to San Francisco by train, and this gave them a further opportunity fully to master the Dumbarton Oaks Proposals and the Yalta agreements reached by the great powers and to frame Australian amendments to them. Hasluck, by now only too familiar with Evatt's appetite for work, found the trip positively pleasant and later recalled in relaxed terms that 'we even held a few working sessions'. Alan Watt, who had joined the team in Washington, where he was counsellor at the Australian legation, was less familiar with


3 Paul Hasluck, Diplomatic Witness, Melbourne University Press, Melbourne, p.189.
Evatt’s approach to work, and he was later to recall the loss of ‘blood, sweat and tears’ during ‘three days and three nights locked up with our Minister for External Affairs in adjacent compartments’. Also with a compartment in the same carriage was the Canadian representative in Washington (and a future Canadian foreign minister and prime minister), Lester Pearson, who noted in his diary: ‘Dr Evatt kept bobbing into my compartment to point out the iniquities of the Dumbarton Oaks charter. He is an arrogant and aggressive fellow, but intelligent and well informed’.

The whole Australian team finally came together in San Francisco on 24 April, the day before the conference opened. It was for the Australians an extraordinary experience, immersion in a maelstrom. And that is not to exaggerate. Figures tell part of the story: according to Eagleton, an academic attached to the United States delegation, the Americans had gathered a secretariat of a thousand people to service the conference; there were 282 delegates, with 1500 people in their teams; there was a press and radio contingent of 2600 to report the conference; on average, official daily documentation issued at the conference was to be about 500,000 pieces of paper, on one day reaching nearly 2 million. Such a strong press presence was for most of the Australians a novelty, and not always appreciated: one Australian assistant, Jessie Street, was scandalised by a local press which ‘don’t write news—they "create" sensations’.

The Australian team of 45 was relatively large, Canada managing with 34, South Africa with 14 and New Zealand with 10. The size of delegations and their support teams varied according to whether governments used places to honour individuals, satisfy interest groups or provide political balance. The United States went furthest in this direction with a team of 174, and the nature of American politics and the inexperience of its delegation chairman, Stettinius, meant that its team, or large parts of it, met often, both before and during the conference, to discuss issues and to decide on American policy and tactics. The Soviet Union, without these constraints, managed with a team of only 18. The actual conference participants, the negotiators on committees, comprised only a very small proportion of most teams, including the Australian.

Well before the conference, the United States as host drew up an elaborate organisational structure for it, and this was generally acceptable to other states. Indeed, the conference structure was over

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elaborate—‘over-organised’. The conference would hold plenary sessions, attended by all delegates, in San Francisco’s Civic Opera House which, fortunately, could seat 3300. To provide overall direction, there would be a Steering Committee, comprising the chairmen of delegations. Alone of all the delegations, Australia did not admit to having a chairman, and for Steering Committee purposes its member was listed as ‘Francis Michael Forde or Herbert Vere Evatt’. This was somewhat curious in that Forde certainly thought he was the chairman. He reported back to Curtin that ‘as Chairman of the Australian delegation’ he had a vote on the Steering Committee, with Evatt entitled to speak but not to vote. Forde would scarcely have described himself as chairman to Curtin if he had any doubt about his status in Curtin’s eyes but, presumably as a gesture to Evatt, he did not insist on that status at the conference where, as Hasluck has put it, the Australian delegation was ‘a calf with two heads’.

Of greater significance in the daily running of the conference was the Executive Committee (of the Steering Committee). It had been intended that the Executive Committee would comprise the Big Four sponsoring powers, plus France, plus six others. The United States had in mind Brazil, Czechoslovakia, Canada, Iran, the Netherlands and Mexico for the additional six places. Some care had been given to the claims and geographical spread of these six because it was assumed that many would see a link between the Executive Committee and the planned Security Council, each comprising the Big Five and six others. At a meeting with Stettinius in Washington a week or so before the conference opened, Eden suggested that Iran be dropped in favour of Australia on the grounds that Evatt had asked for a place and because otherwise the South Pacific would be unrepresented. Stettinius demurred, arguing that, while the United States did not much mind, other states would object to three ‘British’ states on the committee. Eden, however, returned to the fray at a meeting of the Big Four foreign ministers in Washington on 23 April, suggesting now that, rather than drop Iran, the committee be extended in size to accommodate Australia and stressing that ‘Australia had played a very prominent part in the war’. Eden’s task was made easier in that the Soviet Union’s Vyacheslav Molotov wanted a place for Yugoslavia. As a result, it was agreed to extend the Executive Committee membership to 14, the extra three places going to Australia, Yugoslavia and Chile.

Evatt was to claim that Australia’s selection for membership of the Executive Committee resulted from his diplomatic efforts in London, Paris and Washington, and that ‘we finally secured the support of the

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8 Eagleton, p.935.
9 Hasluck, p.188.
British, the Americans and the Russians’. In fact, the Americans were, if anything, unsupportive, and the Russians were indifferent, and Australia’s success was due entirely to Eden, and to luck in that the Soviet Union’s support for Yugoslavia opened the way for a deal. Why Eden so strongly supported Australia remains a mystery. He did not like Evatt and, on a personal basis, he would have preferred to see Smuts on the committee. Still, the outcome was that Australia was very well placed to influence events at the conference, and ‘Australia’ meant Evatt. Referring to the Executive Committee, Forde stated rather grandly that ‘I will ask Evatt to represent me on that committee’, but it may be doubted that Evatt could have tolerated the sight of Forde in the Australian seat. Membership of the committee put Evatt in heady company which included Canada’s Mackenzie King, Czechoslovakia’s Jan Masaryk and France’s Bidault, as well as Molotov, Eden and Stettinius. It might be noted that the fourteen states on the Executive Committee also comprised a Coordination Committee, the main function of which would be to refine draft versions of sections of the charter and produce a final version. Evatt was the Australian delegate on the Coordination Committee (with Hasluck and Bailey as alternates) under the chairmanship of the United States’ Leo Pasvolsky, but the principal contributor here was Bailey.

The work of the conference would be distributed among four technical commissions: Commission I, concerned with General Provisions; Commission II, concerned with the General Assembly; Commission III, concerned with the Security Council; and Commission IV, concerned with Judicial Organisation. Each commission had a president, rapporteur and an assistant secretary-general. These commissions, though, would exist mainly to bring together the work of technical committees. In each case, Evatt and/or Forde was listed as the Australian delegate, with listed alternates. These committees and alternate delegates were:

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**Commission II:**

- **Committee 1** (Structure and Procedures) - Eggleston and Brigden
- **Committee 2** (Political and Security Functions) - Pollard and Hasluck
- **Committee 3** (Economic and Social Cooperation) - Wilson and Burton
- **Committee 4** (Trusteeship) - Eggleston and Forsyth

**Commission III:**

- **Committee 1** (Structure and Procedures) - Watt and Spurgeon
- **Committee 2** (Peaceful Settlement) - McEwen and Bailey
- **Committee 3** (Enforcement Measures) - Lavarack, Coleman and Hasluck
- **Committee 4** (Regional Arrangements) - Williams, Coleman and Watt

**Commission IV:**

- **Committee 1** (International Court of Justice) - Eggleston and Bailey
- **Committee 2** (Legal Problems) - Eggleston and Bailey

As an Australian delegate, Evatt could take up the reins on any committee whenever he chose (which was often) but as a precaution he had one of 'his' men on every committee, and it was these who kept control. Given
that Eggleston’s health and age kept him in the background and forced his early departure, it will be seen that the effective Australian group was very small: Evatt, Hasluck, Watt, Burton, Bailey, Brigden and Forsyth, with Hasluck and Bailey at the core.

Office holders on the commissions and committees (each committee had a chairman and rapporteur) were chosen by the Big Four. Smuts was made president of Commission II, and Fraser was made chairman of Commission II’s Committee 4 (in the style to be used henceforth, Committee II/4). When the sponsoring powers in the weeks before the conference were considering officers for the various commissions and committees, Forde was slated as a possible chairman of Committee II/4, which would deal with trusteeship. The United Kingdom’s Lord Halifax disapproved, pointing out that the appointment of Forde would see Evatt actually in the chair and that this was to be avoided. Stettinius took his point and Fraser got the nod. The United Kingdom’s objection to Evatt must have been personal: if the objection had been based on hostility towards Australian trusteeship policy as expressed at the London talks, Forde would also have been objectionable—and Fraser even more so.

Australia suffered no slight in not being asked to provide officers for the commissions and technical committees in that membership of the important Executive and Coordination Committees clearly was seen as honour enough: of the fourteen members of those major committees, only two, France and the Soviet Union, also provided officers for the technical bodies. Indeed, there was no honour at all in providing officers for the technical bodies: there were 36 such positions to be filled and none missed out except members of the major committees. One can only guess as to why the United Kingdom was happy to see Evatt on the major committees but not as chairman of a technical committee: it may be that Australia’s absence from the list of committee office-holders increased its chances of making the major committees, or it may have been supposed that Evatt could be better contained as a member of small committees, however important, than as chairman of a technical committee.

The elaborate committee system of the conference did not altogether represent reality in that the delegates of the great powers operated as an informal committee behind the scenes, and often proceedings in their hotel rooms were to matter more than the rhetoric expended at meetings of the commissions and technical committees in the Veterans’ War Memorial Building. Moreover, while the marvellous committee system at San Francisco in one sense made it the easier for a delegate with Evatt’s almost manic energy and determination to argue the toss and build up support among other small powers, it also placed great strain on a

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crusader. With twelve technical committees (and it must be remembered that these were committees of the whole conference with, in each case, fifty members) meeting at any one time, and with each of these committees establishing sub-committees, a crusader would need immense stamina, very reliable alternates and a nice sense of judgement as to what committee to attend and when. And because, as Evatt complained to Eggleston before the conference opened, an amendment to one part of the Dumbarton Oaks text being considered by one committee could affect other parts of the text being considered by other committees, the backer of an amendment could find himself trying to operate on several committees on the one question at the same time. And, of course, there would never be just one question in the air at any given time: there could be dozens of amendments being discussed in committees and sub-committees, amendments which Evatt might be supporting or opposing.

Nor can it be over-stressed that this was a conference convened by the great powers to consider a document prepared by the great powers or as amended by the great powers. The small powers’ delegates, including Evatt, forced acceptance of a conference voting system which tended to loosen the great powers’ grip on the conference, but this was of limited significance beside the elementary fact that there could be no charter unacceptable to the United States and the Soviet Union. This meant, among other things, that small powers’ delegates like Evatt had to behave as though the committees were genuine and as though votes mattered, while knowing that on what they regarded as vital issues the great powers would not be swayed by numbers alone. To add to the difficulties of the small powers’ delegates, it would be difficult at times to know when the great powers’ delegates were bluffing, pretending to an intransigence that was not necessarily firm or using the claimed attitudes of the Soviet Union Government or the United States Congress merely as a tactic for disarming opposition.

One obvious method of coping with this maelstrom was for delegations to meet frequently so that delegates and advisers could be kept up to date on developments in committees and so that policy and tactics could be discussed. This method was most keenly applied by the United States team which held long and very detailed discussions on every aspect of policy and tactics, often more than once a day. The Canadians, a group more comparable with the Australians, adopted much the same method, with some of their discussions showing no want of vigour. This was not to be the Australian way.

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13 Evatt to Eggleston, 10 April 1945, AA:A1066, H45/771/1.
For one thing, there was to be no closing of Australian ranks. The entire Australian team stayed at the Sir Francis Drake Hotel, but Evatt and his officials had rooms on the seventeenth floor, Forde and his officials had rooms on the tenth floor, and the delegation’s secretary, External Affairs’ Keith Waller, had a bedroom on one floor and an office on the other. Evatt did not collaborate with Forde; he competed with him and came out on top. In some ceremonial settings, there were to be virtually two Australian delegations, and it was only some surreptitious dealings by officials behind stiff ministerial backs that prevented absolute farce. For another, open discussion in a large group was anyway not Evatt’s style. His approach was to work constantly and very closely with his few key officials, to keep all the reins in his own hands. Throughout the two months of the conference the Australian team was to meet on only two or three occasions, and at that for information and not for discussion. In Hasluck’s words, ‘the policy of the Australian delegation and any adjustment of policy was made by Evatt and not by the delegation’.¹⁵

Evatt foreshadowed the pace he would set almost from the moment of his arrival in San Francisco on the eve of the opening of the conference. He called a press conference at which he indicated the nature of Australian amendments to the Dumbarton Oaks and Yalta texts stressing especially the right of some middle ranking powers like Australia to positions of influence in the world organisation to be established at the conference and his opposition to the wish of the great powers subsequently to be able to veto any change to the charter to come out of San Francisco.

The United Nations Conference on International Organization opened late on the afternoon of 25 April, Anzac Day, when delegations gathered at the Opera House to hear addresses of welcome from President Truman (speaking from Washington), Governor Earl Warren of California and Mayor Roger Lapham of San Francisco. The first business meeting of the conference was a meeting of the Steering Committee the next morning, when Forde became one of the first delegates to open his mouth at the conference: he joined Fraser in objecting to the conference secretariat’s statement of functions for Committee II/4 on trusteeship as including the drafting of provisions for a system of international trusteeship ‘for such dependent territories as may by subsequent agreement be placed thereunder’. Fraser and Forde objected that this was too restrictive, and the committee chairman, Stettinius, promised that there would be no restriction on what might be discussed. Of doubtless more significance to the delegation chairmen at the Steering Committee meeting was a strong

¹⁵ Hasluck, p.192. See also Lewis R. Macgregor, *British Imperialism: Memoirs and Reflections*, Dymer Communications, New York, 1968, p.768: ‘There ought to have been daily meetings of the delegation... This was anathema to Dr Evatt...Some delegation members were never consulted...’
statement to the effect that the sponsoring powers were operating in unity at the conference. This was only to be partly true. At pre-conference meetings, the Big Four foreign ministers had agreed to confer if any of them wished to suggest amendments to the Dumbarton Oaks Proposals and to consider amendments submitted by other powers but, at Stettinius’ insistence, it was also accepted that each great power could go its own way if agreement in private caucus eluded them. In the event, there were to be occasions during the conference when the great powers closed ranks against the rest; there were also to be occasions when the great powers would be at each other’s throats.

On the morning of 27 April, the Steering Committee accepted the sponsoring powers’ recommendations for membership of the Executive Committee, the acceptance motion being moved by Fraser and seconded, immodestly, by Forde. Again, it became clear that an Australian voice would be heard whenever opportunity allowed. Evatt bought into an inconclusive discussion on voting procedures, objecting to the secretariat’s proposal that two-thirds majorities should be needed to carry substantive motions on the ground that this formula was too demanding in that, by definition, a one-third minority could block any change to the Dumbarton Oaks Proposals (the small powers were to have some success on this issue in that the great powers finally agreed that, while two-thirds majorities would be needed to carry amendments, the same majority would be needed to get a provision into the charter, and this whether it originated in the Dumbarton Oaks Proposals, great powers’ amendments or others’ amendments). Forde bought into an even more inconclusive discussion on the desirable length of the conference, disagreeing with Smuts’ suggestion that a week should do on the grounds that ‘such a limitation might prevent full consideration of amendments’¹⁶ (most expected the conference to take four or five weeks, but it was to take twice that).

With Evatt grinding his teeth, Forde on that afternoon of 27 April spelled out most of the amendments desired by Australia in a speech to a plenary session of the conference. They were: the veto allowed to the great powers on the Security Council should be limited to enforcement action, and should not apply to conciliation, arbitration or other peaceful processes; the General Assembly should be free to consider, and make recommendations on, any dispute not receiving the active attention of the Council; in the election of non-permanent members of the Council, some kind of priority should be enjoyed by states which, like Australia, had a proven record in fighting not only in self-defence but also for the general good; in the peaceful settlement of disputes, maximum use should be

made of the International Court; the charter should list the promotion of justice and the rule of law as a purpose of the United Nations Organisation; the charter should involve member states in a specific undertaking to refrain from the use or threat of force against other states; the Economic and Social Council should be made a principal organ of the United Nations, and the charter should pledge members to pursue the economic and social welfare of their peoples; the old mandates system, extending to territories taken from Italy and Japan during the current war, should continue but, as well, the principle of trusteeship should apply to all dependencies, with an expert organ established to report on mandated territories and such others as might be determined. A key issue for Evatt, removal of the veto on charter amendment, was only vaguely foreshadowed, with Forde announcing merely that Australia would seek to have the conditions for amendment eased.

Evatt took it very hard that Forde insisted on making this speech, complaining to a ministerial colleague back in Canberra, John Beasley, that he had written the speech ‘with the exception of four or five foolish and rhetorical sentences’ and that ‘it was not even read without errors’. If Forde was no golden orator, it was also the case that Evatt’s public speaking varied only between mediocre and dreadful, although his high pitched voice and broken sentences were to matter much less in committee rooms where, at least on occasion, substance could be more significant than style. What especially upset Evatt was that the speech delivered by Forde was freer of platitudes and more concerned with substance than usually was, or is, the normal run of plenary speeches at large conferences and, as a result, Forde was able to bask in a good deal of admiration from other delegates.

The preliminary issue most to engage Evatt was that of which states were to be admitted to the conference. There was no dispute about honouring the great powers’ agreement at Yalta that two Soviet republics, White Russia (Byelorussia) and the Ukraine, should be invited to take seats at the conference. None was under any illusion that their supposed independence of Moscow was more than a fiction, but a couple of extra votes for the Soviet Union seemed a small price to pay for its goodwill and, while American opinion had been hostile when news of the deal had leaked out, feelings at the conference were not strong. It was Evatt who at an Executive Committee meeting on 30 April moved for the admission of the Soviet republics. There was, however, considerable dispute about the admission of another state, Argentina.

Despite Argentina’s pro–Axis posture during the war, the Latin American states were keen to have it back in respectable company. Argentina had cooperated by declaring war on the Axis powers on 27

March, and its neighbours then pushed for its admission to the San Francisco Conference. Evatt’s reaction showed some ambivalence. He had already shown an interest in establishing diplomatic relations with Latin American states, in the first instance earlier in 1945 with Brazil and Chile, partly for reasons of prestige and partly because of common trading patterns. He had also become conscious of the size of the Latin American group at international meetings, notably at the Monetary and Financial Conference at Bretton Woods in mid-1944 and the Civil Aviation Conference at Chicago in December 1944. Before the San Francisco Conference, where 18 of the 46 states represented at the opening on 25 April were Latin American, he voiced some concern about the capacity of such a group to hinder the negotiation of the kind of charter he wanted and this, in part, was why he opposed the notion of two-thirds majorities at the conference: as a group, the Latin Americans would comprise more than the third necessary to prevent acceptance of Australian amendments.

It would seem that, once in San Francisco, Evatt was quick to appreciate that, if the Latin Americans as a bloc could cause problems, equally they could be useful friends. Thus, when at the Executive Committee meeting on the morning of 30 April, Mexico and Chile moved to have Argentina admitted to the conference, he prevaricated. Candidly ill-disposed towards Argentina ‘on account of its past record in this war’, he successfully opposed an attempt to have Argentina ride into the conference on the coat-tails of White Russia and the Ukraine, and then sought to delay consideration on a question of dignity: approval of an application from Argentina to attend the conference would be one thing; a positive invitation from the conference to Argentina, as sought by Chile, would be quite another. However, noting ‘the attitude of the Latin American countries, many of whom were good friends of Australia’, he withdrew his objection to the Chilean motion which, despite fierce opposition from the Soviet Union, was approved by the Executive Committee, then by the Steering Committee and finally in plenary session. It is questionable that at the beginning of the day Australia had many of the good Latin American friends claimed by Evatt, but by the end of it Evatt certainly was on his way to making some.

There was one issue, which soured the atmosphere of the first week of the conference and alienated many delegations, including the Latin Americans, from the Soviet Union, but into which Evatt did not buy at all. The Soviet Union wanted representation at the conference for a pro-Communist provisional Polish government formed at Lublin in the previous year, the old Polish government in exile in London wanted to be

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19 Ibid.
represented, and the United States and the United Kingdom insisted that Polish representation must wait until, as agreed at Yalta, a more democratically-based government had been formed. Some in Canberra (including, perhaps, Curtin) were so scandalised by Poland's absence from the conference and so inclined to respect the security buffer needs of the Soviet Union as to prefer Lublin representation to no representation, but Evatt held aloof. Earlier in the year, he had defended United Kingdom policy on Poland, this had earned him a cable of gratitude from Churchill, and it may be that this inclined him towards solidarity with the Western great powers. He might also have concluded that Molotov's rage against the Latin Americans for seeking Argentina's admission but not Poland's had so angered them that it was politic in terms of conference diplomacy to keep on side with them. Whatever the reason, he took what was for him the unusual view that the Polish question was not the small powers' business, that, as he put it to Curtin, resolution of the question rested 'fairly and squarely on the shoulders of the Big Three'. In the event, a Polish government acceptable to the West was formed in July, not in time for representation at the conference but in time to sign the charter as an original member of the United Nations. For no apparent reason, Australia was to delay recognition of the new government until late October.

After a week, the conference had merely organised itself for the task for which it had been convened, the writing of a United Nations Organisation charter. For Evatt, who disliked the term 'United Nations Organisation' successfully pushed by the United States (he would have preferred 'Union of Nations'), the week was not a waste. Taking full advantage of Australia's membership of the Executive Committee, he managed from the beginning to make a mark not by striking exaggerated attitudes but by speaking on most issues as they arose, by moving and seconding motions, by behaving as though it was entirely natural that he should be a participant with Stettinius, Eden, Molotov and the rest in addressing major questions. The great powers comprised an innermost core to which by definition he was not admitted, but he operated busily at the next level of significance.

At the end of the first week, however, there was a big fly in Evatt's ointment, and that was the presence of Forde. This had him 'bruised in spirit'; it was 'too much to bear'. While declaring of Forde that 'no other Minister of the Government could possibly behave so greedily or so selfishly', and while damning what he saw as Forde's insensitivity to his own ignorance of diplomacy, his tendency to grandstand and his inclination to defer excessively to other states' delegates, Evatt blamed

20 Forde and Evatt to Curtin, 28 April 1945, DAFP, Vol.VIII, p.149.
21 Evatt to Beasley, 1 May 1945, ibid., pp.155–6.
Curtin for not having named himself as delegation leader, and he mourned that a formerly valued personal friendship with Forde was being ruined. He was only too aware that the United Kingdom Deputy Prime Minister, Clement Attlee, was happy to serve in a delegation led by the Foreign Secretary, Eden. Evatt wanted Forde to go home, but Forde was happy at San Francisco and Evatt would have to put up with him throughout the conference. In fact, the first week of the conference was for Evatt in this context the worst. Once the conference moved into its committee phase, Evatt was in his element, and Forde was not.

In treating Evatt’s experience of the conference in succeeding weeks, it is the case that the only truly valid method would be to follow the course of the conference day by day or, at the least, week by week. Only by this method could one hope to portray the demands on delegates, the atmosphere, the climaxes and anti-climaxes of the conference. Unfortunately, it would be almost impossible to provide a comprehensible account in that form. Apart from the Steering, Executive and Coordination Committees and four Commissions, there were twelve technical committees and a great number of sub-committees and, with so many bodies dealing simultaneously with very many issues, to tell the story day by day or week by week would be to force the reader maddeningly to flick back and forth to mark points reached on issues the day or week before or after.

An alternative would be to focus rather on the charter which emerged from the conference, to discuss the writing of the charter not chronologically as it happened at San Francisco but chapter by chapter and paragraph by paragraph. The drawbacks to this approach are that it would make for an exhaustingly long book (the charter, after all, came out of the conference with 111 articles, many of them running to several paragraphs), the momentous and the relatively trivial would tend to achieve a spurious equality and, most to the point, the fact that major issues were reflected in several paragraphs in various of the charter’s nineteen chapters would defy (or at least make very difficult) an orderly progress through the charter from beginning to end.

It is proposed, therefore, to limit description and discussion to the part played by Evatt in the resolution of issues which of their nature were central to the outcome of a conference on international organisation or on which Evatt fought notable campaigns. This course will tend to underplay Evatt’s busyness, and it must be borne in mind that many of these issues, as well as lesser issues which also engaged Evatt, were being dealt with by committees and sub-committees at the same time, so that for key participants the conference was unbelievably hectic.

Indeed, it cannot be over-stressed that for Evatt the demands were awesome. His officials (especially Hasluck, Bailey and Burton) had to keep him informed on an almost hourly basis as to what points many
discussions had reached on many bodies, what tactics or policies Australia would pursue, on just which committee Evatt at any given time should intervene personally. It was as well that, as his officials later were to recall, Evatt showed some kind of sixth sense as to just when and where his presence would be most effective. It is also to be repeated that Evatt wanted an international system in which states like Australia would contribute as a matter of course and not just when pursuing their own particular interests.

As he said so often, for him the San Francisco Conference was a constituent assembly at which a constitution, a charter, would be thrashed out, and he expected to contribute his ideas on almost every aspect of it and not just on those parts of special and immediate interest to Australia in 1945. Just as the best of the Australian federation fathers in the 1890s had looked to the budding national interest in thrashing out a constitution for the Commonwealth of Australia as well as to their own colonies’ particular interests, Evatt, it seems clear, assumed that the best of the United Nations Organisation’s founding fathers would look to the international interest as well as to their own states’ interests. For one man, however well served by able and industrious officials, this was no small ambition.

Having said all that, it is also necessary to sound a warning. The moment one begins to focus on the behaviour of one delegate at a conference attended by hundreds, one begins to risk loss of proportion. It is possible, after all, to find accounts of the San Francisco Conference in which there are no references to Evatt and Australia—or very few. Among British and American writers, for example, Evan Luard is not untypical in stressing not the impact of the small powers like Australia but their acceptance of the great powers’ proposals ‘almost without resistance... without serious challenge’, arguing that such disputes as there were can be written off as ‘in practice, as subsequent history proved, of minimal importance’. Autobiographies and biographies of conference participants do not invariably have much to say about Evatt or Australia. Some of this silence can be ascribed to the myopia of those used to seeing the world from its power centres or to the concentration of writers from small states on their own heroes, but it can also be taken as a useful reminder of the need to seek to keep Evatt’s performance in proportion, to note just when he really made a mark or was simply one voice among many.

Article 5 of the League of Nations covenant provided that decisions of the League Council and Assembly required the agreement of all members present. One could say that every member had a power of veto, but the term 'veto' was seldom used during the years of the League. Because all members had the power, the focus rather was on the concept of unanimity. And the general consensus was that the unanimity rule, however unavoidable when states very sensitive about their sovereignty were considering the novelty of international organisation in 1919, was shown to be simply a recipe for paralysis. The League’s experience was such that a general unanimity rule did not feature in plans for an organisation to replace the League.

Like the League, though, the new organisation, the United Nations, was born of war, and it was widely assumed that it must be based in the first instance on the anti-Axis alliance, and more especially on a continuing concert of the great powers on that alliance—something which the League had never enjoyed and the absence of which had broken it. To guard their own interests as well as to provide a workable structure based on a continuing concert, the great powers in their plans for what became the United Nations Organisation gave themselves pride of place in what they intended to be its dominant organ, its Security Council. They would always be members of it, the so-called permanent members. The question was whether a unanimity rule would apply to them, whether all Security Council activity would require the agreement of all of them. But discussion of this question from the beginning tended to be framed in terms of the veto notion, on the capacity of a permanent member of the Security Council to prevent Council activity by means of a negative vote.

At the Dumbarton Oaks talks in 1944, the great powers were disposed to give themselves the very wide veto rights, but there was disagreement over the Soviet Union’s insistence that the right must be absolute. In particular, the United States and the United Kingdom were dubious about the propriety of allowing permanent members the right to veto discussion and investigation of disputes to which they were party. The Soviet Union, however, was adamant, and the result was that the Dumbarton Oaks
Proposals were silent on the question of Security Council voting procedures, and it was only at the Yalta Conference of February 1945, that the great powers reached an agreement based on a compromise acceptable to the Soviet Union.

The Yalta agreement, which was incorporated into the Dumbarton Oaks Proposals for submission to the San Francisco Conference, first distinguished between procedural and non-procedural matters. On procedural matters, an affirmative vote of any seven of the eleven members of the Council (the Big Five permanent members plus six elected periodically by the General Assembly) would suffice to carry a motion. On procedural matters, then, the veto would not apply. Unfortunately, it was not stated whether a vote on what comprised a procedural matter would itself be a procedural matter to which the veto would not apply. On non-procedural matters, the veto would always apply but with one exception: when the Council voted on whether to investigate any dispute or situation in order to determine whether there was danger to international peace and security, or on procedures for the peaceful settlement of a dispute, a Council member which was party to the dispute should abstain from voting. This at once created an anomaly in that it seemed that a permanent member could veto peaceful settlement procedures in disputes in which it had no direct interest or in which its clients were involved but could not apply the veto when it did have a direct interest. In any case, the exception allowed at Yalta was minor, and for all intents and purposes the great powers’ veto privilege was left intact. What remained to be seen was whether the wider community of smaller states would accept such a privilege as the price of great power support for the United Nations and, if not, whether the great powers would surrender any significant part of it.

In papers prepared for the Australia–New Zealand ministerial meeting in Wellington in November 1944, Paul Hasluck raised the question of whether the great power veto right should be qualified to some degree, but no formal note was taken of the issue at the meeting. During the Yalta Conference, the United Kingdom informed the Australian government of the agreement reached by the great powers on Security Council voting procedures, but Canberra did not comment. While on his way to London for the British Commonwealth meeting of April 1945, Evatt was described by the London Times Washington correspondent as a ‘warm supporter of the veto power’, although it should be noted that Evatt apparently was speaking in the context of the need for a great power capacity effectively to meet aggression. It is to be noted, too, that Evatt was as conscious as

most other internationalists of the time of the need to preserve a great power concert if the United Nations was to do better than the League. Thus, when Evatt cabled Curtin from London during the British Commonwealth talks on 9 April and noted Peter Fraser's anxiety about the veto power, he made the point that the great powers must not be alienated:

...we have to recognise that unless we get started with the world organisation now, enthusiasm and interest in the plan will rapidly vanish in the United States and the Union of Soviet Socialist Republics. Accordingly, it would seem desirable not to press for the complete removal of the veto power...2

Thus, unlike New Zealand's Fraser, who showed blanket hostility towards the veto in any form, Evatt was restrained in his comments on the veto during the London talks. He indicated that he did not much like the notion that a great power, while unable to veto an inquiry into a dispute to which it was party, nevertheless could, under the Yalta formula, veto any enforcement action with respect to it, but Australia, he said, could accommodate the prospect. On the question of whether a great power, provided it was not party to a dispute, could veto even consideration of a dispute, he took the line that surely the powers at Yalta had not really meant to allow for such a provision. And he agreed that there were other areas where the veto should not apply—in the appointments of United Nations secretaries-general, for example. But these views were expressed quietly and without any of the sense of agitation which marked Fraser's comments.

It has been seen, however, that Evatt by the time of the London talks had developed what was a somewhat peculiar view on the veto. Others might be concerned about the scope of the veto; he was concerned about the duration of the veto. As much as any, he wanted the great powers' war-time alliance projected into the peace and he accepted that their leadership was vital to the establishment of the United Nations, but for him this was a temporary thing, a phase. In his view, the United Nations charter to be negotiated at San Francisco must be suited to that phase, but it must be so framed as to allow tolerably easy revision as that phase came to an end. In effect, amendment of the charter should not be made too difficult and (here he did speak trenchantly) there must be no great power veto over charter amendment as allowed for in the Dumbarton Oaks Proposals.

One factor in Evatt's approach probably was his experience as a politician and constitutional lawyer only too aware of the domestic difficulties in operating under a federal constitution which was very difficult to amend and so, in the eyes of critics like Evatt, could not easily

be made responsive to change. Another and more certainly relevant factor was his dislike of a system in which small powers like Australia found it hard to escape great power dominance. This had been a problem during the war in relations with allies. He was prepared to tolerate a degree of continuing great power dominance in the peace, but not on a permanent basis. It is not clear just what kind of utopia Evatt envisaged for the future beyond what he called the ‘transitional period’, but one can be sure that it did not include world rule by a few great powers irrespective of the quality of small powers’ representatives or of majority opinion among them.

By the opening of the San Francisco Conference, Evatt had clarified and simplified his policy on the veto, and it sought to turn the great powers’ policy on its head. The great powers wanted a comprehensive veto with just two exceptions: in Security Council votes on procedural questions, and in Council votes on peaceful settlement procedures in cases where permanent members were parties to disputes. In his speech in plenary session on 27 April, a speech in substance the work of Evatt, Forde expressed Australian policy as seeking a comprehensive abolition of the veto with just one exception: it should apply when the Council moved to impose economic or military sanctions, a context in which success would depend on great power unanimity.

The Australian approach was further clarified in amendments to the Yalta formula circulated at the conference on 4 May. These amendments made no distinction between procedural and non-procedural questions, and they allowed for a great power veto only on Council votes on the existence of threats to the peace after peaceful attempts to settle a dispute had failed and to votes on action to be taken to enforce peace. Otherwise, all decisions of the Council should be made by any seven or more of its eleven members. This meant, of course, that a vote could not be carried against the combined opinion of the Big Five and that, as far as Evatt was concerned, was protection enough for them. As for amendments to the charter, these should not be subject to the veto but should be carried when adopted by two-thirds majorities at two successive sessions of the General Assembly, with the concurrence on each occasion of at least three of the Council’s permanent members. In not allowing for a Council majority as necessary to the carrying of an amendment, Evatt was showing his general disposition as far as possible to keep power in the hands of the General Assembly, the house of the small powers. The issue of Security Council voting procedures was the business of Committee 1 (Structures and Procedures) of Commission III (Security Council), but Committee III/1, as it was styled, first dealt with the question of Council membership and did not move on to voting procedures until 17 May, three weeks after the opening of the conference. Australia in no sense pioneered a campaign against the great powers on the veto issue: no less than 21 delegations submitted amendments seeking to some degree a modification of the Yalta
formula. And it was New Zealand which led off with a comprehensive condemnation of what the Yalta formula seemed to mean, but asking the Big Four to explain what they had intended it to mean. Somewhat oddly, the United Kingdom’s Cadogan at once took up the New Zealand challenge and, even more oddly, expressed the view that, while a permanent member of the council could veto a recommendation or decision of the Council, it could not prevent the investigation of a dispute to see whether it threatened peace—‘oddly’ in that, unless a decision to investigate were seen as a procedural decision, it was difficult to see how it escaped the Yalta net. More adventurously still, Cadogan made no bones about admitting that, because a great power could never be named an aggressor and subjected to force, investigations could be the more important in cases involving great powers in that at least public opinion could be informed. Not surprisingly, the United Kingdom subsequently retreated from the Cadogan line.

It was only then that Evatt intervened, but his intervention took the form of a very long and impressive speech in which he argued that, as it stood, the Yalta formula allowed a veto over a decision to investigate and over every other aspect of attempts to settle disputes by peaceful means. He claimed that many delegations, even if reluctantly agreeable to a veto on enforcement action (sanctions of one kind or another), could see no reason why the great powers should be able to veto peaceful settlement procedures. And, while charter amendment was not the business of Committee III/1, he also warned that, unless the veto were removed from charter amendment procedures, it would be ‘extremely difficult for governments to secure the necessary support in their respective countries for ratification of the Charter’. 3

Many delegates spoke at this meeting on 17 May and at another on 18 May, and most indicated some discontent, with Canada, Belgium, Mexico, El Salvador, Chile and Colombia expressing views close to Evatt’s. On 18 May, the Soviet Union intervened, admitting that the veto gave the great powers a special privilege, but arguing that this was justified because with it went corresponding responsibilities in keeping or restoring peace. Evatt’s speech and discussions with other delegates obviously made an impression, and at the meeting on 18 May Colombia moved that a subcommittee comprising the Big Four, Australia, Cuba, Egypt, the Netherlands and Greece discuss the Yalta formula with a view to clarifying it and suggesting amendments to it. The United States and the United Kingdom at once announced that they would cooperate only if the sub-committee’s functions were limited to clarification, and it was on this basis that it was established.

Evatt now was in his element. When the sub-committee met on 19 May, it was decided that a list of questions should be prepared for submission to the Big Four; their response would provide the clarification sought by Committee III/1. The delegations moved fast, and by 21 May some 22 questions had been framed, most of them by the Australian delegation. The questions covered every possible application of the veto but two were of special importance: if the attention of the Security Council were drawn to a dispute or looming dispute, could a decision of the Council to investigate be vetoed; would a vote on whether a matter was procedural and, therefore, not subject to the veto be itself subject to the veto?

As a rule, conflict on the veto at San Francisco is portrayed as conflict between small powers and great powers with, in Australian accounts, a tendency to see Evatt as the small powers’ David taking on the great power Goliath. In fact, for more than a fortnight after the framing of the questions by the sub-committee, the small powers were not engaged, and the conflict was within and between the great power delegations. Within the United States delegation, for example, Stettinius at first was inclined to rally his great power colleagues and stamp hard on the presumption of the small powers in submitting their catechism but he did not have his way because there were many in the American team who for long had felt some uneasiness about the propriety of a great power veto on any part of the peaceful settlement process and very great uneasiness about the notion that the veto could be used to stop even Council discussion of an issue referred to it, and there was a general disposition to see votes on what were or were not procedural questions as themselves procedural and not subject to the veto. These attitudes, shared by some in the United Kingdom, Chinese and French delegations, sprang in part from logic: it seemed absurd that under the Yalta formula a great power party to a dispute could not veto discussion of it and yet a great power not party to a dispute and perhaps with little interest in it could veto discussion, let alone decisions about it. Apart from logic, it was thought, too, that American public opinion, fed by a very busy press during the San Francisco Conference, would take a dim view of use of the veto in such circumstances.

On the other hand, there was a disinclination to respond to the sub-committee’s questions and thereby risk entrapment in lengthy discussions of all sorts of hypothetical and potentially embarrassing situations and there was, especially in the United States team, doubt about the wisdom and propriety of trying to get around the Yalta formula. The Yalta formula, after all, had been mainly the work of Roosevelt (Churchill, it was thought, would have gone along happily enough with Stalin’s wish for a universal veto). Roosevelt’s aim, of course, had been to obtain a limitation on the use of the veto rather than to reinforce it, but it
remained that he had proposed the formula to which Churchill and Stalin had agreed, that formula had left the veto privilege virtually intact, and a formula negotiated at summit level had solemn status. It was also the case that as long and complex discussions proceeded within the large United States team and between the great power delegations, there was a tendency towards recognition that great power unanimity, when all was said and done, would be a prerequisite to a successful United Nations Organisation. More immediately, it seemed that this was one issue on which the Soviet Union would not compromise. Indeed, it seemed that, if pushed too hard on the veto issue, the Soviet Union might leave the conference and abort the organisation.

For the main problem was the intransigence of the Soviet Union. Other delegations might discuss at great length and in fine detail the implications of this or that variation in the application of the Yalta formula, but the Soviet Union’s Andrei Gromyko (Molotov had returned to Moscow) held fast to the strict wording of the Yalta formula as sacrosanct. To the Western argument that surely the Security Council must be able at least to discuss matters brought before it even if prevented by a veto from proceeding to decisions and recommendations, Gromyko primly insisted that discussion was the beginning of a process which could lead ultimately to war so that, of course, the beginning of such a possible process must attract the veto as much as the end of it. As for a vote on whether a question was procedural or not, such a vote must attract the veto: the Yalta agreement, in not making it an exception, said so.

And so discussions dragged on well away from the conference floor—in the great power delegations, in a committee of great power officials and at the great power heads of delegation level—and with the Americans becoming increasingly agitated about bringing the conference to a close in a reasonable time. Gromyko at times seemed ready to compromise a little, but it became obvious that any change in his posture would need Moscow’s authorisation. The Americans were tempted to appeal over Gromyko’s head to Stalin but decided that an appeal on such a sensitive matter, and a matter on which Stalin could see himself as having already compromised at Roosevelt’s behest, could jeopardise continuing participation by the Soviet Union in the conference.

Great was the relief, then, when Gromyko announced on 1 June that at last he was in a position to provide firm answers to the questions most exercising the great powers, and great was their disappointment when he gave them: in a Security Council vote on whether or not a question was procedural, the veto must apply; in a vote on acceptance of a matter for discussion, the veto must apply. When Stettinius, Eden and Koo declared that a veto on discussion was simply unacceptable, Gromyko replied merely that doubtless such a veto would never be applied. Stettinius reported the ‘bad news’ to President Truman, who agreed that, whatever
the threat to the conference, the Soviet Union’s view could not be accepted. Urgent cables went from Washington to the United States Ambassador in Moscow, Averall Harriman, and a White House adviser who was in Moscow, Harry Hopkins, asking them to intercede with Stalin. In San Francisco, there was a deep sense of pessimism.

It would seem that during the long hiatus caused by the great powers’ inability to reach agreement on a joint response to the sub-committee’s questions, Evatt had no privileged information of what was happening. On 3 June, two days after Gromyko’s bombshell, Evatt could cable Chifley in Canberra (Chifley was Acting Prime Minister during what turned out to be Curtin’s last illness) only that ‘according to press reports’ the great powers were unlikely to provide specific answers to the sub-committee’s questions, and that ‘the press also suggest’ that the great powers just might take a permissive view of the Yalta formula. It would seem, indeed, that Evatt was pretty much in the dark until the night of 3 June, when Halifax told a meeting of British Commonwealth heads of delegations of Gromyko’s disappointing stand and of the crisis it created. Evatt was shocked by Halifax’s opinion that there was now a real danger either of a United Nations without the Soviet Union or of no United Nations at all. Besides berating the United Kingdom for not having kept the dominion delegations better informed, he cabled to Chifley that ‘we will assist in finding a solution without either appeasement of the Soviet Union or playing into the hands of anti-Soviet propaganda’.

The crisis ended on 6 June, when Gromyko announced a slight climb down by Moscow: while Moscow envisaged no formal amendments or guarantees, it was now the view of the Soviet Union that, if a state referred a matter to the Security Council, ‘no individual member of the Security Council can alone prevent a consideration and discussion’. With this, the great powers as a group quickly prepared a response to the sub-committee’s questions but their reply provided on 7 June did not, in fact, address the questions as framed, taking the form rather of a general essay on the veto based on contributions from the four sponsoring powers. What it boiled down to was that the Yalta formula held but that it should not be interpreted to allow a veto on discussion; otherwise, anything to do with the maintenance of international peace and security, and whether involving peaceful settlement or enforcement action, would attract the veto. On the major question of what would comprise a procedural vote, the Soviet Union had refused to budge, and the sponsoring powers’

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response made it clear that a very restrictive interpretation would apply, scarcely extending beyond the Security Council’s own administrative processes.

The veto issue now returned to Committee III/I, and that gave the rebellious small powers a chance to reactivate their campaign. However, they also faced firmer great power intransigence. Because of their very relief at the avoidance of a total breakdown in relations between themselves, and because the crisis had, if anything, brought their delegates closer together (especially Stettinius and Gromyko), the sponsoring powers and France closed ranks. But the new mood was not limited to the great powers. As a Canadian official observed at the time:

The Russians have played their cards beautifully. Whether they planned it that way from the beginning, I don’t know. They took an extreme position and then after precipitating a crisis retreated to something only a little less extreme. Now we are supposed to be (and in fact are) so grateful to them that we can do little but swallow under protest the old voting formula which is so repugnant.

When Committee III/I met late on 9 June (a Saturday night), the United States delegate, Senator Tom Connally, led with a strong plea to delegates to forget their differences over the veto and to remain ‘comrades in arms’. He scarcely referred to the sponsoring powers’ response to the sub-committee’s questions, but it was evident that the sponsoring powers saw their response as offering an interpretation of the Yalta formula and not as providing bases for amendments to it.

Evatt then rose to urge that the sponsoring powers’ response be examined very carefully, perhaps with a view to its rejection. As he spoke, the Australian team circulated a paper, which was read into the record by Evatt. The Australian paper complained that the sponsoring powers had directly answered only one of the 22 questions put to them by the sub-committee. It repeated the view that the veto should be excluded from all aspects of peaceful settlement procedures, and it objected to the sponsoring powers’ narrow interpretation of procedural votes. It took no comfort from the great powers’ undertaking not to veto the consideration and discussion of matters referred to the Security Council because they seemed to interpret the notion of ‘consideration’ narrowly, so that apparently it would not extend to calling for reports, hearing witnesses or launching investigations. The paper suggested that the whole veto issue might be referred to the International Court of Justice for an opinion, but the Australian delegation was prepared to settle for an amendment

8 Committee III/1, 16th Mtg., 9 June 1945, UNCIO Documents, Vol.11, p.433.
whereby the veto would be excluded from all aspects of steps involved in
the peaceful settlement of disputes.

However, Evatt then took a surprising tack. Although the veto had
only just come back to the forum in which Australia and the other small
powers could come to grips with it, and although Evatt’s speech and the
Australian paper were very well received (Connally later complained that
the applause for Evatt had been louder than that for him), Evatt seemed to
give the game away. If the Yalta formula was adopted by the Committee
and the conference, he said, Australia would accept the decision, and he
would feel that he had done his duty in trying to get from the sponsoring
powers a clearer idea of how the veto would operate and, more especially,
in having the United States delegate say that the veto would not be used
capriciously and the Soviet Union’s delegate say (to the press) that the
veto would be exercised only rarely.

If Evatt took this tack because he had concluded that, whatever their
views on the veto, most of the small powers did not wish to push the great
powers so far as to jeopardise the conference, it was not a conclusion
shared with much confidence at that stage within the United States
delegation. At a meeting of the American team two days later, on 11 June,
‘Senator Connally observed that Mr Evatt was a big stumbling block’,9
and a senior adviser, John Foster Dulles, named Evatt as one of four
delegates who were ‘obstructing the progress of the conference’ (the
others were Belgium’s Henri Rolin, New Zealand’s Peter Fraser and
Egypt’s Pasha Badawi).10 The Americans were especially worried about
their Latin American neighbours. Nelson Rockefeller, Assistant Secretary
of State for Latin American Affairs, assumed that ‘the United States did
not intend to club the small powers into line’, but Stettinius disabused him
and told him to ‘take more vigorous action’.11 According to Rockefeller,
the Australian delegation had obtained pledges of support from some
Latin American delegations. At a Big Five meeting later in the day,
Stettinius urged that all the great powers ‘line up countries and win the
position taken up by the Big Five... we should let it be known that, unless
this voting formula was accepted, there would not be an organisation at
all’.12

There is no doubt that by 11 June Evatt knew that his cause was lost,
in his view precisely because of ‘great pressure’ being placed on

10 Ibid., p.1248.
11 Ibid., p.1247.
delegations. Indeed, by then, he felt able to reassure Chifley, who was worried that a deadlock over the veto would sunder Big Three unity and put in hazard an organisation which promised much more for Australian security than the old League, that the Yalta formula would stand.\textsuperscript{13} Evatt, however, would not lie down, presumably to add to his credibility in other last minute campaigns he was waging.

Thus, even though it became obvious at Committee III/I meetings on 11 and 12 June that many small powers, while agreeing with Australia, proposed to vote with the great powers or abstain, Evatt on 12 June asked for a vote on the Australian amendment now re-worded to read: ‘Decisions made by the Security Council in the exercise of any of its duties, functions and powers under Chapter VIII, Section A, shall be deemed to be decisions on procedural matters’ (this being the section of the Dumbarton Oaks Proposals concerned with the peaceful settlement of disputes). It is not known why Evatt opted for the device of trying to have the procedural label attached to peaceful settlement votes rather than simply seeking the exclusion of the veto from votes in the peaceful settlement context. The United States spoke against Australia, New Zealand spoke for, and the Belgian delegate paid ‘sincere homage’ to Evatt for his leadership of the small powers, and the vote on the Australian amendment was taken. It was lost in a vote of 10 for, 20 against, with 15 abstentions and 5 absentees. The ten to vote for the Australian amendment were Australia, Brazil, Chile, Colombia, Cuba, Iran, Mexico, the Netherlands, New Zealand and Panama. In that only 13 delegations joined those of the Big Five (taking White Russia and the Ukraine as additional Soviet Union votes), and that in the circumstances the abstentions could be taken as modified expressions of support for the Australian position, this vote, as Evatt claimed, was ‘remarkable evidence of general approval by Conference of our point of view regarding veto on processes of conciliation before Security Council’.\textsuperscript{14} When the Yalta formula was put to the vote on 13 June, and despite American pleas for unanimity, its key provisions were adopted by 30 to 2, with 15 abstentions (including Australia) and three absentee.

When the issue went on to Commission III on 20 June, Evatt made an unusually long speech in which yet again he canvassed all the areas of concern, though not with any hope of forcing late change on the great powers. He acknowledged that he had failed in his campaign, but he concluded with a warning:

\begin{quote}
Now that the struggle is finished and the sponsoring powers have been victorious in their unrestricted retention of the right of veto, the onus is on
\end{quote}


\textsuperscript{14} Evatt to Chifley, 13 June 1945, \textit{ibid.}, p.212.
them. We of the smaller nations will watch very closely how it is exercised in the future.15

Surveillance by the small powers was not, in the event, much to matter. Over the next twenty years, the veto was to be used on the Council on 108 occasions, on 103 occasions by the Soviet Union.

Apart from the generality of the veto privilege of the great powers, there was one particular application of it that worried Evatt, and that was in the context of regional security. It will be recalled that Curtin, Evatt and the Department of External Affairs had reacted warmly to the notion of regionalism as advanced especially by Churchill. At Dumbarton Oaks, however, Churchill’s vision of regional security blocs under a world executive, as well as the United States’ interest in western hemisphere cohesion, gave way to universalism in one very important respect. It is true that the Dumbarton Oaks Proposals blessed regional associations and even had a Security Council positively encouraging the settlement of disputes at a regional level, but this permissiveness did not extend to enforcement action: ‘no enforcement action should be taken under regional arrangements or by regional agencies without the authorization of the Security Council’. In effect, and given that Security Council authorisation could be vetoed by any permanent member, any permanent member could veto regional enforcement activity.

This alarmed Evatt. At the London talks, other delegates seemed a little taken aback when Evatt told them that he envisaged a post-war security arrangement for the South-West Pacific involving the United Kingdom, the United States and France, as well as Australia and New Zealand (this was news to Peter Fraser), but his point was to complain that, because of their veto privilege on the Security Council, ‘it would apparently be possible for Russia or China to prevent action being taken under the regional arrangement’. As he put it, the veto privilege of the permanent members meant that states could not rely entirely on the Security Council for their security and must have a ‘second string to their bow in the form of regional arrangements’, but that, too, could be made useless by a veto on the Security Council.16 In practical terms, if Australia ever found herself under threat from the Soviet Union or China (veto wielders whom Evatt did not anticipate as regional allies) or their clients, they could not only use the veto to prevent action by the United Nations on Australia’s behalf, but they could also prevent supportive action by regional allies.

16 Minutes of British Commonwealth Meeting, 9th Mtg., 11 April 1945, AA:A5954, Box 720.
Evatt received little support at the London meeting. South Africa’s Smuts saw the veto in whatever context as the price to be paid for the Soviet Union’s participation in the United Nations and, with the Canadian delegates, argued besides that regionalism was not to be encouraged lest American isolationism also be encouraged. Fraser confessed that he had not given much thought to post-war regional defence arrangements. For the United Kingdom, the Dominions Secretary, Lord Cranborne, seemed to think that, if the veto prevented a positive Security Council response to a clear case of aggression, the world organisation would cease to exist and regional arrangements anyway would come into play.

Evatt was not deterred, and at San Francisco the Australian delegation’s amendments to the Dumbarton Oaks Proposals included provision for regional arrangements to come into effect ‘if the Security Council itself does not take measures, and does not authorize action to be taken under a regional arrangement or agency, for maintaining or restoring international peace’. Evatt was the first to address Committee III/4 when it began a general discussion of regional arrangements on 9 May, complaining long and loud about ‘the cloud presented by the veto’. As so often happened, an Australian amendment followed up with an early, energetic and informed speech by Evatt saw Australia made a member of a sub-committee with the task of analysing, clarifying and amalgamating amendments, this time with Chile, Czechoslovakia, Egypt, France, Norway, the Soviet Union, the United Kingdom and the United States.

Australia’s was only one of a host of amendments. The Soviet Union wanted an exception made for regional action against renewed aggression by World War II enemies (this became a joint amendment by the sponsoring powers). France, Turkey and Czechoslovakia wanted freedom to act regionally in an emergency, with reporting as soon as possible to the Security Council. But it was the Latin American states which took centre stage in the cause of western hemisphere freedom of action. The most important amendment, sponsored jointly by Chile, Colombia, Costa Rica, Ecuador and Peru, was the most radical. Whereas the Dumbarton Oaks text had the Security Council in charge of all enforcement action, whether directly or by authorising regional action, the Latin Americans wanted regional action to be the course of first resort, with the Security Council intervening only if regional arrangements failed. Alternatively, and noting the early agreement of the sponsoring powers to keep to the Dumbarton Oaks text but to allow an exception for the case of renewed aggression by World War II enemies, the Latin Americans wanted the western hemisphere agreement enshrined in the Act of Chapultepec of March 1945, also listed as an exception. Evatt told a United States delegate,

Senator Vandenberg that, if such exceptions were to be listed, he would want the Australia–New Zealand Agreement of 1944 listed.

While naturally sympathetic to the Latin American case, the United States team at the conference was divided, with some entirely favourably disposed to the Latin Americans, with some doubtful about encouraging blocs outside the United Nations system, and with some inclined to see the potential involvement of other great powers in the affairs of the Americas as the price to be paid for United States involvement in Europe and Asia. At first, the United States delegation looked kindly on a formula whereby, if the Security Council failed to meet aggression, the right of self–defence would be held to extend to regional groups of states. The United Kingdom and the Soviet Union objected to this as too favourable to the development of blocs, and it was the United Kingdom delegation which suggested the insertion in the charter of a statement to the effect that nothing in the charter invalidated the right of self–defence, ‘either individual or collective’, if the Security Council failed to maintain or restore peace. Polished further by the Big Five, and with the Latin Americans mollified by promises of a pledge by the United States to underwrite their security, this proposal went to Committee III/4 on 21 May and was approved.

The final outcome verged on the ludicrous in that the collective self–defence formula was taken not to replace the Dumbarton Oaks text but to add to it. Chapter VIII of the charter headed ‘Regional Arrangements’, and especially its Article 53, retained the sense of the Dumbarton Oaks text except for the insertion of a provision for freedom to act against World War II enemies. The statement of members’ right to self–defence, including collective self–defence, was placed as Article 51 at the end of the preceding Chapter VII headed ‘Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression’. In fact, Article 51 allows such an exception to Article 53 as virtually to contradict it, but it was thought that this device, however untidy, would satisfy regionalism while maintaining at least the appearance of universality for the United Nations system.

Evatt was to claim of Article 51 that ‘once again an Australian proposal played an important part in helping to shape the amendment eventually adopted’.18 That Article 51 met Australia’s needs is clear enough, but the significance of the Australian role in shaping Article 51 is another matter. When he introduced the text in sub-committee, Vandenberg said that it reflected Australian, Czech, French, Turkish and Latin American amendments, but it was devised by a United Kingdom

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official, Gladwyn Jebb, mostly, it would seem, to help the United States cope with Latin American sensitivities.

All this still left the question of charter amendment. It will be recalled that Evatt linked tolerance of the great power veto with easy charter amendment, so that what might have to be accepted at San Francisco in 1945 could be reviewed and changed subsequently. His problem was that at Dumbarton Oaks the great powers had written the veto also into the mechanics for charter amendment. Under the Dumbarton Oaks Proposals, amendments to the charter would come into force when adopted by a two-thirds majority in the General Assembly and then ratified by the permanent members of the Security Council and a majority of other members of the United Nations. In effect, if the entire membership of the United Nations with the exception of just one great power voted for an amendment and ratified it, the amendment would fail. In effect, too, the great powers thereby could veto amendments.

Evatt’s task, then, was to have this veto provision removed from the charter amendment process. In the Australian amendments to the Dumbarton Oaks Proposals, therefore, it was proposed that an amendment to the charter should succeed if adopted by two-thirds majorities at two successive General Assembly sessions and if at least three of the permanent members of the Security Council concurred on each occasion. Put another way, under the terms of the Australian amendment it would take three great powers rather than one to defeat an amendment approved by large majorities in the Assembly.

The Americans in the meantime had developed an interest in the notion of periodic conventions to review the charter, not as an alternative to the process provided for in the Dumbarton Oaks Proposals but in addition to it. The other great powers did not altogether share the American enthusiasm for the idea, but in the early days of the San Francisco Conference they agreed that the United States might submit a proposal in the name of the sponsoring powers as a joint amendment. Under its terms, an additional paragraph in the charter would provide that a constitutional conference could be summoned to review the charter subject to three-fourths majority support in the Assembly and the support of any seven members of the Council. Charter amendments, however, would need two-thirds majority support at such a conference and then ratification by a simple majority of the Assembly and by the permanent members of the Council. In other words, the veto would still apply.

The charter amendment issue fell within the scope of Committee I/2, but it was not until 28 May that it took up the issue. The Australian delegation at once expressed its opposition to a place for the veto anywhere in the charter amendment process, and it moved that a subcommittee be appointed to consider charter amendment and report back to the Committee, and that it comprise delegations which had submitted
amendments to the Dumbarton Oaks text. The Committee decided by a
vote of 19 to 12 to set up the sub-committee sought by Australia and
elected to it the delegations of the United Kingdom, the United States, the
Soviet Union, China, France, Australia, Norway, Brazil, Ecuador, Canada,
Mexico and Venezuela.

The sub-committee met on nine occasions from 30 May to 14 June, a
time when the patience of the great powers with the small powers was
growing thin. Judging by the reports of resentful Americans, Evatt
dominated meetings of the sub-committee, arguing points, forcing
postponements 'in order to rally his forces', insulating France and China as
'second rate powers' who should not forever enjoy a veto privilege, and
threatening to fight all the way to the final plenary session of the
conference.19

Taking in turn the major aspects of the American proposal, there was
on the sub-committee unanimous agreement on the desirability of
providing for special conferences for charter review. There was also
unanimous agreement that the calling of such conferences must have the
support of two-thirds majorities in the Assembly (a retreat from the
American and sponsoring powers' preference for three-fourths majorities)
and any seven members of the Council. There was unanimous agreement,
too, that decisions at such conferences must be carried by two-thirds
majorities, though only after Australia, Canada and Ecuador had failed to
gain acceptance of their view that, as a way of burying the veto,
conferences should set their own voting and ratification procedures.

There was disagreement over whether conferences should be held at
particular times irrespective of whether Assembly and Council majorities
wanted them. The American proposal left the timing of conferences, if
there were to be any, to the future majority wishes of the Assembly and
the Council. The Soviet Union, unhappy with any tendency to see the
1945 charter as merely transitional, was not interested in timing. On the
sub-committee, however, Canada and Brazil jointly moved that a
conference should be held not sooner than five years hence and not later
than ten, and this was adopted by a vote of 9 to 6 (the great powers plus
Norway). But for Evatt the main issue was the veto, and he lost the fight:
the sub-committee agreed by 7 votes to 5 that charter amendments should
come into force only when ratified by all permanent members of the
Council, and it voted by 6 to 5 to keep the veto provision of the
Dumbarton Oaks text with respect to amendments pursued outside the
conference context.

Voting on the sub-committee did not much matter except as signals to
the great powers of small power attitudes but, with one exception, the sub-

19 See United States Delegation, Minutes of 58th Mtg., San Francisco, 31 May
committee’s recommendations were ratified by Committee I/2 at meetings on 14–16 June. The exception related to timing: the Committee accepted an American suggestion that any reference to a five–year minimum period be dropped and replaced with a provision that, if a conference had not been held in the meantime, it be placed on the agenda of the Assembly’s tenth annual session. Evatt found this acceptable ‘as far as it went’, but he complained still that it ‘does not solve the veto question with respect to ratification’. When the whole of what became Article 109 of the charter concerning a special conference was put to the vote and accepted by 33 to 1, Australia was one of 12 to abstain because ‘the objectionable feature of the veto still existed’. What became Article 108 of the charter covering amendments outside a conference context and comprising essentially the Dumbarton Oaks text was approved by 34 to 8, with 4 abstentions, and with Australia still fulminating against the veto.

While admitting defeat on the veto aspect of charter amendment, Evatt later sought consolation with claims that ‘two substantial modifications were made... largely as a result of Australian persistence as a member of the special sub-committee’. It is difficult to accept Evatt’s claims. The first ‘substantial modification’ appropriated by Evatt was acceptance of the principle that there should be provision for a constitutional conference for charter review, but this notion originated with the United States delegation and was supported by others of the Big Four, and Australian attitudes seem not to have been significant. The second of Evatt’s claims was for the provision that, if not held earlier, a constitutional conference item be placed on the agenda of the tenth General Assembly session, but this represented American accommodation of Canadian and Brazilian agitation rather than Australian.

Nor is it possible to accept another claim by Evatt regarding provision for a constitutional conference: ‘While this process places considerable difficulties in the way of amending the Charter, it is nevertheless more satisfactory than the original Dumbarton Oaks process’. The point is that the one did not replace the other. More to the point, the veto applied in both, and there was no sense in which, from the Australian point of view, the one was ‘more satisfactory’ than the other.

As in the Security Council voting context, Evatt failed to remove the veto from the charter amendment processes because the great powers would not expose themselves to dictation by small powers and because, in particular, the Soviet Union wanted the bargains struck at San Francisco to

21 Ibid. (27th Mtg., 16 June).
23 Ibid., p.19.
last indefinitely. This was not a fight that Evatt, whatever his tactics or arguments, could have won. As Pasvolsky told a United States delegation meeting: this was 'a problem of whether the United States would permit amendment of the Organization without its consent. This...was...impossible and therefore there was no reason to discuss the matter'. 24 Evatt, in the event, played a leading role in forcing discussion, but that was all he could force.

In attempting a judgement about Evatt’s performance on the major aspect of the great powers’ veto rights, that of their application to Security Council voting procedures, it is perhaps instructive to note the terms of a very strong defence of Evatt made at the time by Eggleston. It was Eggleston’s view that, as it emerged from Dumbarton Oaks and Yalta, and as it survived at San Francisco, the charter did not provide a genuine collective security system: to the extent that great wars were caused by great powers, and to the extent that the charter left five of the strongest members of international society immune to effective pressure, what came with the charter was not a collective security system but at best a system in which great powers might police small powers. Eggleston wrote to Bruce after the conference: 'You must not take it that Evatt’s campaign was merely a small power vs. a great power campaign. It was a campaign against the defective principles of the Charter'. 25

This kind of defence of Evatt, though, was in a sense unfair to Evatt. More than Eggleston allowed (and more than Eggleston himself found digestible), Evatt accepted the realities of the time. He accepted that the great powers would not tolerate a system in which action could be taken against them or demanded of them, and on that account, and if only during a period of transition, he did not seek to remove the veto from votes on the existence of threats to the peace or on action to enforce peace. Even on other votes, including votes on various stages in the peaceful resolution of disputes, on conciliation, he sought not provision for a simple majority but for 7–4 majorities, so that nothing at all could be carried against the combined opinion of the great powers.

What Evatt did try to do was significantly to free the United Nations system from the political obstructionism of individual great powers or of several of them in combination. He wanted to see in place processes whereby dangers to peace could be brought to the attention of the Security Council, discussed and investigated without any single great power being able to torpedo such processes in its own political interest by means of a veto. Just to what extent he anticipated the abuse of the veto which subsequently was to occur is not altogether clear, but it remains that it was

25 Eggleston to Bruce, 9 July 1945, NLA No.423/10/88.
grossly to be abused and that what Evatt sought was reasonable. The charter as a document would have been the better for reflecting his views. As the League experience had shown, no words in documents could stop great powers from going their own aggressive ways if their governments were so inclined; a great power could not be policed except by other great powers and, in a nuclear and bi-polar world, perhaps not at all in the case of two of them; a great power could not be forced into the United Nations system or by force kept in it. The need in 1945 was to devise a system which, while recognising these realities, nevertheless sought to provide mechanisms for the peaceful resolution of conflict. Evatt did recognise the realities and he did try to provide the appropriate mechanisms for conflict resolution. He failed, but it is difficult to fault his aims.

Evatt failed because the great powers were not prepared to compromise and, if there was to be a United Nations system at all, their hands could not be forced. The principal opponent of compromise was the Soviet Union, but the United States and the United Kingdom were not far behind, partly because they could not push the Soviet Union too hard and risk being seen as responsible for the abortion of the United Nations Organisation, partly because to a degree they shared the Soviet Union’s attitudes, and partly because they felt hamstrung by the Yalta agreement. As Evatt later mourned: ‘The Yalta formula had been approved by the three heads of States, and doubts about its meaning and adequacy appeared to some treasonable, indeed almost blasphemous’. 26

It can be argued, of course, that it was to be the veto which saved the United Nations in the Cold War decades, allowing it to survive until kinder times arrived with Moscow’s retreat from empire. According to such an argument, it was as well that Evatt failed to carry his campaign in 1945. Two counter-arguments might be made in defence of Evatt and his kind. The first is that Evatt and his allies felt obliged at San Francisco to devise a legal instrument which reflected what they then regarded as sound principles, and which would establish systems in which the hegemonic tendencies of great powers might be contained. The second is that on issues involving the interests of the greatest of the great powers, the superpowers, the United Nations apparatus would be ineffective whatever the extent of their veto powers and this simply because of the fact of mutual nuclear deterence: nuclear superpowers could not be policed. Without the veto as a legal defence, abberant great powers might perhaps have felt obliged to leave the United Nations altogether but the fact is that, even in the chilliest years of the Cold War, few were inclined to push them to that point—as controversies over financial obligations, for example, were to illustrate.

One says that 'Evatt failed'. In fact, he was one of a large group that failed, but he was one of the doughtiest fighters on the issue, and he achieved standing for himself and Australia in the process. The Security Council, however, was only one side of the major United Nations coin. The other side was the General Assembly, and in a concurrent campaign on its rights and functions Evatt was to emerge as the clear leader of the great powers' opponents in a campaign which he was to win.
Use of the veto by a great power to prevent Security Council activity is a dramatic act—simple, overt, comprehensible, undiplomatic in a diplomatic forum, to a degree contemptuous. And because it was to be used much more freely by the Soviet Union than by other permanent members of the Security Council, the image of the veto in the Western mind became that of the sullen bear with a paw on the flattened hopes of internationalists. Because of this, Evatt’s role in 1945 in trying to limit the great powers’ veto privilege was to take on a bright glow even though he failed or, in the area of regional security, was only one contributor among many, and even though what has been called ‘the great veto crisis’ at San Francisco sprang not only from the division between, on the one hand, the great powers and, on the other, Australia and other small powers, but for a time the division between the Soviet Union and the other great powers.¹

The ‘crisis’ ended when the Soviet Union made a mild gesture of accommodation towards its peers, and the great powers closed ranks.

At the same time, however, that he was fighting for more reasonable Security Council voting procedures, Evatt was fighting, as he put it later, ‘to ensure that the most democratic Organisation of the United Nations, the General Assembly, would have the widest possible powers’.²

Ironically, Evatt’s campaign on this front is less well remembered than his campaign on the veto—‘ironically’ because this was a campaign which he led and won and which was to have profound consequences.

At Dumbarton Oaks, the great powers were agreed that the ultimate purpose of the planned international organisation was the maintenance of peace and security, and that this function was to be kept in the hands of the Security Council and, by virtue of their permanent membership of the Council and their veto rights on it, essentially in their own hands. The General Assembly, comprising all members of the organisation, could

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discuss and consider ‘principles’ and ‘questions’ and it could even make recommendations on such generalities, but it could not make recommendations about specific cases and it could not make recommendations about any matter before the Security Council. The great powers were determined that the Assembly should not be available to the small powers for use against ‘their’ Council.

In the Dumbarton Oaks Proposals, therefore, a long paragraph on the major functions of the General Assembly read thus:

The General Assembly should have the right to consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments; to discuss any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organization or by the Security Council; and to make recommendations with regard to any such principles or questions. Any such questions on which action is necessary should be referred to the Security Council by the General Assembly either before or after discussion. The General Assembly should not on its own initiative make recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council.

Evatt went to San Francisco dissatisfied with this paragraph mainly on two grounds. As a matter of principle, he wanted the Assembly, representing the entire membership of the organisation, to enjoy the widest possible powers, and he found the Dumbarton Oaks paragraph restrictive. The only inhibition he was happy to entertain on the powers of the Assembly was that it should not seek to deal with a matter actually and actively being handled by the Council. The other ground was of effectiveness. It had been found at the League of Nations that, if the League Council became paralysed and unable to deal with a matter, the League Assembly could not intervene, and the League as such was paralysed. Evatt, therefore, wanted the Security Council obliged to keep the General Assembly informed on whether a dispute before it was being actively dealt with so that, if a dispute became ‘frozen’ in the Security Council, the General Assembly could take it up and make recommendations.

In its amendments to the Dumbarton Oaks Proposals circulated at San Francisco, the Australian delegation proposed that the paragraph cited above be deleted and replaced with the following two paragraphs:

The General Assembly may consider, and may make such recommendations as it thinks fit with regard to, any matter affecting international relations (including the principles governing disarmament and the regulation of armaments); provided that, while in relation to any dispute or situation the Security Council is exercising the functions assigned to it under Chapter VIII, the General Assembly may not, unless
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on the request of the Security Council, make any recommendations with regard to that dispute or situation.

When the Security Council commences to exercise its functions in relation to any dispute or situation, and also when it has ceased to do so, the Secretary-General shall immediately notify the General Assembly through its President. The President of the General Assembly may at any time require the Secretary-General to report on the position of any dispute or situation before the Security Council. If the General Assembly by a three-fourths majority is of opinion, having considered the Secretary-General’s report, that the Security Council has ceased to exercise its functions in relation to the dispute or situation, it may proceed to make any recommendation it thinks fit with regard thereto.

This, of course, weakened the great powers’ domination of the organisation through their domination of the Security Council. Where they saw the Council in the sphere of peace and security as the controller and answerable to none, the Australian amendment merely allowed the Council a functional precedence with respect to threats to the peace (Chapter VIII of the Dumbarton Oaks Proposals covered both peaceful settlement procedures and enforcement action), and even that would be subject to Assembly surveillance and to removal by the Assembly. Apart from specific threats to the peace being actively dealt with by the Council, the Assembly would be free to discuss what it liked and make what recommendations it liked.

Although the sponsoring powers initially offered no amendments, preferring to stick to the Dumbarton Oaks text, sixteen states, including Australia, did submit amendments, and this profusion caused a touch of chaos at early meetings of Committee II/2 (General Assembly—Political and Security Functions). After desultory attempts to discuss some of the amendments, the Committee decided at its fourth meeting on 10 May that it would be best if the issues raised in all the amendments were listed in the form of a series of questions; the Committee could then vote on them, not to settle them but to provide guidance to a drafting sub-Committee which would provide a text. Evatt at once suggested three questions:

(a) Should the Assembly have general power to discuss and make recommendations in respect to any matter affecting international relations?

(b) Should the power of the Assembly to recommend be restricted in cases of disputes which are actually being dealt with by the Security Council, as in the existing Dumbarton Oaks text?

(c) If the answer to (b) is ‘yes’, should some procedure be laid down for the purpose of giving to the Assembly full power to make a
recommendation in relation to any matter as soon as the Security Council has ceased to deal with the matter.\(^3\)

It was decided to ask a sub-Committee to formulate the questions but Evatt’s tactic of following an amendment with an early and forceful speech again paid off, and the Committee chairman, Victor Andrade of Bolivia, and its rapporteur, Franco y Franco of the Dominican Republic, chose the delegates of Australia, Belgium, Mexico, the United States and the Soviet Union to join them in forming the sub-Committee. In a cable back to Chifley, Evatt claimed that it was ‘on Australia’s suggestion’ that it was decided to have a sub-Committee frame questions,\(^4\) and certainly this procedure had been used to good effect at the British Commonwealth talks in London largely on Australia’s initiative (and something comparable was to happen a fortnight later on the veto issue, with Australia again on a question-framing sub-Committee), but the San Francisco Conference records have the Belgian delegate noting that another technical Committee, Committee IV/2 (Judicial Organisation—Legal Problems) had adopted this procedure and urging that Committee II/2 follow suit.

The sub-Committee quickly came up with a list of nine questions:

1. Should the General Assembly be precluded from making, on its own initiative, recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council?

2. Should the Secretary-General be required to notify the General Assembly of any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council, and also required to notify the General Assembly immediately the Security Council ceases to deal with any matter?

3. Should a procedure be adopted whereby the General Assembly, having received the Secretary-General’s report, may determine that the Security Council has ceased to exercise its functions with regard to any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council and proceed to make a recommendation or recommendations with regard thereto?

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\(^3\) Committee II/2, 4th Mtg., 10 May 1945, *UNCIO Documents*, Vol.9, p.29.

\(^4\) Forde and Evatt to Chifley, 18 May 1945, *DAFP*, Vol.VIII, p.167. The conference record subsequently has Belgium mourning that Committee II/2 had opted for a list of questions rather than simply voting on the Dumbarton Oaks text and amendments to it, so that the earlier reference to Belgium should perhaps have read Australia.
or

Should some further procedure be provided for deciding when the Security Council has ceased to deal with a matter, so that the Assembly may be in a position to make recommendations at once?

(4) Should the General Assembly be able to require the Security Council to investigate situations which might seem to the Assembly likely to endanger world peace?

(5) Should the General Assembly be entitled to call the attention of the Security Council to situations which, in its opinion, are likely to endanger peace or are capable of doing so?

(6) Should the decisions of the Security Council on any matter relating to the maintenance of international peace and security be subject to ratification or veto by a fixed majority (such as three-fourths or two-thirds) of the General Assembly?

(7) Should the General Assembly be entitled to summon the members of the Security Council to appear before it to report on any measures the Security Council may have taken or may contemplate taking in dealing with any matter affecting international peace and security?

(8) Should the General Assembly be entitled to exercise concurrently with the Security Council the powers set out in Chapter VIII, Section A?

(9) Subject to any exceptions specifically provided, should the Assembly have general power to discuss and make recommendations in respect of any matters affecting international relations?

Except that it decided to re-word the first question in more positive terms to read 'Should the General Assembly be enabled to make...,' Committee II/2 sank back into indecisive debate even with the assistance of the sub-Committee's list of questions to sharpen its focus. After two meetings at which little progress was made, with some delegates insisting on maximum powers for the Assembly as the organisation's universal body and with others pointing to the danger of institutionalising conflict between the Assembly and the Council, the United States' Senator Arthur Vandenberg intervened with a two-paragraph alternative to the Dumbarton Oaks paragraph submitted on behalf of the sponsoring powers and France. The Big Five's version, explained Vandenberg, sought to...
achieve greater clarification by giving one paragraph to 'general principles' and one to 'questions'. It read (with new passages italicised, and with deletions underlined):

1. The General Assembly should have the right to consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments and to make recommendations to the Governments or to the Security Council on such principles.

2. The General Assembly should have the right to discuss any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organisation or by the Security Council, and to make recommendations to the Governments or the Security Council with regard to any such principles or questions. Any such questions on which action is necessary should be referred to the Security Council by the General Assembly either before or after discussion. The General Assembly should have the right to call the attention of the Security Council to situations which are likely to endanger international peace or security. The General Assembly should not on its own initiative make recommendations of any matter relating to the maintenance of international peace and security while it is being dealt with by the Security Council. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it under this Charter, the General Assembly should not make recommendations with regard to that dispute or situation unless the Security Council so requests. The Secretary General shall be required to notify the General Assembly at each session of any matters relative to the maintenance of international peace or security which are being dealt with by the Security Council and also to notify the General Assembly immediately the Security Council ceases to deal with such matters.

According to Pasvolsky, officials of the Big Five 'had taken the Australian amendment and adapted it', and he allowed that the Dumbarton Oaks paragraph had been 'somewhat ambiguous' as to what the Assembly could do about a matter before the Council. But in at least two important respects, the Big Five's new version did not meet Australia's requirements. First, it did not let the Assembly judge whether a matter was being effectively considered by the Council and, if not, take up the matter itself (so that a matter could not be 'frozen' by the Council). Second, even if the Council was not considering a matter, the Assembly could not deal with it if any kind of action were needed for its resolution; in that case, the

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Assembly could talk as much as it wished but must then refer the matter to the Council. This did perhaps clarify the Dumbarton Oaks paragraph but in no sense did it change the intent of it: the Council would retain control of policing the peace, and policing the peace would not go to the Assembly where the great powers could not protect themselves with the veto.

Committee II/2 did not at once take up the Big Five’s amendment submitted by Vandenberg. At that meeting and at two succeeding meetings, the Committee first voted on the questions listed by the sub–Committee. The Committee voted in the negative to questions one, three (it voted on the first of the two versions provided), four, six, seven and eight; it voted in the affirmative to questions two (though in a heavily amended form so that the Security General would act only ‘with the consent of the Security Council’), five and nine. These votes represented a defeat for Australia. To the extent that they could be taken as representing the views of the Committee at that point, the Committee was hostile to the notion of letting the Assembly deal with a matter before the Council, to letting the Assembly judge whether the Council was doing anything effective about a matter before it, to giving the Assembly the power to ‘require’ something of the Council, to making Council decisions subject to Assembly approval, to letting the Assembly deal with a matter at the same time as the Council. All that the Committee approved was that the Secretary-General should keep the Assembly informed of Council activity (though only with the Council’s consent), that the Assembly could call the Council’s attention to a matter, and that the Assembly in general terms could deal with ‘any matters affecting international relations’. This last was of some potential importance in that if the Council chose not to take up a matter, or until it took up a matter, the field was left to the Assembly.

After voting on the list of questions, the Committee decided that a drafting sub–Committee should prepare a text, using as bases for its discussions the Dumbarton Oaks paragraph, the tenor of the Committee’s voting on the listed questions and the paragraphs proposed by the Big Five through Vandenberg. Australia remained at the centre of the action: the drafting sub–Committee comprised the same membership as the sub–Committee appointed to formulate questions.

For reasons which remain obscure, the drafting sub–Committee decided on 22 May to base its discussions not on the material indicated by Committee II/2 but a re–draft prepared by the United Kingdom. Separated out into eight paragraphs and sub–paragraphs, the United Kingdom draft displeased Australia in that, even more explicitly than the five–power draft submitted by Vandenberg, it limited the Assembly’s power to discuss ‘any matter within the sphere of international relations’ to matters affecting ‘the maintenance of international peace and security’, and in that it went beyond the five–power draft in stating that the Secretary–General
should keep the Assembly informed of the status of matters before the Council only ‘with the consent of the Council’. The drafting sub–Committee accepted an American amendment to the draft whereby there was inserted a statement that the Assembly could ‘consider the general principles of cooperation in the maintenance of international peace and security’. Hasluck, for Australia, was the only one to vote against acceptance of the American amendment on the grounds that it was narrower than the wording used in question nine as approved by Committee II/2.

Having taken such a caning in Committee II/2’s voting on the list of questions prepared for it, Australia was intent on making the most of the positive vote on question nine favouring power for the Assembly to ‘discuss and make recommendations in respect of any matters affecting international relations’ saving only matters actually before the Council. At the second meeting of the drafting sub-Committee on 23 May, Evatt intervened, taking Australia’s seat to declare that the United Kingdom draft ‘mutilated’ the sense of the vote on question nine by introducing the qualifying words ‘which affects the maintenance of international peace and security’.

If Australia thought that the United Kingdom draft excessively limited the powers of the General Assembly, the Soviet Union, which wanted power kept securely in the hands of the Council and which wanted the whole organisation as far as possible to restrict itself to questions of peace and security, felt that things were getting out of hand, and the Soviet delegate, A.A. Roschin, urged that the drafting sub–Committee get back to the five-power draft. At the sub–Committee’s meeting on 24 May, Roschin insisted on formally moving that the sub–Committee reconsider its decision to base its discussions on the United Kingdom draft. This was agreed to but straight away, and before the sub–Committee could take up the five–power draft, Hasluck sought and gained permission to circulate an amendment to it. On 25 May, he submitted this amended version of the five–power draft:

1. The General Assembly shall have the right to discuss any matter within the sphere of international relations; and, subject to the exception embodied in paragraph 3 of this section, to make recommendations to the members of the Organisation or to the Security Council on any such matters.

2. In particular, and without limiting the generality of the preceding paragraph, the General Assembly shall have the right:

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6 Sub–Committee B of Committee II/2, 3rd Mtg., 23 May 1945, UNCIO Documents, Vol.9, p.389.
(a) to consider the general principles of cooperation in the maintenance of the principles governing disarmament and the regulation of armaments and to make recommendations to the governments or to the Security Council on any such principles;

(b) to consider any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organisation or by the Security Council, and, subject to the exception embodied in paragraph 3 of this section, to make recommendations to the Governments or to the Security Council with regard to any such questions. Any such questions on which action is necessary should be referred to the Security Council by the General Assembly either before or after discussion. The General Assembly should have the right to call the attention of the Security Council to situations which are likely to endanger international peace or security; and

(c) to initiate studies and make recommendations for the purpose of promoting international cooperation in political, economic, social, and cultural fields to assist in the realisation of human rights and basic freedoms for all, without distinction as to race, religion, or sex and also for the encouragement of the development of international law. Subject to the provisions of paragraph 3 of this section, the General Assembly should be empowered to recommend measures for the peaceful adjustment of any situations, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the purposes and principles set forth in this Charter.

3. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it under this Charter, the General Assembly should not make any recommendations with regard to that dispute or situation unless the Security Council so requests. The Secretary General shall be required, with the consent of the Security Council, immediately to notify the General Assembly through its President of any matters relative to the maintenance of international peace or security which are being dealt with by the Security Council and also to notify the General Assembly immediately the Security Council ceases to deal with such matters.

In this Australian draft, paragraphs 2(a), 2(b) and 3 were taken from the five-power draft and 2(c) was taken from a great power proposal for a paragraph later in the chapter. Compared with its first amendment circulated on 4 May, this new draft represented a compromise by Australia in that it was no longer urged that the Assembly sit in judgement on the Council and in that the Assembly’s capacity to ‘unfreeze’ disputes would depend on the Council’s cooperation in consenting to provision of
information to the Assembly by the Secretary-General. On the other hand, Australia was sticking firmly to the notion that, with the single exception of matters actually before the Council, the Assembly should be free to discuss and make recommendations on ‘any matter within the sphere of international relations’.

The Australian draft did not bring the drafting sub-Committee any closer to agreement, and it decided on 25 May that it must seek further guidance on whether Committee II/2 wished to have the Assembly given power to act on ‘any matter within the sphere of international relations’ or to have the Assembly’s power limited to matters covered by ‘the maintenance of international peace and security’; if the limitation were imposed, should there be a subsequent reference to not limiting ‘the generality’ of the power already circumscribed? The Australian delegation clearly feared that the Committee would give the wrong answers, and Hasluck joined Belgium’s Fernand Dehousse in a formal statement protesting against reference back to the Committee. They tolerated it, they said, only because ‘this was in the last resort the only way out of the impasse’.

‘Impasse’ was a polite expression. In homelier terms, Vandenberg saw the sub-Committee as ‘stymied’. The United States was just as concerned now by Australia’s persistence as was the Soviet Union. Pasvolsky, in particular, saw Australia as not just one of the small powers seeking the highest possible status for ‘their’ body, the Assembly, in the affairs of the organisation, but as seeking an imprimatur for using the United Nations to intervene in the domestic policies of states. And this, he claimed, was not conjecture; he had been told as much ‘face to face by representatives of Australia and New Zealand on several occasions’. Pasvolsky saw a direct link between the wide powers sought for the Assembly by Australia and Australia’s desire to force all United Nations members to adopt policies of full employment. Dulles agreed with Pasvolsky that there was danger here for the United States: if the Assembly was given an ambit as wide as that sought by Australia, the Assembly could pass a convention obliging members to maintain full employment and giving the Assembly powers of investigation. Vandenberg warned that the United States and the Soviet Union faced defeat at the hands of the small powers on the issue, and it was agreed that the United States delegation must pursue Committee II/2 votes with greater vigour and try to have the issue taken to the Executive Committee.

7 Ibid. (5th Mtg., 25 May), p.403.
8 Ibid.
9 Ibid.
In the event, Hasluck and Dehousse need not have feared, and the United States' fears turned out to be well based. On 29 May, Committee II/2 voted by 27 to 11 in favour of the proposition that the Assembly should have the right to deal with 'any matter within the sphere of international relations', with all of the Big Five voting with the minority. The Committee then voted on whether this power should apply only to matters affecting 'the maintenance of international peace and security', and this vote was lost 9 to 27, again with the Big Five in the minority. Finally, the Committee voted by 36 to 0 to approve a re-draft of the version of Paragraph 1 originally submitted by Vandenberg on behalf of the Big Five but as amended in the light of the Committee's votes that day. The first of the two paragraphs now to replace the single long paragraph in the Dumbarton Oaks proposals read:

The General Assembly should have the right to discuss any matter within the sphere of international relations; and, subject to the exception embodied in paragraph 2(b) of this section, to make recommendations to the members of the Organisation or to the Security Council or both on any such matters.

The exception referred to, of course, comprised matters before the Security Council. The second paragraph, which described the status of the Assembly with respect to peace and security and the relationship in this one context with the Security Council, was preceded with the words 'In particular, and without limiting the generality of the preceding paragraph...'

While it was clear from the text approved by Committee II/2 (and in the normal course of events that text would be rubber-stamped by the Commission and would then be subject only to technical re-drafting before going to the conference in plenary session for final approval) that the Council was meant to let the Assembly take over security matters which it could not handle effectively, the text did not actually demand this, and the Assembly in a formal sense could only learn of such circumstances with the Council's consent. To that extent, Australia largely had failed to prevent the 'freezing' of disputes once they had reached the Council. Otherwise, Australia had played a leading role (so leading that in its internal discussions the United States delegation referred only to the role of Australia, sometimes in harness with New Zealand) in forcing acceptance of a very wide mandate for the Assembly. The great powers saw in this an invitation to the Assembly to interfere in members’ domestic jurisdiction. Evatt argued, with some sophistry, that, if the Assembly adopted a general convention on a subject then, by definition, it ceased to be a matter of domestic jurisdiction, but he also argued that the domestic jurisdiction clause for which he had fought so hard and which was adopted by the conference (what became Article 2 (7) of Chapter I of
the charter) anyway protected members’ domestic jurisdiction. Doubtless, there were some who suspected that Evatt wanted it both ways: a domestic jurisdiction clause to protect Australia from undesirable interference, and a permissive Assembly clause to make easier what Australia might regard as desirable interference in others’ affairs. Be that as it may, he had won a clear victory against the great powers. It only remained to be seen if they would counter-attack.

A counter-attack came very late in the day. When Committee II/2 on 16 June began discussing the draft report of its rapporteur to Commission II, the Soviet Union moved for reinsertion in the report’s draft text for the charter of a limitation of the scope of the Assembly to matters ‘which affect the maintenance of international peace and security’. The United Kingdom supported the Soviet Union. So, too, did the United States, though the United States delegation was keen to see the conference brought to a conclusion and it was not altogether happy with the decision of the Soviet Union’s Gromyko, facing certain defeat in Committee II/2, to appeal to the Steering Committee.

In fact, the Soviet Union had to go first to the Executive Committee, and on 17 June Gromyko urged it to recommend to the Steering Committee that the text approved by Committee II/2 be sent back to it with a recommendation that the text be reviewed. Gromyko complained that, as it stood, the text would allow infringement of the sovereignty of members. Evatt responded by claiming that the domestic jurisdiction clause adequately protected the sovereignty of members; besides, the Assembly should be trusted not to abuse its powers. Noting the general wish to bring the conference to a close, Evatt also threatened a very long debate. With Gromyko unmoved, Evatt then offered to allow a reference to domestic jurisdiction to be written into the text of the paragraphs dealing with the Assembly. The United Kingdom’s Halifax and the United States’ Stettinius urged Gromyko to accept Evatt’s offer, and it was agreed that the matter be referred to an informal sub-Committee comprising Stettinius, Gromyko and Evatt.

The sub-Committee met three times during that day. According to Stettinius, Evatt at these meetings ‘displayed an attitude of conciliation’ and had provided a formula which in Stettinius’ view would be acceptable to the small states. The Evatt suggestion for a new Paragraph 1, which would, if accepted, involve some minor re-writing of succeeding paragraphs, read:

1. The General Assembly should have the right to discuss any matters covered by the purposes and principles of the Charter or within the sphere of action of the United Nations or relating to the powers and functions of its organs or otherwise within the scope of the Charter; and, except as provided in paragraph 2 (b) of this section, to make recommendations to
the members of the United Nations or to the Security Council or both on any such questions or matters.

Stettinius tried to persuade Evatt to agree to the inclusion of the limitation wanted by the great powers (that is, that the Assembly’s freedom of discussion be limited to ‘questions relating to the maintenance of international peace and security’), but Evatt could not persuaded. In Stettinius’ view, the United States could live with Evatt’s proposal.

According to Dulles, Evatt rang him late on the night of 17 June to repeat that the limitation to matters relating to the maintenance of peace and security as preferred by the great powers was unacceptable to him but rang him again on the following morning (18 June) to say that he had changed his mind and that, while he was not prepared to incorporate it in his draft or positively to advocate it, he would not after all object to incorporation of the limitation into his text. It might be observed that Evatt, if truly reported by Dulles, would be letting the great powers in general, and the Soviet Union in particular, save some face but would be giving little away: incorporated into this text, which gave the Assembly a scope as wide as the charter, the limitation would not be a limitation at all, but a superfluous spelling out of one of the many areas of the Assembly’s competence.

Later on the morning of 18 June, Stettinius reported to the Executive Committee that, while the informal sub-Committee had not reached agreement, Australia’s Evatt had produced a compromise text which would be considered by the Big Five. Evatt then told the Executive Committee that ‘to conciliate this matter, to finalise it’, he was prepared to drop a reference to the Assembly’s scope as being anything ‘within the sphere of international relations’ and to refer instead to the Assembly’s scope being that of the charter.10 This, he hoped, would make it clear to the Soviet Union that the Assembly could not encroach on the domestic jurisdiction of members because a prohibition on such encroachment was written into the charter; the charter would provide the Assembly’s boundaries. Gromyko announced that he was not persuaded, arguing that the text should state precisely just what matters the Assembly could discuss, namely, matters relating to the maintenance of peace and security and relating to economic, social and educational cooperation among nations. By a vote of 10 to 0, with 4 abstaining, the Executive Committee decided to recommend to the Steering Committee that it ask Committee II/2 to consider Evatt’s new draft. The Steering Committee then assembled and, after hearing Evatt again defend his new draft, referred it to Committee II/2.

10 Executive Committee, 10th Mtg., 18 June 1945, UNCIO Documents, Vol.5, p.536.
At midday, the Big Five met to discuss the issue. It was clear that, while the United States, the United Kingdom, China, and France held to the same views as the Soviet Union, they felt that Evatt had the numbers and were disinclined to turn him down cold. These four were happy to accept the new Australian draft subject to some re-drafting and provided that a reference to 'matters relating to international peace and security' was added (and the United States, while saying nothing, it would seem, to the others, knew that Evatt would accept this). Still, Gromyko reserved his position, saying he would seek instructions from Moscow. The draft acceptable to four of the Big Five and urged by them on the Soviet Union read:

1. The General Assembly should have the right to discuss any matter relating to the maintenance of international peace and security or otherwise covered by the purposes and principles or falling within the scope of the Charter, or relating to the powers and functions of any of the organs provided for in the Charter; and, except as provided in Paragraph 2 (b) of this section, to make recommendations to the members of the United Nations or to the Security Council or both on any such questions or matters.

As soon as the Big Five concluded their meeting, Stettinius sent a telegram to the United States Ambassador in Moscow, Averell Harriman, telling him to urge the Soviet Union's Foreign Minister, Molotov, to instruct Gromyko to accept the Evatt draft as amended by four of the Big Five or the text approved earlier by Committee II/2. Stettinius told Harriman that the great powers could not muster the numbers with which to defend the original Dumbarton Oaks draft and that, rather than face a 'bitter public debate in the final days of the conference', Evatt's compromise should be accepted.11

It was assumed in the United States delegation that Australia would accept the new version and, indeed, when it was shown to Bailey later that day, he found it satisfactory. Halifax showed it to Canadian, New Zealand and South African delegates, and they, too, approved it. It seemed that only Moscow's agreement was needed. Early on the morning of 19 June, however, Bailey informed Dulles somewhat apologetically that Evatt was not, in fact, happy with the draft proposed by the great powers:

Dr Evatt feels strongly that it is unnecessary, because tautologous, to preface his own draft with any specific reference to the maintenance of international peace and security. He is nevertheless willing to accept the suggestion, on condition that his own draft is accepted, without any whittling away. He feels particularly that the omission of the phrase 'within the sphere of action of the Organisation' may be misunderstood...

11 Stettinius to Harriman, 18 June 1945, FRUS, 1945, Vol.1, p.1355.
it would be easy to draw from their omission an inference adverse to the scope of the Assembly’s powers. \(^\text{12}\)

Evatt, said Bailey, would be prepared to accept the paragraph in this form:

The General Assembly should have the right to discuss any matters relating to the maintenance of international peace and security, and also any matters covered by the purposes and principles of the Charter, or relating to the powers and functions provided for in the Charter, or within the sphere of action of the Organisation...

Members of the United States delegation showed some impatience with Evatt, some of them clearly feeling that the time and effort being given to the issue, and the danger to the tidy ending of the conference, were out of proportion to the significance of the formulae being insisted on by one party or another. Dulles and Vandenberg, as a rule patient with Evatt on this issue, now were inclined to force the great powers’ version through Committee II/2—if Moscow accepted it.

However, it turned out that Moscow, too, was digging in its feet. At a Big Five meeting later on the afternoon of 19 June, Gromyko proposed yet another version, this one provided by Moscow:

The General Assembly has the right to discuss any questions or any matters within the sphere of the functions or powers covered by this Section, or relating to the powers and function of any organs provided for in the Charter.

Unable altogether to understand why Moscow placed so much importance on deleting any reference to the principles and purposes of the charter, Halifax and Vandenberg tried to persuade Gromyko to include the reference in his latest draft on the grounds that, while not strictly necessary, it would add nothing to the scope of the Assembly’s powers, and it would probably make the Soviet Union’s draft acceptable to ‘Dr Evatt and his group’. Stettinius and Dejean joined in, claiming that deletion of the reference to principles and purposes would be taken by Committee II/2, however wrongly, somehow to modify the Assembly’s scope. Gromyko would not be moved. Finally, Stettinius declared that the Soviet Union’s new version must be shown to Evatt; if he accepted it, the United States would accept it. Halifax and Dejean agreed. China’s Koo was quite baffled by the whole arcane business.

Stettinius and Halifax discussed Gromyko’s version with Evatt. They then reported to another Big Five meeting that night that Evatt could be brought grudgingly to accept the Soviet Union’s text provided that there were added to it a reference to the freedom of the Assembly to discuss

\(^{12}\) Full text of Bailey to Dulles is in United States Delegation, Minutes of 76th Mtg., 19 June 1945, \textit{ibid.}, p.1357.
anything within the sphere or scope of the charter. If such a reference were not added, Evatt would not accept it and nor would Committee II/2. Vandenberg, in fact, predicted that without the inclusion of some such reference the Committee would be hostile and belligerent. Gromyko, though, insisted that any change must be approved by Moscow and he undertook to consult. After that meeting, Stettinius again cabled to Harriman in Moscow to have him urge Molotov to approve a text more acceptable to Evatt and Committee II/2. Gromyko’s intransigence, it might be noted, tended to raise Evatt’s stocks. At a meeting of the United States delegation early on the morning of 20 June, Vandenberg declared that ‘Mr Evatt had been very decent about the whole thing’.13

At a Big Five meeting at midday on 20 June, Gromyko announced that the Soviet Union would accept this version:

The General Assembly has the right to discuss any questions or any matters within the scope of the Charter or relating to the powers and function of any organs provided for in the Charter.

With great relief, Stettinius undertook at once to consult Evatt and have Committee II/2 convened.

Late that afternoon, Evatt moved in Committee II/2 for approval of the version provided by the Soviet Union. He claimed satisfaction with a version by which ‘the Assembly’s right of discussion would be as wide as the scope of the Charter itself’.14 He paid graceful compliments to Dulles and Gromyko, and Vandenberg said of him that ‘Dr Evatt, who had been throughout the champion of the integrity of the Assembly, deserved the gratitude of all concerned’.15 According to the conference record, ‘other delegates paid homage to Dr Evatt as the defender of the rights of small nations’.16 The text was approved by 38 to 0. What became Article 10 of the charter was approved on the following day, 11 June, by Commission II.

While in the last days of the controversy over the powers of the Assembly the fencing seemed to be as much about face as substance, the issue provided Evatt with a genuine two-fold triumph. The first was that, whereas the great powers provided in the Dumbarton Oaks Proposals for an Assembly with carefully limited powers, Evatt forced them at San Francisco to accept an Assembly with almost unlimited scope. As long as the charter text dealing with the Assembly referred to the principles and purposes of the United Nations Organisation, whether explicitly or, as finally agreed, under the guise of reference to the whole charter in which

15 Ibid., p.234.
16 Ibid.
principles and purposes would be covered in its first chapter, the Assembly’s champions had their triumph. The second was that on this issue Evatt without any doubt emerged as the key player outside the great powers and finally as a winner against the great powers. Other small powers were just as keen to see the status of the Assembly raised, and none more so than New Zealand, but the great powers came to see Evatt as the delegate who must be satisfied if the conference as a whole would be satisfied (remembering that Committee II/2, like all the so-called technical Committees, was a Committee of the whole). In this, he was greatly assisted by his membership of the Executive Committee, and it was membership of that Committee which at one point saw him negotiating with Stettinius and Gromyko, but it would seem that he had anyway established such a reputation on Committee II/2 that his role in the matter was bound to be major. Late in the day, some of Evatt’s work was done for him by one or other of the great powers themselves, and notably by the United States, but that work was done with him in mind, with what he and Committee II/2 were thought likely to accept. He created this extraordinary position for himself in a very large conference crowded with ‘big’ men by sheer persistence tempered by a capacity for compromise. If he had not given a lead, it is possible that another delegate might have emerged as leader of the pro-Assembly forces, but there was no obvious candidate. Further, Evatt was singled out by the great powers as the chief critic who must be mollified on this issue because he had emerged as their chief critic on a host of other issues.

Evatt’s triumph was not total. At the end of his campaign, there remained one area where the Assembly might not tread, and that was a security matter before the Council. Given his head, he would have had the Council working almost on Assembly sufferance, subject to Assembly judgement, even in that area. His wish to have the Assembly empowered to intervene if the Council proved unable to deal effectively with a matter before it, to prevent it ‘freezing’ a dispute, was thwarted in that only with the Council’s consent could the Secretary-General keep the Assembly sufficiently informed about such situations. Even here he was not entirely thwarted. In having such a role for the Secretary-General written into the charter, even if so circumscribed, there was created a moral and political onus on the Council to be cooperative: an expectation was created and given permanence in the charter. In that one area, then, Evatt did not succeed in having the Assembly made quite the master of the Council, in giving small power numbers superiority over great power might. Otherwise, though, the Assembly’s scope was as wide as the charter, and there was not much that could not be pegged to a paragraph somewhere in the charter.
Over subsequent years, the General Assembly, in the words of one scholar, 'assumed a predominant role in the United Nations system'; in the words of another, this was to amount to a 'major constitutional revolution'. There were several reasons for this. One was that on occasion it suited even the great powers for strategic or propaganda reasons to boost the General Assembly at the expense of the Security Council. Thus, primarily to side-step the Soviet Union's veto in the Security Council and to sustain a United Nations military campaign in Korea, the United States in 1950 backed the Uniting for Peace Resolution (General Assembly Resolution 377A(V)), whereby the Assembly could call for enforcement action vetoed in the Council. And the Soviet Union, normally a strict defender of Council rights against an Assembly where its bloc was tiny, saw propaganda value in 1954 in having the Assembly seek to prohibit nuclear weapons and direct the Assembly to implement the ban. A second reason was that some of the small powers at San Francisco, including Australia, continued their campaign to make what Evatt called 'the democratic core of the Organization' the body to which all other United Nations organs 'must look for ultimate guidance and support'. A third was that new members to come flooding into the United Nations from the 1950s (United Nations membership has tripled since 1945) saw no reason to observe strict Western notions of legality when Afro-Asian bloc numbers gave them such voting clout in the Assembly.

Not all states and observers invariably have welcomed what the Assembly has done to extend its role. Alan Watt, an adviser at San Francisco and later head of the Department of External Affairs in Canberra, was one who mourned the exploitation of numbers democracy in the Assembly. However, given the paralysis of the Security Council during the Cold War, most have given general approval to this development in what has been called 'parliamentary diplomacy'. Evatt himself tended to react politically, criticising as unconstitutional those developments of which he disapproved and applauding as proper those of which he approved, but overall he enjoyed the rising status of the Assembly—not least when he served as its president in 1948-49—and saw

21 Bailey, p.8.
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his San Francisco campaign as ‘amply justified’.\(^{22}\) Supporting the Uniting for Peace Resolution in 1950, John Foster Dulles cited ‘the powers of the General Assembly...won... in San Francisco’\(^{23}\). This did not sit well with American attitudes expressed at San Francisco and afterwards. The powers won for the Assembly at San Francisco were won by Evatt and his supporters. Doubtless any charter wording would have been by-passed when political convenience was served, but Article 10 as it emerged from Evatt’s campaign made later dominance by the Assembly the easier to attain and gave it a legitimacy the easier to claim.


\(^{23}\) Cited in Claude, p.175.
Domestic Jurisdiction

The world, and more especially Europe, was passing through a phase of heightened nationalism rather than of internationalism in 1919, and the surrender of states' sovereignty to the League of Nations was at best tentative. That the dignity of member states would need the buttress of claims of domestic jurisdiction against League encroachment was scarcely conceivable, and it was only in an attempt to mollify anticipated American congressional sensitivities that a domestic jurisdiction paragraph was inserted into that part of the League covenant dealing with the peaceful settlement of disputes. Paragraph 8 of Article 15 provided that, if a party to a dispute claimed that the dispute arose from a matter which by the canons of international law fell solely within its domestic jurisdiction, and if the Council agreed, the Council would make no recommendations for the settlement of the dispute. Nowhere in the covenant was there a general statement on domestic jurisdiction.

During the League's years, domestic jurisdiction did not emerge as a major issue, and it did not loom large at the Dumbarton Oaks talks. In Chapter VIII of the Dumbarton Oaks Proposals, which covered both peaceful settlement procedures and enforcement action to maintain or restore peace, the League precedent mainly was followed. Section A of Chapter VIII, dealing with peaceful settlement procedures excepted 'situations or disputes arising out of matters which by international law are solely within the domestic jurisdiction of the state concerned'. Section B, which dealt with threats to the peace and enforcement action, did not mention domestic jurisdiction. Nor was it mentioned elsewhere in the Dumbarton Oaks draft for a charter, the assumption apparently being that, of course, domestic jurisdiction remained inviolate except when states explicitly surrendered jurisdiction on particular matters to particular outside organs.

At the British Commonwealth talks in London, Canada's Hume Wrong drew attention to the lack of a domestic jurisdiction clause in Section B of Chapter VIII. The United Kingdom's William Malkin (Legal Adviser to the Foreign Office) explained that at Dumbarton Oaks the United Kingdom representatives had suggested a domestic jurisdiction clause for
Section A because matters like immigration policy, clearly a matter of domestic jurisdiction, could give rise to disputes where international intervention could be inappropriate and a domestic jurisdiction defence might be needed. A similar clause had not been suggested for Section B because, if a dispute developed to the point of threatening peace, the Security Council should be empowered to intervene and should not be frustrated by claims of domestic jurisdiction.

Evatt’s reaction was surprisingly mild, and he observed merely that Wrong’s point ‘should be looked at carefully’. It was ‘surprisingly’ mild because in another context he had shown concern about what he called ‘a premium on violence’. By this he meant that the United Nations charter in its references to safeguards against, or responses to, aggression should not be so framed as to encourage a state to pursue a case against another state to the point of aggression so as to ensure an international hearing and possibly a happy outcome. Given that the Australian industrial arbitration and conciliation system in a sense almost encouraged disputes so as to force hearings by tribunals, which tended to give the professedly aggrieved party at least something of what it claimed and, given that as a lawyer Evatt was intimately familiar with that system, one might have supposed that Evatt would see danger to Australia in an international system under which a state hostile, for example, to White Australia could be trumped by an Australian claim of domestic jurisdiction if it pursued its case against Australia peacefully but could ensure a hearing and probably some satisfaction by resorting to force or threatening force. Still, at the London talks Evatt seemed not to react with any sense of urgency even though the United Kingdom had used immigration policy as its example (for Australia, most sensitive policy). At his press conference on his arrival in San Francisco, Evatt did not mention domestic jurisdiction. Forde’s opening speech to the conference on 27 April did not mention it.

It did, however, receive late attention from the great powers. At a meeting of the sponsoring powers’ foreign ministers at San Francisco on 3 May, two amendments relating to domestic jurisdiction were discussed. Neither seemed to be of great significance. The first, sought by the United States, envisaged deletion of the reference to international law and of the word ‘solely’ in Section A of Chapter VIII on the grounds that international law was still too inchoate to allow confident reference to it, and on the grounds that some policies of governments, while mainly of domestic jurisdiction, were not solely of domestic jurisdiction. The second, submitted by the United Kingdom, while very long and wordy, sought not to change the intent of the Dumbarton Oaks Proposals but to make explicit what had been left implicit: domestic jurisdiction could

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1 British Commonwealth Meeting, 9th Mtg., 11 April 1945, AA:A5954, Box 720.
apply to Section A of Chapter VIII; it could not apply to Section B. It was evident from their discussions that the sponsoring powers were well aware that they had nothing to fear from a Section B from which domestic jurisdiction explicitly was excluded: they had the veto with which to defend themselves, and while they anticipated policing small powers, small powers could never gang up on them.

The United Kingdom amendment was so long and verbose that it was referred to a Big Four sub-committee, and it was the Soviet Union’s representative on that sub-committee, Professor S.A. Golunsky, who came up with a new formula, which was accepted by the Big Four delegation heads and became part of the sponsoring powers’ joint amendments submitted to the conference. Professor Golunsky’s proposal was that the reference to domestic jurisdiction in Section A be dropped, that a denial of domestic jurisdiction not be included in Section B, and that a new domestic jurisdiction paragraph be placed in an early chapter of the charter dealing with Principles. This new paragraph read:

Nothing contained in this Charter shall authorise the Organisation to intervene in matters which are essentially within the domestic jurisdiction of the State concerned or shall require the members to submit such matters to settlement under this Charter; but this principle shall not prejudice the application of chapter VIII, Section B.

This paragraph met the American point that few matters these days were ‘solely’ within the domestic jurisdiction of states, and it met the United Kingdom’s wish to have it made explicit that domestic jurisdiction claims had no place in the context of aggression. It seems likely that the Soviet Union was inclined to give domestic jurisdiction the dignity of a separate paragraph in the charter because of fears of attempted interference in its internal affairs by anti-Communists or even friendly internationalists. None of the great powers had the remotest interest in world government, and to that extent they were all happy enough to see domestic jurisdiction played up, but the Soviet Union, which initially had wanted an organisation kept strictly to the maintenance of peace and security and was now discomforted by evidence that others saw a much wider and more pervasive role for it, was especially interested.

While the great powers were reconsidering the issue of domestic jurisdiction, Evatt, too, was giving the matter further thought, finally adopting a position to a degree at odds with that of the great powers. According to Hasluck, Evatt, whose attitudes towards domestic jurisdiction in the past had varied, went to San Francisco inclined to ignore the question, and this for two reasons: first, he wanted to see Australian views on economic and social policy adopted by the United Nations and thereby pressed on member states; second, and more to the point, he had an interest in seeing the United Nations operating over a
wide ambit because he wanted to use Australian adherence to the United Nations charter and to later United Nations conventions as a way of forcing change to Canberra's benefit within the Australian federation (that is, to have the Commonwealth become party to international obligations, which it could enforce domestically under the external affairs power in Section 51 of the federal constitution). It was Hasluck's later recollection that Evatt only saw the light when he, Watt and Bailey convinced him that White Australia was in jeopardy and, 'like any repentant sinner, became more fervent in preaching the gospel of domestic jurisdiction than his advisers had been'.


If Hasluck's recollection was correct, Evatt's conversion came very early because, when Australia's amendments to the Dumbarton Oaks Proposals were circulated on 4 May (and at that point the conference was barely under way, with delegations given until 5 May to get their amendments in to the secretariat), they included provision for narrowing United Nations encroachment on domestic jurisdiction beyond what the great powers were considering. The great powers were clarifying their view that, while the Security Council could not override domestic jurisdiction claims under the powers given to it under Section A of Chapter VIII, it could override such claims under powers given to it under Section B. Evatt, however, now sought to identify two sets of powers given to the Security Council under Section B, and to urge that only one set should allow the Council to override domestic jurisdiction. The distinction he saw was between the Council's power to recommend measures to end actual or threatened breaches of the peace on the one hand and, on the other, its power to take action to maintain or restore peace. Of these powers given to the Council under Section B, concluded Evatt, only the latter, its power to apply force, should override domestic jurisdiction. To this end, the Australian amendments included provision for the insertion of a new paragraph in Section B stating that 'if a situation calling for preventive or enforcement action has arisen out of a matter which by international law is solely within the domestic jurisdiction of the State concerned, the Security Council shall not make any recommendations or decision which would curtail that State's freedom of action, but shall take whatever preventive or enforcement action is necessary to maintain or restore international peace and security'.

Certainly, Evatt primarily had White Australia in mind in seeking acceptance of this distinction. As he cabled back to Chifley, 'without such a provision it would be possible for an Asiatic power to object to our immigration policy and if it could be shown that a threat to peace had arisen the Security Council could recommend a settlement involving a
change in our Migration policy as a condition necessary to remove the threat to peace'. Evatt now saw the relevance here of his concept of a 'premium on aggression': as it stood, Section B positively encouraged a state hostile to another's internal policies to adopt aggressive postures so as to ensure Security Council intervention in a setting where the other state could not claim domestic jurisdiction.

Beyond that, the distinction which Evatt sought to make also reflected the Australian self-image. That is to say, Australian governments never had seen, and never would see, themselves as unilateral threats to peace. On the contrary, they had always seen themselves as potential victims of others' aggression. To that extent, then, it was not in Australia's interest to see the Security Council's capacity for forceful intervention inhibited: if an Asiatic state resorted to force against Australia on the score, say, of the White Australia policy, Australia, to put it mildly, would welcome the Council's quick and forceful intervention. For this reason, Evatt did not follow some other delegates at San Francisco in seeking to have the last clause of the sponsoring powers' amendment dropped and to leave in place an utterly comprehensive domestic jurisdiction paragraph. What Evatt wanted was a Security Council empowered to put down aggression but not empowered to make recommendations as to causes of disputes if a party claimed domestic jurisdiction. It was a reasonable distinction, and from Australia's point of view, a very important distinction.

Australia's amendment went to Committee III/3, which covered that part of the charter concerned with enforcement action by the Security Council. The sponsoring powers' joint amendment, though, went to Committee I/1, which covered the early part of the charter concerned with 'Preamble, Purposes and Principles'. Evatt took pains to keep the Australian amendment on the table of Committee III/3 until the discussions on Committee I/1 had run their course, but it was clear that discussions on Committee I/1, being at the behest of the great powers, would take precedence, and it was to that forum that Evatt turned. The original Australian amendment was not, in the event, to be pursued.

It has been seen that a frequent ploy used by Evatt at San Francisco was to submit an amendment to the conference, speak early and forcefully on the relevant technical committee, and have himself appointed to sub-committees where he could hope to influence others and help to shape draft paragraphs of the charter. This approach had its risks in that he could be left to shadow box if the great powers removed issues from the conference to their own private meetings either because they had differences between themselves to resolve or because they were unhappy with the behaviour of the small powers. In the case of domestic jurisdiction, and rather than quickly submit an amendment for

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consideration by Committee I/1, Evatt tried a different approach, falling back on the formerly favoured Australian tactic of trying first to get the United Kingdom on side and hoping that the United Kingdom then would try to influence the other great powers. Thus, after discussions with officials and ministers in the United Kingdom team, Evatt on 16 May submitted to the United Kingdom delegation an alternative to the sponsoring powers’ amendment whereby the clause ‘but this principle shall not prejudice the application of Chapter VIII, Section B’ would be replaced by ‘this paragraph does not affect the powers under the Charter to take preventative or enforcement action against a state which uses or threatens to use force in any matter inconsistent with the Charter’. In effect, under the Australian text the domestic jurisdiction principle would protect all states in every circumstance even from the Security Council trying to keep the peace but with just one exception: it would not be available to aggressors. While less than enthusiastic about Evatt’s text, the United Kingdom after some delay agreed to sound out the other great powers and this was done at a meeting of a sub-committee of the Big Five. France, China and the Soviet Union indicated disapproval, but on 1 June the United Kingdom’s Halifax then took Evatt to a meeting with the United States’ Stettinius, who undertook to consider the Australian proposal.

The United States team had first heard of the suggested Australian amendment back on 18 May and, without much discussion, had decided to oppose it. By the time Evatt met Stettinius, however, some Americans were having second thoughts. Pasvolsky remained firmly opposed to the Evatt text, but John Foster Dulles emerged as a strong advocate for Evatt. Dulles believed that many small powers shared Australian concern about a Security Council free to intervene in what they would regard as matters of domestic jurisdiction. He also noted that the small powers had no veto with which to defend themselves. After a good deal of discussion, a delegation adviser, Harley Notter (Office of Special Political Affairs) proposed a simplified version of the Australian suggestion in the form of a change to the sponsoring powers’ amendment, which would now read: ‘but this principle shall not prejudice the application of enforcement measures under Chapter VIII, Section B’. The United States delegation then agreed that, while it would not take the initiative in seeking change, it would accept a text along the lines of Notter’s formula.

Halifax had seemed supportive of Evatt and the Australian case, but in great power discussions he came out against Australia. Even though Dulles opened proceedings at a meeting of the Big Five on 6 June by saying that the United States was happy enough with the Australian proposal (as worded by Notter), Halifax spoke at some length on why the United Kingdom did not like it. He argued that it would be better to omit the whole of the final clause of the sponsoring powers’ amendment than
explicitly to except enforcement measures from application of the domestic jurisdiction principle. Even though explicit exception of enforcement action from domestic jurisdiction claims had been part of the United Kingdom’s own original amendment, Halifax professed to fear that reference to ‘enforcement measures’ as in Notter’s text would seem to exclude the Council from everything except enforcement, and he thought omission preferable because then ‘once a matter became a threat to international peace and security it would cease to be essentially within domestic jurisdiction’. One might have thought the latter point debatable but, even if Halifax was right, the whole point of the Australian proposal was to avoid what clearly he wanted. France’s Maurice Dejean (a senior officer of the Ministry of Foreign Affairs) and the Soviet Union’s Gromyko agreed with Halifax, though preferring the wording in the sponsoring powers’ amendment to omission.

Dulles presumably with mischief aforethought stated that, if the Australians accepted the American wording, and if the United Kingdom were agreeable, the United States would support the Australians. When Cranbome claimed that Australia actually would prefer to see the final clause in the sponsoring powers’ amendment omitted, Dulles ‘questioned whether they would prefer the omission if they heard Ambassador Halifax’s definition of the result, namely, that by dropping out this sentence the Security Council would have full powers under Chapter VIII, Section B to take action in the event that an action threatened the peace’. Halifax then turned a somersault. Noting that the Australian amendment soon would be discussed by Committee I/1, and despite having made it abundantly clear that the United Kingdom disapproved of the whole point of the Australian proposal, he declared that ‘the British delegation felt in great sympathy with Australia’ and would find it difficult to vote against Australia. Gromyko wondered why this would be a difficulty for the United Kingdom: Australia on several occasions had voted against the United Kingdom. Halifax replied that for Australia this was a vital matter, and he asked if the United Kingdom might break solidarity with the sponsoring powers. Gromyko was not impressed, and Halifax then wondered if the United Kingdom might abstain rather than vote against Australia. The Americans’ Senator Tom Connally came to the rescue, allowing that in the circumstances the United Kingdom could not be held to the sponsoring powers’ amendment, though hoping that this would not serve as a precedent for further breaking of great power ranks.

By this time, Committee I/1 had completed its work on drafts of the Preamble and what became Chapter I of the charter, but the Australian delegation had alerted the committee that it would be submitting an amendment to the sponsoring powers' amendment, which comprised a new paragraph, Paragraph 7, of what became Article 2 of the charter. At a meeting of Committee I/1 on 11 June, Evatt circulated a long memorandum proposing the replacement of the final clause of the sponsoring powers' amendment with the Notter formula. In well written and nicely organised terms, Evatt's memorandum again explained Australia's objection to the sponsoring powers' amendment, as it stood. It was good and proper, it said, to have in the charter a provision excluding interference by the United Nations Organisation in matters falling within the domestic jurisdiction of member states, and it was entirely appropriate that in the Dumbarton Oaks Proposals and in the sponsoring powers' amendment the Security Council under the peaceful settlement procedures outlined in Section A of Chapter VIII of the Proposals should not intervene in matters of domestic jurisdiction. The question at issue now was whether the whole of Section B of Chapter VIII should be exempt from the domestic jurisdiction principle. Evatt again distinguished between powers of recommendation given to the Security Council under Section B and powers of enforcement given to it. In his view, the former should no more be excepted from the domestic jurisdiction principle than the whole of Section A. He doubted that the latter need be mentioned as an area of exception because enforcement action to prevent or end aggression had nothing to do with domestic jurisdiction, but he had no objection to the obvious being stressed 'from a practical point of view'. Applying his 'premium on aggression' concept, Evatt stressed that, if the whole of Section B were allowed as an exception to domestic jurisdiction, there would be 'almost an invitation to use or threaten force, in any dispute arising out of a matter of domestic jurisdiction, in the hope of inducing the Security Council to extort concessions from the state that is threatened'. Less convincingly, in that Australia's immigration concerns were no secret, he claimed that 'our grounds are in no way peculiar to Australia itself'. And he did not forebear to express doubt as to whether the sponsoring powers' amendment would have included reference to the whole of Section B were it not for the veto which they could employ to prevent interference in their domestic affairs. In supporting his memorandum and amendment, Evatt spoke only briefly on Committee I/1, emphasising mainly that under the

6 ‘Amendment by the Australian Delegation to Proposed Paragraph 8 of Chapter II (Principles); Memorandum by Dr H.V. Evatt on behalf of the Australian Delegation’, *UNCIO Documents*, Vol.VI, p.440.


sponsoring powers' amendment ‘the Security Council might interfere in the domestic affairs of a state victim of aggression to the disadvantage of that state’. And he repeated that ‘this would put a premium on a state provoking aggression creating a dispute and encouraging intervention by the Security Council’.9

The Australian amendment was again considered by the Big Five on 12 June. China’s Wellington Koo expressed strong opposition to it on the grounds that it excessively widened the domestic jurisdiction barrier to United Nations activity. France’s Joseph Paul-Boncour (a former Prime Minister) agreed with Koo. For the United Kingdom, Cranborne repeated his delegation’s wish to break with great power unity ‘both on the merits and because of the United Kingdom’s special relations with Australia’.10 Dulles defended the Australian proposal (his delegation, after all, had provided the terms in which it was expressed). And Gromyko announced that the Soviet Union’s delegates ‘had decided that the change would not be of great importance...they would not object’.11 It was agreed that each great power could vote as it wished on the Australian amendment.

Early on the morning of 13 June, the United States team again discussed the Australian amendment, which was to come before Committee I/1 later in the day. The team was still divided: Pasvolsky and Harold Stassen spoke against the Australian amendment; Dulles, while he ‘hated to vote for Australia against China’, felt that a commitment had been made to Evatt and that the United States delegation must honour it;12 and the powerful Senator Vandenberg declared that Australia’s amendment was ‘totally sound’.13 It was agreed that the United States would vote for the Australian amendment. When expressing his understanding that the United States had given Evatt an undertaking to support his amendment, Dulles referred to a meeting attended by Evatt, Halifax, Stettinius, Connally and Dulles, but it is not clear just when this meeting took place.

At that afternoon’s meeting of Committee I/1, Evatt did not have it quite all his own way. Mexico, Peru, Argentina, Uruguay, Greece and the United Kingdom expressed support for Australia but Belgium, while prepared to vote for the Australian amendment, was not keen about it, and

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9 Committee I/1, 15th Mtg., 11 June 1945, *ibid.*, p.424.
China, France and Norway expressed hostility. Evatt knew he had the numbers and he did not bother to answer his critics, but he did call for a roll-call vote, which went his way by 31 to 3 (China, Costa Rica, the Philippines), with 5 abstentions (including France). Dulles described this vote as 'solely... a personal tribute to Mr Evatt', who by then had emerged as a champion of the small powers on a range of issues before the conference. The sponsoring powers’ amendment, as amended by Australia, was then approved by 33 to 4. It was adopted by Commission I without a vote.

As on many other issues, the Latin Americans tended to stress the judicial aspects of domestic jurisdiction: they saw value in having a reference to international law in the domestic jurisdiction paragraph; they liked the idea of the International Court giving opinions on whether domestic jurisdiction should apply in particular cases. While paying a handsome tribute to ‘the contribution of Latin American jurists’, Evatt brushed them aside: of course, international law would say what was domestic, but there was no other possible authority, and there was no need to write the obvious into the charter; of course, International Court opinions should be sought when time allowed, but there was no need to lay that down in the charter. Given recent European experience of genocide, French concern that domestic jurisdiction claims might prevent United Nations protection of minorities had to be treated less cavalierly, and Evatt argued that such questions should be covered subsequently by international conventions which would remove them from domestic jurisdiction. China’s dislike of extensions to domestic jurisdiction did not move him, and doubtless he had his own cynical views of the real bases for Chinese concern.

Evatt was inclined subsequently perhaps to exaggerate the Australian accomplishment, claiming responsibility for the ‘inclusion of a specific provision that the only permissible intervention of the Organisation in matters of domestic jurisdiction shall be in the case of actual enforcement measure by the Security Council’. It was, in fact, the Soviet Union which suggested the inclusion in the charter of a domestic jurisdiction paragraph so located as clearly to apply generally. Evatt’s success was in narrowing the exception allowed in that paragraph or, put in another way, in widening the scope of the domestic jurisdiction principle. In this, he had finally the support of the United Kingdom and the United States and, more passively, of the Soviet Union. The United States provided the formula which was taken up by Evatt and which went into Article 2 of the charter.

14 Ibid., p.1279 (71st Mtg., 14 June).
It has also been wrongly claimed that Evatt was responsible for the substitution of ‘essentially’ for ‘solely’ in the domestic jurisdiction clause. In fact, this substitution was suggested by the United States and accepted by the other great powers. Evatt’s submitted amendment retained the word ‘solely’.

From the Australian point of view, this was a campaign which at the time seemed worth pursuing. Certainly, it was not an instance of Evatt ‘grandstanding’ on an issue convenient to personal ambition. Whether in the long run the campaign’s success much mattered is another question. Article 2 has been described as ‘a tragic step backwards’, but, as Claude has noted, from a legal point of view the domestic jurisdiction paragraph in the charter can mean everything or nothing: taken in isolation, it seems to negate most of the rest of the charter; taken in the context of the rest of the charter, scarcely any subject is left to be covered by domestic jurisdiction. And, as Claude has also noted, ‘effort to discover the precise legal meaning of the jurisdictional text is...essentially irrelevant, because the question of the constitutional relationship between the world organisation and its component states has been treated as pre-eminently a political matter’. Evatt the lawyer was sometimes to be genuinely discomfited by General Assembly indifference to the precise meanings of phrases in the charter and by its willingness to amend the charter by Assembly resolution, to ignore the charter when the numbers were available. Evatt the politician was to prove as flexible as any other.

This flexibility is not evidence, as some have come close to suggesting, of hypocrisy on Evatt’s part. International organisations of their nature involve some surrender of sovereignty, of domestic jurisdiction, by member states, and it is inevitable that there will be legal and political arguments about the precise nature and degree of that surrender in particular cases. And, in as much as such organisations are political organisations in which members pursue their often competing political interests, neither the charter itself nor the Australian interest allowed Evatt subsequently to apply domestic jurisdiction principles with textbook consistency. In some cases, it was to be in the Australian interest to take a rigorous view of domestic jurisdiction; in some cases, Evatt would feel obliged to take a permissive view. Had he shown less


flexibility (what Harper and Sissons called 'varying and elastic definitions'), doubtless he would have been branded 'legalistic' and an inadequate defender of the Australian interest.

Moreover, situations at times demanded choices among principles. Much has been made of the fact that in 1949 Evatt apparently was to turn his San Francisco position on its head in the case of complaints about religious persecution in eastern Europe, declaring that 'if any question could be covered by an Article of the Charter, that question could no longer be held to be a matter essentially within the domestic jurisdiction of a State'. The fact was, however, that the trials of religious leaders in Bulgaria and Hungary seemed to be in violation of principles set out in the Preamble and in Article 1 of Chapter 1 of the charter whereby members undertook to promote and encourage ‘fundamental freedoms for all without distinction as to... religion’, and that article, in turn, seemed to justify examination of the issue by the General Assembly under powers obtained for it by Evatt at San Francisco. As Claude has conveyed, this was one of many cases in which the domestic jurisdiction clause of the charter could be read so as make nonsense of the powers of discussion and recommendation given to the Assembly or in which the clause governing the Assembly’s powers could be read as making nonsense of the domestic jurisdiction clause. In such cases, the question for states in a political organisation always must be one of political priorities.

19 Harper and Sissons, p.165.
20 Ibid.
10 The Pledge

Laconic understatement in the Australian tradition or in the still pervasive British tradition was not one of Evatt’s traits. He was almost childlike (or childish, as some would say) in his need to claim triumphs and to report others’ good opinion of him, not just in his public politics but even in his private dealings with colleagues. Sobriety and phlegm were foreign to him. This is not the place for speculation about why a man whose life had been marked by so much public success seemed so fragile in his self-regard and so tender in his relations with others (though it is difficult to overlook the impact on a fatherless boy of a mother excessively sparing with praise). It is to the point here to note that he was typically immodest in his reporting of his activities at the San Francisco Conference, and that he was especially self-congratulatory about the writing into what emerged as Articles 55 and 56 of the United Nations charter of a pledge by members to take ‘joint and separate action’ to promote, among other things, full employment. On his return to Canberra, Evatt described the Australian (that is, his) role in having this pledge written into the charter as ‘a remarkable achievement’ and as one of the ‘two most significant achievements at the United Nations Conference’ (the other being an increase in the power and status of the General Assembly, also an Australian triumph).  

Evatt’s high opinion of his own endeavours at San Francisco was not universally shared and his activities there were to draw criticism as well as praise, both from officials who were with him and by commentators and scholars. Even so, it is remarkable how much Evatt claimed for himself on the full employment issue and how loath others have been to allow the claim. What Evatt saw as a ‘remarkable achievement’, Butlin and Schedvin rated as merely satisfactory in the circumstances, and Harper

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and Sissons saw as a ‘somewhat hollow’ victory. Edwards gave whatever credit was due less to Evatt than to delegation officials who were essentially disciples and agents of the Treasurer, J.B. Chifley. One official who was there, Alan Watt (one of Evatt’s men), while complimentary about Evatt’s overall performance at San Francisco, wrote with respect to the full employment pledge that he had to ‘rest content’ with what he could get. Another official who was there, L.F. Crisp (one of Chifley’s men), disparaged Evatt’s expertise and commitment and, referring to a speech by Evatt at San Francisco, wrote that ‘he...put the best interpretation Australia could on the compromise’. And, just as Edwards has written that Evatt merely ‘associated himself with the policy’ (that is, full employment as a national and international imperative), another official of the time, A.H. Tange, saw Evatt as having come late to the full employment cause, and as then having led it off ‘tangentially into futility’ for reasons ranging from ‘internationalist fervour’ to ‘economic ignorance’. The main opposition to Evatt on the full employment pledge issue came from the United States delegation. And it is interesting to note that while, more than Edwards allowed, the Americans saw Evatt rather than Australian officials as their foe, they saw Evatt as motivated by more than economic, humanitarian or internationalist factors. As Nelson Rockefeller, a senior adviser from the State Department put it, he and his colleagues believed that pursuit of the full employment pledge was part of ‘attempts of the Australian Government to avoid their constitutional processes by treaty commitments’. In effect, there was among the Americans a suspicion about Evatt’s good faith, a belief that he was trying to use the conference for domestic party purposes by having it formulate a charter to which the Commonwealth would be party so that, under the external affairs power in the federal constitution, it could then implement policies otherwise denied to it by the constitution.

The obvious questions, then, relate to the nature of Evatt’s commitment to full employment at San Francisco, and to the extent of his

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achievement. And was he pursuing a private agenda which had more to do with his other portfolio, that of Attorney-General, than with the economic policies of Chifley in particular and the Labor government in general?

Hasluck and, in more detail, Butlin and Schedvin have provided accounts of the origins and development of Australian policy on full employment from 1942, and it is relevant here merely to note two major strands in the process, one reactive and the other positive. The reactive strand stemmed largely from the determination of the United States to link mutual aid agreements during the war to commitment to free trade after the war, a commitment which threatened preference trading schemes and tariff protection, both of which were seen in Australia as underpinning prosperity and high employment levels. After the experience of the 1930s, it was assumed that all Australian governments must pursue full employment policies domestically, if only for their electoral survival. The result was that at a series of major conferences—in London in 1942, at Hot Springs in 1943 and at Philadelphia and Bretton Woods in 1944—a group of Australian officials gained experience in arguing for policies which would minimise the impact of international developments on Australian employment levels.

At the same time, there was a more positive factor. The early 1940s saw the rise of a new generation of public service economists who were Keynesians and who looked to post-war reconstruction involving government activity in achieving, among other things, full employment as a social good. Both the reactive and positive strands encompassed much the same personnel and at least one common policy assumption: full employment in Australia largely would depend on the willingness of the major economic powers to pursue full employment and thereby maximise Australian markets; if the major economic powers did not pursue full employment but did move to enforce freer international trade, Australia not only would have less receptive markets for her exports to those powers during low periods in their economic cycles but would also face the loss of preferential trading schemes and tariff protection on which in the past she had relied for relief in unkind times. In effect, Australia had much to gain from a new world order but only if it were based on genuine international cooperation in applying common policies, including full employment. The issue was seen as being of such fundamental importance that Hasluck later could write that from 1942 full employment became one of ‘three main themes’ in Australian foreign policy, the others being an independent

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10 Butlin and Schedvin.
Australian role in peace settlements and international recognition of the importance of the Pacific region and of Australia’s status in it.\textsuperscript{11}

The emergence of the official economists already noted, their adoption by Chifley and their impact are well documented. The question is whether, as Minister for External Affairs, Evatt shared their cause. The short answer would seem to be that he did. He fell out at times with officials not from the Department of External Affairs, notably with L.G. Melville, but disputes were over diplomatic tactics rather than substance, and as much as anything reflected Evatt’s unease when officials representing Australia at international conferences were not normally and primarily responsible to him.\textsuperscript{12} Evatt was no economist but H.C. Coombs, who accompanied him on a visit to Washington in 1943, found that ‘while not greatly interested in economic matters, he mastered a brief about them with the speed of a top flight barrister’.\textsuperscript{13} On that trip, he discussed with the Secretary of the Treasury, Henry Morgenthau, a monetary stabilisation plan proposed by the United States. This was not the simplest of economic subjects but, according to Coombs, ‘he handled the talk with Morgenthau skilfully’.\textsuperscript{14} As for the particular full employment aspect of economic policy, J.W. Burton, one of the brotherhood of young economists but an External Affairs officer, was happy to refer in May 1944, to ‘our Minister’s success in relation to this most difficult political matter, which no one else was prepared to tackle...’\textsuperscript{15} And Evatt himself claimed common cause with the economists: ‘I have struggled hard for recognition of the full employment doctrine, and often under adverse circumstances’.\textsuperscript{16} Probably the clearest evidence of Evatt’s close interest is to be found in the many and lengthy cables which flowed between him and J.A. Beasley, Minister for Supply and Shipping, while the latter was representing Australia at the International Labour Conference at Philadelphia in April-May 1944 (the conference rejected Beasley’s call for an international conference on employment, but it issued a declaration which listed full employment as an international goal).

In some of his many statements on full employment policy in the years from 1942 to 1945, Evatt spoke of full employment in terms of social justice, but often enough he spoke in terms of the economists’ arguments, linking full employment with increased production and

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\item \textsuperscript{11} Hasluck, \textit{The Government}, p.456.
\item \textsuperscript{12} For Evatt-Melville exchanges, see documents 78, 83, 84, 88, 93 and 99 in \textit{DAFP}, vol.VII.
\item \textsuperscript{14} \textit{Ibid}.
\item \textsuperscript{15} Burton to Hodgson, 7 May 1944, \textit{DAFP}, vol.VII, p.281.
\item \textsuperscript{16} Evatt to Beasley, 29 April 1944, \textit{ibid.}, p.256.
\end{itemize}
consumption—more particularly increased production in Australia and increased consumption of her primary exports by the major powers. Did his interest, though, extend beyond the social and economic? Hasluck, who worked closely with Evatt before and during the San Francisco Conference, was in no doubt that it did: ‘while believing in the objective he saw an additional argument for pursuing the objective by international agreement because that method improved the prospect of being able to pursue it successfully at home’. 17 Admitting that ‘his conversations and oral directions...were...more explicit...than the written record’, Hasluck nevertheless claimed that, as a High Court justice in the 1930s, as a frustrated and centralist Attorney-General (the Curtin government failed to obtain additional powers for the Commonwealth at a referendum in 1944) and as Minister for External Affairs, Evatt saw the external affairs power of the Commonwealth as a means whereby, in implementing international agreements, the Commonwealth could override the states and achieve economic and social change. And K.H. Bailey, also close to Evatt during the war years and especially at San Francisco, and himself inclined to a wide interpretation of the external affairs power, perceived Evatt as being of his mind and certainly expected him to be less orthodoxly ‘federal’ than his predecessors in his approach to international commitments. 18

The Dumbarton Oaks Proposals, despite the reservations of the Soviet Union, contained a chapter on ‘Arrangements for International Economic and Social Cooperation’, Chapter IX, but its provisions were limited and vague. There would be an Economic and Social Council, comprising eighteen states elected for three-year terms by the General Assembly and operating under the authority of the General Assembly. It would ‘facilitate’ the finding of solutions to international economic, social and humanitarian problems and it would ‘promote’ respect for human rights and fundamental freedoms. It would also serve as a point of contact between specialised agencies and the United Nations Organisation. Full employment as such was not mentioned, but neither were any other specific problems.

Nor did full employment receive much explicit emphasis at the London talks. In his opening speech, Evatt referred only to ‘the maintenance of high levels of employment and progressively increased standards of living’. 19 When the conference moved on to discussion

specifically of economic and social issues, Evatt urged that the United Nations charter contain a pledge, but he was very vague about what would be pledged, saying only that it would be 'incumbent upon all Member States, to pursue certain fundamental social and economic objectives'. In their cabled report back to Curtin after the London talks, Forde and Evatt claimed British Commonwealth support for a 'definite pledge' to secure 'improved labour standards, economic advancement and social security'. It was only when he got to San Francisco that Evatt, at a press conference on 3 May, included among Australian aims at the conference a pledge by members to secure 'employment for all'.

At San Francisco, Roland Wilson and J.B. Brigden tried to have Evatt include among Australian amendments to be submitted to the conference the insertion of the following paragraph:

PLEDGE:

Each member of the United Nations pledges itself to take, singly and in concert with other members, such measures as may be necessary and practicable to secure for its own people and the people of other lands—

(a) economic advancement and improved living standards;

(b) useful employment or work for all who seek it, at fair wages or returns, under conditions which will satisfy the conscience of mankind;

(c) social security; and

(d) the maintenance of an expanding world economy free from disturbing fluctuations.

Despite Hasluck's view that Wilson was one public servant who could not be stared down by Evatt, Evatt accepted nothing from Wilson's text except the words 'for all who seek it', and that was only as a minor and tactical gesture towards conservative American opinion. Evatt instead preferred a paragraph reading:

All members of the United Nations pledge themselves to take action both national and international for the purpose of securing for all people, including their own, improved labour standards, economic advancement, social security and employment for all who seek it...

20 British Commonwealth Meeting, 10th Mtg., 11 April 1945, AA:A5954, Box 720.
22 Crisp, p.8.
For Crisp, this showed that Evatt was at best a lukewarm and ill-informed supporter of a full employment policy, but the employment reference in each draft was the same; indeed, the only significant difference between the texts, except perhaps in solemnity of style, would seem to have been in Wilson’s reference to the world economy — a reference which might well have seemed excessively optimistic at worst and, at best, a marginally useful shorthand indication of the thinking behind full employment policy.

It must be allowed, too, that Evatt might have opted for a short and concise text for tactical reasons. The United States delegation, for one, anticipated well before the conference that Australia would fight ‘tooth and nail’ for a full employment pledge, and it would be surprising if Evatt did not become aware of this. Australian officials from outside the External Affairs camp, the advisers described by Crisp as ‘those who looked to Chifley in this particular matter’, might have thought Evatt lukewarm, but that was not the Americans’ impression.

There was not in the American team’s approach to the conference a coherent, pre-determined and unified opposition to the insertion of a full employment clause in the charter, if only because the team was too large and diverse for such unity of purpose, but the prospect of an Evatt campaign on this issue was disturbing for several reasons. For one thing, there was concern about the acceptance of international obligations which might stick in the craw of Congress, especially the Senate. Crisp thought this an overworked ploy to keep small states in line by reminding them of the impact of the failure of Congress to accept the League of Nations covenant, but it is clear from the records of the United States delegation’s long and detailed discussions that this concern was genuine. For a second, while all agreed that high employment was a good thing, some thought ‘full’ employment a ludicrous notion (‘unattainable dream stuff’, in Senator Connally’s opinion) and, although President Truman was known to look kindly on the term ‘full employment’, many in the American team preferred a more modest formula like ‘high and stable levels of employment’. For a third, some saw employment policy as manifestly domestic policy, and their hackles rose at the prospect of international encroachment on domestic jurisdiction in such an area. Finally, there was a fear that a full employment pledge might touch what was called the ‘Negro problem’: with such a pledge in the charter, the United Nations might try to interfere in negro affairs and, whether it did or not, the mere possibility would alienate southern senators. There was, then, a disposition

24 Crisp, p.17.
in the American delegation to oppose an Evatt seeking a full employment pledge, but there was yet another factor which was to play a part in the United States delegation's emergence as Evatt's main foe: quite simply, there were some who doubted his good faith.

These doubts had to do with the factor mentioned by Hasluck: Evatt's interest in using the Commonwealth's external affairs power to override the Australian states. It has been seen that Rockefeller, an Assistant Secretary of State, thought this was what Evatt was about, but he was not the only one. L.D. Stinebower, a trade adviser, told the United States delegation with reference to the full employment pledge that 'the Australians had been trying to get the necessary authority to carry through domestic reforms. An international obligation would give them the necessary springboard'.

Harold Stassen, a delegate, agreed that 'the Australians were trying to use the international Charter to force a change in their own country'. According to some members of the delegation, the Australians were making no secret of their aims. Leo Pasvolsky saw a link between the Australian desire for a full employment pledge and its desire for an Assembly with wide powers. He claimed to have been told 'face to face by representatives of Australia and New Zealand' that it was 'Dr Evatt's intention to inject the World Organisation into the internal affairs of member states'. He envisaged moves to have the Assembly adopt a convention obliging each member to maintain full employment, and giving the Assembly power to investigate. He thought this 'the most dangerous theory with which the United States had ever been diplomatically confronted'.

The Americans joined with the delegations of the other sponsoring powers in submitting a joint amendment meant to flesh out a little the provisions of Chapter IX of the Dumbarton Oaks Proposals, but its stress was on the cultural and human rights aspects of economic and social cooperation, and there was no reference in it to employment. Many amendments were submitted by other delegations, but most trod softly. Uruguay, for example, referred in its amendment to 'high levels of income, employment and consumption', and Bolivia in its amendment referred only to 'material opportunities for work'. Mexico bit the bullet to the extent of calling for the 'abolition of unemployment', but only Australia went so far as to call for a pledge by members to secure 'employment for all who seek it'.

27 Ibid.
28 Ibid., (54th Mtg., 26 May), p.924.
29 Crisp, p.19.
The amendments were referred to Committee 3 (Economic and Social Cooperation) of Commission II (General Assembly). The chairman of Committee II/3 was A. Ramaswami Mudaliar of India, one of the most effective of the delegates at the conference, and its rapporteur was Manuel Noriega Morales of Guatemala. The Committee at once referred the amendments and Chapter IX of the Dumbarton Oaks Proposals to a drafting sub-committee charged with producing a text for inclusion in the charter. This drafting sub-committee comprised the Big Five, plus Australia, Brazil, Canada, Mexico, Norway, Belgium, Cuba and Czechoslovakia, together with Mudaliar and Morales. Wilson represented Australia on the sub-committee, supported by Crisp and Burton.

At its first meeting on 15 May, the sub-committee agreed on an opening paragraph for a charter chapter whereby the United Nations would promote a long list of objectives, including 'high and stable levels of employment'. The sub-committee reported back to Committee II/3, however, that this formula had been preferred to 'full employment' only by a vote of six to five (Wilson presumably was one of the five, but the record is silent). Back on Committee II/3, it was not Evatt but New Zealand’s Peter Fraser who urged that ‘full employment’ replace ‘high and stable levels of employment’ and this was approved by the Committee on 16 May, and the draft thus amended was approved without dissent.

With some of its leading members over the next few days becoming increasingly disturbed by what seemed to them to amount to provision for the United Nations to interfere in members’ domestic affairs, the United States delegation on 22 May asked Committee II/3 to reconsider its decision of 16 May. Apparently confident that he had the numbers, Evatt actually moved, with Fraser seconding, that the Committee consider an alternative United States draft whereby the United Nations would merely promote the search for ‘solutions of economic problems, including those relating to... full employment’. Evatt then led off the discussion, arguing trenchantly that the professed American fear of interference in states’ domestic affairs was unwarranted in that a proposed domestic jurisdiction clause to be placed elsewhere in the charter would protect states. He argued further that a search for solutions as proposed in the United States draft was not enough; there must be an undertaking of action. Finally, he noted that both President Roosevelt and President Truman had adopted full employment as a policy objective for the United States. Evatt was supported by the delegates of India, New Zealand, Mexico and the Soviet Union, with only Peru and the Netherlands supporting the United States. At that, the United States withdrew its alternative draft. As even Crisp admitted, Evatt on Committee II/3 ‘smote the American proposal hip and thigh’, and it is clear from the records of the United States delegation’s discussions that he did so with considerable force.
meetings that the American delegates saw him as the leader of their opposition, with Fraser as his slightly more reasonable supporter.

With the United Nations itself bound to promote full employment, Australia then moved to have member states pledge themselves to achieve full employment in a paragraph to be placed after the introductory paragraph covering purposes, which included full employment, and referring back to it. While not as emphatically worded as he might have preferred, Wilson did obtain from the sub-committee on 22 May a draft reading: 'All members pledge themselves to take separate and joint action and to cooperate with the Organisation, and with each other, to achieve these purposes'. When, back on Committee II/3, the United States objected on professed grounds of repetitive wording, Evatt agreed to let the paragraph go back to the sub-committee for re-wording, but he took the astute precaution of asking the Committee to approve the content of the paragraph in principle. This it did with a vote of 35 to 0, with the United States abstaining.

To meet the United States' fears on the grounds of domestic jurisdiction, Australia then came up with alternative versions, either:

All members pledge themselves to take separate action and to cooperate with the Organisation and with each other to achieve these purposes. Insofar as separate action is concerned each member shall be entitled to pursue these purposes by political and economic methods of its own choice.

or

All members pledge themselves to take action within their own territories by methods of their own choice to achieve these purposes; and, where appropriate, to collaborate with the Organisation and with each other in seeking joint measures directed toward their universal realisation.

The Americans offered as their alternative:

All members undertake to cooperate with the Organisation and with each other and to take separate action, consistent with their own political and economic institutions, for the achievement of the purposes stated above.31

The Canadians, who on this issue tended to support the United States rather than Australia, suggested as a compromise:

All members undertake to cooperate with the Organisation and with each other and to take separate action in accordance with their respective constitutional processes.  

And the United Kingdom produced a version, which was acceptable to the Australians. It read:

All members pledge themselves to take action separately and in cooperation with the organisation and with each other to achieve these purposes.

Canvassing then became intense, with the United States and Australia the key actors. At one point, it seemed that Evatt and an American delegate, Harold Stassen, would accept a version put together by Burton and Stinebower, and reading:

For the achievement of these purposes all members pledge themselves to cooperate with the Organisation and with each other, and also to take separate action by political and economic methods of their own choosing.

This compromise came to nothing, though, with the United States delegation meeting and deciding that it could have nothing to do with an explicit pledge. The United States’ principal delegate for Committee II/3 was Virginia Gildersleeve, a retired academic, but it was thought that she needed reinforcements, and it was John Foster Dulles who now appeared at a meeting of the sub-committee and forced a vote. Despite Wilson’s protest, the sub-committee voted nine to nil, with Australia abstaining, to approve the American version but as truncated by a Czech amendment to read: ‘All members undertake to cooperate jointly and severally for the achievement of these purposes’.

When the sub-committee’s approved version went back to Committee II/3 on 29 May, Australia protested that, while its mandate had been merely to re-word the paragraph accepted by the sub-committee on 22 May and approved in principle by the Committee, the sub-committee had changed its meaning. At Australia’s request, the matter was stood over until the Committee’s next meeting. That night Wilson circulated a paper to delegations arguing the Australian case and suggesting yet another version of the disputed paragraph:

In order that these purposes may be widely realised, all members pledge themselves to cooperate with the organisation and with each other and to
take such independent action as they deem appropriate to achieve these purposes within their own territories.  

At the next meeting of the Committee, Evatt urged acceptance of this latest Australian draft. In what Crisp later described as a very uneven speech (from the summary record, one cannot tell), Evatt seems mainly to have stuck to his complaint that, in re-wording the paragraph, the sub-committee improperly had dropped the whole notion of a pledge. For the United States, Gildersleeve and Dulles argued that a pledge was anyway inappropriate in the charter; they also hinted that Congress might refuse to accept a charter containing such a pledge. Fraser rather let the side down by saying that, while New Zealand saw no problems with a pledge, 'it was essential to devise a wording that would create difficulties for no member'.  

As Crisp was to note, many delegations by now were becoming bored with the whole business and the Soviet Union, which had tended to support Australia, now showed some great power solidarity, urging that signing the charter would be pledge enough and that the sub-committee be asked again to find a formula of words acceptable to all. The Soviet Union's delegate, Professor A.A. Arutiunian, then played honest broker at a private meeting with Stassen, Gildersleeve, Evatt and Wilson, suggesting this compromise: 'All members pledge themselves to take joint and separate action in cooperation with the Organisation for the achievement of these purposes'.  

The United States delegation was still unhappy with the notion of a pledge, but Stassen saw face saved in that the Australians had been forced 'to withdraw from their advanced position'; he felt that acceptance of the word 'pledge' was a fair trade for dropping 'and to take action'. Given that the final compromise still referred to 'separate action', one might wonder if the United States, too, was becoming bored in the face of Australian intransigence. The Soviet Union's formula was approved by the sub-committee on 1 June and later that day by the full Committee. It emerged as Article 56 of the charter. That Evatt led the fight for a pledge on full employment of some kind is clear from the record: when, for example, the chairman of Committee II/3 introduced the final text, he referred to 'this redraft agreed upon by the Delegations of the United States and Australia... greatly assisted by the

36 Ibid., p.140.
efforts of the Delegate of the Soviet Union’. In that the other great powers seemed somewhat bemused by all the fuss, and largely left the United States to fight its own battles on the issue (at one point the United States delegation considered invoking great power solidarity, which was supposed to mark the conference), Evatt did not become involved in high level negotiations with the great powers, apart from the United States, on the full employment issue as he did on others. But, and one must remember that at the same time he was involved in intense and exhausting politicking on Assembly powers, charter amendment, domestic jurisdiction and the Security Council veto, as well as keeping an eye on sensitive issues like trusteeship, he intervened with force at due times and pursued Australian policy with tenacity. His commitment at San Francisco cannot really be questioned.

The extent to which Evatt was also pursuing a constitutional agenda remains unclear. Hasluck, who at that time was close to him, was convinced that he was. The Americans thought that he was, though they were informed, it would seem, by the gossip of Australian officials. And it is true that Evatt saw the Economic and Social Council taking the initiative in securing international conventions to which the federal authority in Australia would be party. The difficulty with this view is that, in the event, Evatt and his ministerial colleagues in their years of office until 1949 did not show practical interest in using international agreements as a device for expanding Canberra’s authority at the expense of the states. Such an interest has been shown by governments in more recent times, encouraged perhaps by changes in High Court views, but this came long after Evatt’s day.

Whether the full employment pledge in its final form was worth the struggle is debatable. At the time, and answering a firm request from Chifley for his ‘appraisal’, Evatt was unusually careful with his words in saying that ‘our tentative assessment is that all essential features’ of Australian policy had been implemented. Later, when reporting to Parliament, he was not hindered by modesty: acceptance by the conference of what became Article 56 had been a ‘remarkable achievement’. It is undeniable that some of the solemnity of Wilson’s initial version of the pledge was lost, but it is difficult to see much essential difference between the content of his draft and that of the version provided to satisfy Evatt. To the extent that the pledge in Article 56 referred back to aims which included ‘full employment’ rather than wordier alternatives, it might be argued that the final version was stronger.

41 Forde-Evatt Report, p.22.
When one looks at the marvellous range of undertakings by member states of the United Nations in signing the charter, and then reflects on the apparent irrelevance of many of those undertakings to the everyday behaviour of those states, it might be wondered if it mattered whether a full employment pledge was written into the charter or not. The short answer is that, while an international constitution can never have quite the legitimacy and impact of national constitutions, paragraphs in an instrument like the United Nations charter can be used if there is need for them and if enough states want to see them used, sometimes very effectively. As it happens, no notable use was to be made of the pledge in Article 56, not because of any weakness found in the terms of the article but because unemployment, anticipated as a problem if only in the transition from war to peace, did not in the event much affect the major trading powers after the war. As for Evatt, a full employment pledge was what his government wanted. It was what he professed to want, and clearly he fought hard for it. And he obtained it despite the opposition of a great power.
Evatt’s campaign on the trusteeship issue at San Francisco was not of the same order as his campaigns on other issues, not so much because he attached less importance to it but because the battleground was different. In most of his memorable campaigns, he took on one or more of the great powers, and almost inevitably he enjoyed the sympathy of other small powers. In the case of trusteeship, the great powers, having put it aside at Dumbarton Oaks and having opted only for a vague formula at Yalta, did not begin with an agreed position to be defended, and it was one of their number, the United States, which made the running. Among the small powers, some, like the Latin Americans, showed little interest, and some, like the Middle Eastern states, had interests quite unlike Australia’s.

Moreover, trusteeship at that time meant different things to different people. For American liberals hostile to colonialism as such, it meant opening European empires to international view essentially as a means of hastening the independence of their territories. For antipodean liberals like Evatt and Fraser, it meant opening colonial empires to international view not so much as a means of achieving the early independence of colonies, many of which they saw as needing almost indefinite tutelage, but as a means of achieving the humane administration of backward peoples in a cooperative spirit conducive to peace. For well-intentioned men in the United Kingdom, France, Belgium and the Netherlands, it was no more than a currently fashionable term for what they protested was anyway their imperial mission, tutoring backward peoples in the arts of civilisation — a mission best left to their experience free of interfering busybodies seen as at best fools and, at worst, as politically mischievous. For Russians, it could mean a method of ending capitalist exploitation in the tropics or it could mean international administration of disputed territories, administration in which they might share. At San Francisco, then, Evatt did not find himself carrying a small power banner on trusteeship, and his initial proposals, foreshadowed at the London talks, did not find a place in the charter. And it would seem that, with Australian security interests in mind, he anyway compromised his position. However, in one of those ironies beloved of Clio, he was allowed to write into the charter a
paragraph which for him at the time was a fall-back position, which at San Francisco seemed quite innocuous, the consequences of which he did not foresee and was later to oppose when they did emerge, and which, in the event, was to be a powerful weapon in the hands of those who were to achieve one of the great international political phenomena of the twentieth century, decolonisation. For, while Evatt failed to make even his modest notion of international accountability for all dependencies a reality (if, indeed, he persisted wholeheartedly with it), he did have written into the charter an apparently harmless obligation on colonial powers to supply technical and non-political information to the United Nations secretariat. In the years to come, that apparently harmless little paragraph, Article 73(e), was to be teased and stretched until at last it gave birth to a system of accountability such as to overshadow the trusteeship system erected at San Francisco.

It was agreed at Yalta that the sponsoring powers would meet before the San Francisco Conference to formulate trusteeship proposals to be put before the conference, but discord in Washington made such a meeting impossible. Roosevelt’s death on 12 April did not help, but the main problem was continuing disagreement between the War and Navy Departments, which wanted to see the United States annex dependencies of strategic interest taken from World War II enemies (notably Pacific islands held under League mandate by Japan), and the State Department, supported by Interior, which opposed annexation partly on grounds of anti-imperalist principle and partly for fear that the European powers might try to follow an American example and annex territories in the Middle East. It was not until a week before the opening of the conference that the departments were able to put to President Truman a compromise whereby territories of strategic significance would not be annexed but would not be subjected to the same kind of trusteeship system as other dependencies. And it was not until 30 April, nearly a week after the opening of the conference, that the great powers were able to discuss trusteeship. Their discussion made it clear that, even though the United States delegation, with much agonising, was moving away from the previous radicalism of the State and Interior Departments, there were gaps between the great powers (especially between the United States and the United Kingdom) such that there could not be joint proposals on trusteeship, and it was agreed that each great power might submit its own proposals.

The United States proposal for a charter chapter on trusteeship, published on 5 May, provided the basis for what were to become Chapters XII and XIII of the charter. It envisaged a system in which a Trusteeship Council, answerable to the General Assembly, would consider annual reports from states administering trust territories, submit questionnaires to administering states, accept petitions and institute investigations. It would
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comprise experts nominated by states administering trust territories and an equal number nominated by other states elected for three-year terms by the General Assembly. The objectives of the system would include the political development of trust territories towards self-government, though the detail would vary according to arrangements for each territory as agreed to by 'the states directly concerned'. These arrangements could include provision for the designation of strategic areas, and in their case ultimate oversight would rest not with the General Assembly but with the Security Council. On the key question of which territories would be subject to such a system, the American proposal was vague but apparently voluntarist. There was reference to the old mandated territories, territories of World War II enemies and territories voluntarily submitted, but 'it would be a matter for subsequent agreement as to which territories would be brought under a trusteeship system and upon what terms'. This vagueness sprang at least in part from firm agreement among the great powers, and especially the Western three, that San Francisco was not the place to discuss individual territories.

The Chinese proposal was very similar to the American, although it went further in seeing 'independence or self-government' as the ultimate point of political development. The Soviet Union was content to submit amendments to the American proposal, and two of them were radical: provision for the mooted Trusteeship Council to inspect trust territories, and the listing of self-government and 'full national independence' as the goals of political development. The French proposal was similar to the American in form but more restrictive in content: it carried no reference to self-government, and it made no mention of voluntary submission of territories to the system.

The United Kingdom's proposal took quite a different form. It allowed that dependencies might perhaps be subjected to 'special machinery', whereby administering powers would report annually to a commission answerable to the Economic and Social Council (not the General Assembly), but it was concerned mainly to stress a distinction between 'machinery', which might turn out to encompass some territories, and the trusteeship principle, which would apply to all. This principle would include the preparation of dependencies for self-government but, reflecting British insistence that full independence might not be wanted by all territories, this self-government would be in a form 'appropriate' to each territory.

The only other major proposal came from the Australian delegation, and it was quite different to the great powers' proposals. Indeed, it verged on the eccentric. In his opening speech to the conference in plenary session on 27 April, Forde noted that, while the League mandates system had worked 'reasonably well', it was unjust that some dependent peoples enjoyed the advantages of international surveillance over their
administration simply because they happened to have been administered in the past by defeated enemies. He gave the impression that Australia wanted all dependencies to enjoy the benefits previously enjoyed by mandated territories, but all he actually said was that the principle of trusteeship should apply to all dependencies and that the placing of dependencies in a trusteeship system should not be left to the discretion of administering powers. The placing of territories in the trusteeship system, he said, should be accomplished by ‘appropriate action’ but he gave no indication at all of what that phrase was supposed to mean. Forde made it clear that he saw the United Nations trusteeship system as inheriting the League’s role with respect to the old mandated territories (and they included New Guinea), and as extending to territories detached from World War II enemies, but that was as far as clarity went. In a press statement on 3 May, Evatt also seemed to have in mind international accountability for all dependencies but, like Forde, he did not spell out how this might be achieved beyond referring to ‘appropriate action’. The Australian proposal circulated with other amendments to the Dumbarton Oaks Proposals on 4 May cleared up some of the imprecision, but only some of it. Like the United Kingdom’s proposal, though less emphatically, the Australian proposal distinguished between the trusteeship principle, which would apply to all dependencies, and a trusteeship system, which would apply to some. The system described in the Australian proposal was modest and obviously based on the League system: administering powers would report to an expert commission, an advisory commission, which, in turn, would report to the Economic and Social Council. But to which territories would this very modest trusteeship system apply? According to the Australian proposal, the system should apply to territories voluntarily submitted to it (this at last explained what had been meant by ‘appropriate action’) and by decision of the General Assembly after considering the recommendations of a conference of colonial powers. This, however, did not throw a lot of light on Australian hopes or expectations. Was it thought that the General Assembly would bring reluctant colonial powers, perhaps including one or more of three of the great powers, to heel and place their territories in a trusteeship system irrespective of their wishes, or was it supposed that the Assembly could go no further than the colonial powers in conference would tolerate? If the former, then all colonies might end up in a trusteeship system, but only if it was imagined that great powers would accept dictation from the General Assembly and surrender, say, Hawaii, Malaya and Indo-China to the

1 UNCIO Documents, vol.1, p.178.
system; if the latter, none might be submitted, and that clearly was not what Australia wanted. It is to be stressed, though, just how modest were the terms of the Australian proposal: with respect to territories covered by the trusteeship principle, it did not refer to self-government, as even the United Kingdom’s did, but merely to ‘political development’; as regards the trusteeship system, it gave its trusteeship commission none of the powers envisaged for a Trusteeship Council in most of the other proposals, including the American. It may be, then, that Evatt anticipated little difficulty in persuading administering powers to submit their territories to such a light form of accountability.

Evatt did have one opportunity to explain Australian thinking, but here a point should be made about the way in which trusteeship was handled at the conference. While procedures were by no means uniform, there was something of a pattern in the way in which the technical committees operated: in taking up part of the Dumbarton Oaks Proposals and relevant amendments, a committee usually would begin with a general discussion, then appoint sub-committees to draft articles for the charter or to elucidate major issues, and with the committee discussing and voting on whatever came out of sub-committee deliberations. Partly, no doubt, because there was no Dumbarton Oaks text on trusteeship and no joint sponsoring powers’ proposal to serve as a substitute, the pattern did not hold in the case of Committee 4 (Trusteeship) of Commission II (General Assembly). Committee II/4 did not meet to attend to formalities under the chairmanship of Peter Fraser (not a disciplinarian in the chair) until 5 May, and then met only for somewhat desultory discussion on 10, 11 and 14 May. On 15 May, a United States delegate, Harold Stassen, submitted as a basis for discussion what he called a ‘working paper’, which was based mainly on the American proposal but took some account of other proposals (though not, to Evatt’s irritation, the Australian). It was not until 24 May that a drafting sub-committee, which included Australia, was appointed, but the role of the sub-committee was more limited than usual in that Committee II/4 itself proceeded to discuss and vote on the less controversial aspects of Stassen’s paper. Even this activity proceeded at a slow pace because, as the Committee periodically was told, ‘informal discussions’ were proceeding elsewhere, and decisions were asked of the committee only when the great powers had hammered out prior agreement. And the progress of ‘informal discussion’ among the great powers was made slow by tortuous debate within delegations (especially the American) and between delegations, and by the inclination of the Soviet Union’s delegation frequently to refer back to Moscow.

There was nothing unusual about a conference committee waiting on the great powers to conclude negotiations among themselves, but it was especially marked in the case of trusteeship. As a member of the conference secretariat later was to say of Committee II/4, ‘in the work of
this Committee the representatives of the five powers were actually an effective directing group—a role they failed to maintain in some of the other committees'. Thus, once Stassen submitted his working paper on 15 May, the Australian proposal went into discard; it had no evident impact, and it was not discussed by Committee II/4.

However, there was a short open season, as it were, and when Committee II/4 held its first meeting of substance on 10 May, at a time when only the separate proposals of the great powers and Australia were before the committee, Evatt was first to his feet to explain and justify the Australian proposal. Although impromptu verbal precision was not one of his many gifts, he left no doubt that he opposed voluntarism: ‘it would not be a satisfactory thing if the world organisation created a system of voluntary trusteeship and it was later discovered that not a single power had put a territory under such a system’. Nor was there any doubt about what territories he wanted to see in the new trusteeship system: the old League mandates (they could not be left as international ‘orphans’), territories detached from World War II enemies, and ‘backward’ colonies which would benefit from exposure to an expert advisory body at the United Nations. But how were territories to be placed in the system if their masters refused voluntarily to submit them, and which colonies were to be classed as ‘backward’, and by whom? The answer, said Evatt, was obvious and unexceptionable: ‘let the Assembly...state in what territories reports should be required’. Did Evatt really mean that the Assembly should be empowered to force the submission of a territory to the trusteeship system against the wishes of an administering power? That is what he seemed to be saying and his audience, certainly, thought that was what he was saying. The United Kingdom delegation, for one, declared that it could not accept ‘the principle of compulsion which finds a place in the Australian proposal...’ And Gilchrist, the secretariat official cited above, had no doubt: ‘The Australian proposals provided for the possibility of putting colonies under trusteeship without the consent of the metropolitan power’.

It is difficult here to avoid speculation on whether Evatt was engaged in what kindly might be called diplomatic dissimulation or, distracted by simultaneous campaigns on other issues before other committees, had not

4 UNCIO Verbatim Minutes of Committee on Trusteeship, vol.68, Running Number 26.
5 Ibid., Running Numbers 16-17.
6 Ibid., Running Number 19.
7 Gilchrist, p.985.
thought through the implications of what he was saying. For, while he damned voluntarism and was taken to be the champion of downtrodden colonial peoples by espousing a compulsory trusteeship system (or as compulsory, anyway, as the General Assembly chose to make it), he could also be found denying compulsion and approving voluntarism. The Australian proposal itself laid it down that the terms under which a dependency would be placed under the trusteeship system would be a matter for ‘agreement’ between the administering power and the General Assembly. And that seemed to suppose that, if the administering power held out, there would be no trusteeship agreement and the dependency in question, whatever the wishes of the Assembly, would not go into the trusteeship system. But the litmus test for Evatt’s good faith, or at least consistency, had to be his intentions with respect to Australia’s own dependencies: New Guinea, held under a mandate awarded by the great powers after the 1914–18 war and supervised by the League; contiguous Papua, inherited from the United Kingdom, a colony and under Australian sovereignty. Taking at face value statements made in London and early in the San Francisco Conference, one would suppose that Evatt saw New Guinea’s submission to the trusteeship system as virtually automatic: it was not Australian sovereign territory; with the League mandates system now defunct, it could not be left an ‘orphan’; the trusteeship system was the only available successor regime. As for Papua, it was ‘backward’ by any definition, and one would suppose that Evatt saw its submission to a trusteeship system as certain.

In fact, there are grounds for supposing that the submission of Papua and New Guinea was seen as anything but certain. On 10 May, the day on which Evatt seemingly preached compulsion at San Francisco, his own Department of External Affairs, presumably confident that it knew his mind, assured the Department of Defence that it would merely ‘be open’ to the Australian government to accept for Papua the kind of accountability previously accepted for New Guinea, and that there would be no loss of control ‘if it was decided to place Papua under the trusteeship system’. As for New Guinea, Evatt himself cabled to his department in Canberra that Australia might choose not to submit the territory to the new system: ‘there is of course no binding commitment to make a new agreement placing a mandated territory under this system’. Indeed, on 18 May, Evatt affirmed to Committee II/4 his understanding that ‘a mandate cannot be placed under the system without the consent of the mandatory’, adding that ‘no territory can be placed under the system

8 ‘Trusteeship Proposals and Papua’ (apparently prepared by Ian Milner and Trevor Pynan), 10 May 1945, AA:A1066, P45/153/2, Part II.
9 Evatt to Department of External Affairs, 28 May 1945, DAFP, vol.VIII, p.178.
without the agreement of the power concerned'. And at that meeting of Committee II/4 Australia joined the United States, the United Kingdom, France, the Netherlands and South Africa in successfully opposing an amendment proposed by Egypt to have the trusteeship system apply automatically to League mandates and to territories detached from World War II enemies. Two kinds of defence might be mounted against aspersions of muddle or hypocrisy in Evatt’s behaviour on trusteeship, though both acknowledge that his views changed while he was in San Francisco. One relates to an American scholar’s depiction of this change as ‘no doubt accounted for by outside consultation’. This can be taken as a polite way of saying that Evatt caved in to pressure. That there were ‘outside consultations’ is clear from the records of the United States delegation and of Big Five consultative meetings during the conference. Still, it is entirely possible that these ‘outside consultations’ involved not a cave in by Evatt but a responsible reassessment of Australian interests. W.D. Forsyth, the External Affairs officer who served as adviser on trusteeship at the conference, has surmised that the process went thus: in return for not pushing the United Kingdom and France to accept a regime of compulsion, the United States obtained their approval for a special form of trusteeship over the former Japanese mandated territory of Micronesia whereby ultimate surveillance would be exercised not by the General Assembly but by the Security Council; Evatt and Fraser welcomed American control of Micronesia as contributing to the military security of Australia and New Zealand, and so accepted the great powers’ bargain (Evatt was especially susceptible to Fraser’s influence, and Forsyth recalls Fraser as very keen to have a permanent American presence to the north); their acceptance came the more easily in that a special form of trusteeship for Micronesia was itself a retreat from annexation, a retreat as pleasing to them as to American liberals whose opinion Evatt valued.

A second defence, formerly advanced by the present writer, would suggest that Evatt initially envisaged a very light form of international accountability of the League kind: administering powers would report to a commission of colonial experts and that commission in turn would report to the Economic and Social Council, and the worst that administering powers faced would be bad publicity (and Australia knew from her own experience with the League system that such publicity, while irritating, could be accommodated). And, of course, such a system was about the humane and efficient administration of colonies, not about the abolition of

10 Note on Meeting of Committee II/4 on 18 May 1945, AA:A1066, P45/153/1.
colonial administrations. Once Stassen’s working paper appeared on 15 May, however, it became clear that the trusteeship system likely to emerge from the conference would be more politicised, interventionist and potentially mischievous than anything sought by Evatt so that, while he continued to support trusteeship as a principle and as a system, his interest in the system waned somewhat and he no longer saw Australian submission of New Guinea and Papua to such a system as automatic. In the event, Papua never would be submitted to the system, and New Guinea would be submitted in 1946 only on terms demanded by Australia and despite General Assembly misgivings.

It must also be borne in mind that Evatt was first and foremost a lawyer, and for lawyers conversion of the old mandates presented problems. For one thing, the mandates had been awarded in 1919 by the Big Five of the day, and the general conditions attached to them had also been drawn up by the same Big Five. Two of that Big Five were Italy and Japan, and it was inconceivable that they could now be asked to approve change in the mandates. For another, the confirmation and supervision of the mandates had been handed by the Big Five to the League of Nations and, while the League still existed in theory at the time of the San Francisco Conference, the United States had never been a member and the Soviet Union had been expelled from it in 1939, and reference to it was also inconceivable. It is quite possible that Evatt the politician and logician saw submission of the mandated territories to the United Nations trusteeship system as the only appropriate course, while Evatt the international lawyer, who, as it happened, had made a special study of the status of the mandates in the 1930s, saw legal barriers to their forced submission. Evatt, after all, was later to defend South Africa’s refusal to submit the mandated territory of South-West Africa to the new system on legal grounds and despite majority opinion in the General Assembly.

It must again be stressed, finally, that Evatt’s concern about dependencies had been based partly on humanitarian grounds and partly on a desire to integrate them into an international system so that they would contribute to peace and security rather than, as so often in the past, to conflict. He simply did not see the ‘backward’ natives of Africa and Oceania as becoming fit for self-government in the foreseeable future, and it was for this reason that he welcomed the return of colonial powers to parts of Asia and the Pacific from which they had been pushed during the war: the only alternatives were chaos, which would threaten Australian security, or international administrations, which he disliked as bound to be inefficient. It is very likely that, while he had been warned on what to expect (notably by the Australian Minister in Washington, Frederic

Eggleston), the San Francisco Conference gave him his first personal exposure to Western liberals and some delegates for whom the whole point of trusteeship was the independence of all dependencies. In that he and his government were as committed as any of their predecessors to the notion that Australian control of Papua and New Guinea was absolutely essential to Australian security, it would be surprising if he were not taken aback by attitudes struck at the conference and in sections of the American press. Indeed, there is reason to suppose that at one time Evatt had proposed that Australian sovereignty encompass the mandated territory of New Guinea. Moreover, he had to cope at once with a local environment in which he could be made to look positively conservative (in some overseas circles, and especially in the United States, there was strong hostility towards pre-war Australian indentured labour policy in New Guinea) while aware that at home the Opposition and some newspapers (especially the Sydney Morning Herald) were complaining loudly about his radicalism, painting him as hostile to the interests of the British Empire.

After his speech in Committee II/4 on 10 May, Evatt did not persist with his proposal for a trusteeship system, and it was not discussed. With Forde usually sitting quietly in the Australian chair, the committee coasted along until 15 May, when Stassen introduced his working paper. The working paper was divided into two sections. Section A had all administering powers accepting the trusteeship principle, which would involve the economic and social development of dependent peoples and their political development to self-government in forms appropriate to each territory. Section B of the paper covered a trusteeship system largely on the lines of the original American proposal, though stiffened to allow periodical visits to be arranged by the Trusteeship Council to territories in the system.

Subsequently, there was to be heartburn on the score of who deserved credit for the inclusion of Section A in the working paper. Evatt had a bitter exchange at the conference with the United Kingdom spokesman on trusteeship, Lord Cranborne, on whether the United Kingdom or Australia deserved the credit. In his later report to Parliament, Evatt thought ‘it could fairly be said’ that Section A resulted from an Australian initiative: ‘The Australian Delegation was the first to make this proposal officially to the conference. The United Kingdom subsequently made a similar

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15 See, for example, CPD, vol.181, p.12 sq (2 May 1945) and Sydney Morning Herald, 1, 11, 15 and 17 May 1945.
16 Evatt to Bruce, 5 July 1945, DAFP, vol.VIII, pp.240-1.
It is true that the Australian trusteeship proposal, which included the drawing of a distinction between a trusteeship proposal to apply to all dependencies and a system to apply to some, was published on 5 May, a day before the publication of the United Kingdom's proposal, but Evatt here was being at best ingenuous, and it is difficult not to mourn that a man with so many obviously genuine triumphs to his credit at times seemed so desperate to claim what was not his to claim. The fact is that the working paper, including Section A, emerged from long discussions at a technical level among the Big Five, discussions in which the United Kingdom pushed its distinction between principle and system and in which little notice was taken of the Australian proposal with its similar distinction. Indeed, so completely was Australia excluded from the discussions which produced the working paper that Evatt took offence, and he had acceptance of it by Committee II/4 as a basis for discussion conditional on 'the understanding that the United States and Australian delegations would consult on...amendments which the Australian Delegation would wish to present'. As Russell was to put it, 'the wording of Section A, on general policy, was based on the British draft...'

As stated above, some aspects of the Stassen paper were relatively uncontroversial, so that Committee II/4 could proceed to discuss an vote on them, but other more sensitive aspects were kept away from the committee until the Big Five had concluded their negotiations on them. The United States team was itself divided on whether independence should be listed explicitly as an aim of trusteeship, with a pro-independence group holding to what they saw as Rooseveltian doctrine, and with others swinging to a pragmatic line behind Stassen and more acceptable to the United Kingdom and France, if not to China and the Soviet Union. Accepting finally that the United Kingdom could not be utterly alienated at a time when what later would be called the cold war already had broken out, the United States threw its weight behind a compromise whereby territories within the trusteeship system would be prepared for 'self-government or independence' and others covered only by the trusteeship principle would be prepared merely for 'self-government'. The United Kingdom, for its part, had to accept the American notion of strategic trust territories under Security Council oversight, visiting missions to trust territories, and a Trusteeship Council working directly to the General Assembly rather than to the Economic and Social Council. The United States, the United Kingdom and France had to

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17 Forde-Evatt Report, p.23.
19 Russell, p.814.
accept Trusteeship Council membership for China and the Soviet Union, thereby making it a political rather than an expert body.

Australia largely was excluded from the discussions among the Big Five on these kinds of issues but, ten days after Stassen submitted his working paper, the Australian delegation submitted what is called a Part C to that paper, though in reality it called for an expansion of Part A dealing with territories outside a trusteeship system. Intended, according to Evatt, to 'give more moral appeal to what is so far a very barren and arid document', it was given over largely to listing in League mandates terms various canons of humane colonial administration. Its only novel and interesting paragraph provided for administering powers of all dependencies to furnish statistics of a technical nature on social and economic matters to the United Nations. Harking back to the original Australian proposal, it also allowed for the General Assembly to name dependencies for which information on political matters would be required as well, but this was ignored by everyone.

It seemed to the Americans that Australia's suggested Section C merely added to the content of Section A of the working paper and, after consultation with Australian officials, a new Section A was prepared by American advisers. A paragraph was inserted to reflect the humanitarian tone of the Australian draft. The Australian idea of having administering powers supply statistical information on economic and social matters was extended to cover political matters, but this was subsequently dropped in the face of objections from the War and Navy Departments in Washington. The Americans now were also inclined to drop self-government as an aim for territories outside the trusteeship system, but it was retained in deference to the Philippines.

Among the Big Five, China and the Soviet Union were somewhat indifferent to a revised Section A, although inclined to find it too detailed; France generally was hostile; the United Kingdom was not enthusiastic but supported the Australian stance. However, with the end of the conference looming, the Big Five came to agreement in talks between 13 and 18 June, and it was decided that the new version of Section A would comprise a separate chapter in the charter and would carry the title of 'Declaration'. As finally it emerged, the 'Declaration Regarding Non-Self-Governing Territories' became Chapter XI of the charter, comprising Articles 73 and 74.

As they appeared in the charter, Chapters XII and XIII dealing with a United Nations trusteeship system owed virtually nothing to Australia and almost everything to the United States. Chapter XI, dealing with dependencies outside the trusteeship system, sprang mainly from an American response to United Kingdom attitudes, but its humanitarian tone

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20 Evatt to Department of External Affairs, 28 May 1945, DAFP, vol. VIII, p. 178.
was in part an Australian contribution, and one aspect, Article 73(e) with its call for the provision of statistical information by colonial powers, can be ascribed to Evatt. This last was to be of immense importance because in succeeding years, and even if involving a degree of sophistry, Article 73(e) was to be used by anti-colonial powers to great effect: it spoke of a 'regular' transmission of information, but this could be made annual; it had information supplied to a non-partisan Secretary-General, but this could be made supply to a partisan committee of the General Assembly; where it had transmission of information subject to 'such limitation as security and constitutional considerations may require', the General Assembly could be made the judge in such matters; it spoke very modestly of 'statistical and other information of a technical nature relating to economic, social, and educational conditions', but the Assembly could demand political information; the committee established to receive information from the administering powers, for which there was no provision at all in the charter, could examine and comment, and impose an informal system of accountability on the world's colonies. It is true that Evatt was not happy with these developments in the years after the San Francisco Conference, and as early as 1947 he complained of 'the tendency since the first meeting of the General Assembly to constrain the colonial powers to take action expressly stated in the Charter to be voluntary'. Still, it remains that for the colonial world Article 73(e) was to be a significant aid to emancipation and, thereby, helped produce immense change in international society, and that article essentially was the work of Evatt.

Acknowledging that 'Evatt's main contribution to the founding of the United Nations is not to be found in the realm of trusteeship', a noted historian of Western colonialism, Louis, besides giving Evatt credit for Article 73(e), sees Evatt as having served another purpose at San Francisco. Evatt's aggression and the radicalism of his early stand on compulsion, argues Louis, was a factor in Anglo-American cooperation, which was central to the writing of the trusteeship chapters of the charter: 'unless they solved the colonial problems, Evatt might do it for them'. It is undeniable that even in the trusteeship area the great powers, and especially the United States, saw Evatt as an irritant, and late in the day Stassen paid him a kind of compliment in referring to 'difficulties with the

21 Hudson, *Australia and the Colonial Question*, p.36.
French, the British, with Mr Evatt and with the Philippines', and Stassen allowed that Article 73(e) could be seen in part as 'a concession to Mr Evatt'. And, according to Russell, a recalcitrant France, opposed to much of what became Chapter XI of the charter, at one point was threatened with the Australian alternative. Even so, compared with the frequency with which Evatt's name arose in the Big Five's discussions of other issues, he did not much feature in the Big Five's discussions on trusteeship. The running on trusteeship was made by the United States, and its team at the conference contained advocates of a radicalism which, especially in the matter of independence for dependencies, went far beyond Evatt's. Much to the surprise of the Americans, Evatt did not have the support of the Latin Americans on trusteeship, and Middle Eastern delegations were more concerned with the old mandates (especially Palestine, but also Lebanon and Syria) than with colonialism in the broad.

Evatt, of course, was constrained by much the same factors that constrained the great powers. The United States could not be too flexible on policy which might touch territories like Hawaii, and the United Kingdom and France (and, for that matter, Belgium and the Netherlands) could not be too flexible about empires which they saw as essential to their international status. Similarly, Evatt could not be too flexible about Papua and New Guinea, which he and his ministerial colleagues saw as vital to Australian security. Nothing said or done by Evatt at San Francisco was meant to endanger Australia's own little empire in the slightest degree.

26 Russell, p.821.
Evatt’s major campaigns at San Francisco were waged on the Security Council veto, General Assembly powers, domestic jurisdiction, a full employment pledge and trusteeship, but his participation did not stop there. Indeed, there was little of substance in the charter to emerge from the conference that did not at some point attract Evatt’s interest. Because some Australian amendments to the Dumbarton Oaks Proposals came in several parts or were raised (and in some cases dropped) in the course of committee discussions, it would be very difficult fully to list all the amendments suggested by Australia. For this reason, it is difficult to accept as more than an approximation Evatt’s own claim that Australia at the outset, and quite apart from anything raised during discussions at the conference, lodged ‘38 distinct amendments of substance’. 1 It is equally difficult to accept as more than an approximation his claim that, of the 38, 26 were adopted or covered by others’ successful amendments: so often, similar points were made in many delegations’ amendments on the same subject, and it is simply not always possible to ascribe credit for an amendment’s survival during long and tortuous discussions to a particular delegation. As Geoffrey Sawer, in general an admirer of Evatt’s performance at San Francisco, has written, ‘claims that Australia secured the acceptance of this or that proposal must be treated with reserve’.2

Even so, the Australian (and Evatt’s) contribution was formidable. Apart from the major campaigns (and the veto campaign, it has been seen, really comprised three campaigns), Evatt also fought successfully for, or supported others’ fights for, higher status and wider functions for the Economic and Social Council, recognition of states’ records in fighting aggressors as relevant to candidature for election to the Security Council,

power for the Security Council to recommend terms of settlement of situations dangerous to peace, conclusion of agreements between members and the Security Council covering military assistance to be given to the Council when needed, representation for members at Security Council meetings during discussion of the deployment of their forces, recognition of the promotion of justice and the rule of law as principles governing the function of the United Nations, acceptance by members of an obligation not to jeopardise the territorial integrity and political independence of other members, establishment of a new International Court of Justice to replace the Permanent Court of International Justice (Australia failed to have the court given compulsory jurisdiction, and then backed a general call to members voluntarily to accept its jurisdiction), an undertaking by members to comply with decisions of the court in cases to which they were party, the right of the organisation's secretary-general to appoint his own staff (the sponsoring powers, led by the Soviet Union, wanted deputy secretaries-general, like the secretary-general, elected by the General Assembly on the nomination of the Security Council, a plan described by Evatt as 'the setting up of a sort of directorate').

That Evatt expended every ounce of his considerable intellectual muscle at San Francisco to give the world a political structure which would preserve the peace and improve the lives of its people is obvious enough. This was recognised at San Francisco. At the end of the conference, Stettinius told the Executive Committee that 'no one had contributed more to the Conference than Mr Evatt'. At the final meeting of the Steering Committee, the Peruvian delegate, Manuel Gallagher, actually moved that the smaller powers represented at the conference 'pay homage to their great champion, Mr Evatt'. No other delegate was so singled out for such regard. Evatt, of course, could not have achieved such stature without the support of his officials. Hasluck was to recall 'an eighty-hour week for ten weeks. We were all slightly mad by the end...'

In his report to Parliament, Evatt was generous in his gratitude to his officials, singling out especially Bailey, Burton, Forsyth, Hasluck and Watt for praise. The charter which Evatt fought so hard to influence in its wording was, of course, a document of compromise, and it emerged from the conference in parts messy and contradictory. If, however, the United Nations was not to fulfil all the hopes of its champions, the cause lay less in the charter than in the international environment in which it came into operation.

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3 Ibid., p.31.
5 Ibid., p.314.
Reflecting his legal background but also the faith of reformers and planners of the time in orderly and rational process, Evatt envisaged an organisation which would proceed in an orderly way to handle problems and disputes according to understood principles, which by means of reports, inquiries and recommendations would keep the peace and improve lives. And in the first year or so of the United Nations’ operations he would react very crankily if, say, the Security Council achieved a result he wanted but by the wrong means. But what held the United Nations back was not to be its charter or any inherent defect. It was to be gravely inhibited, to the point of paralysis on many major issues, by the Cold War. The charter was framed in the main by the great powers, and it assumed a continuing concert of great powers. What the world got for decades to come was across the board competition and conflict between two of them, now called super-powers, together with their allies and clients. The charter which emerged from the San Francisco Conference could not cope with that; it was not intended to be able to cope with it.

All this is not to say that Evatt was a utopianist or even, as some of his critics were to claim, that he gave the United Nations an unwarranted regard. He, too, was a politician and he, too, at times could sacrifice reason and order on the altar of other loyalties. When states soon focussed on South Africa because of its refusal to submit South–West Africa (Namibia) to the United Nations trusteeship system or because of its internal racial policies, he would defend South Africa in part because of Australian sensitivity on the score of New Guinea and its own racial policies but also in part on grounds of emotion: South Africa had fought the good fight as an ally against fascism; South Africa’s Smuts was to Evatt’s generation a revered liberal.

Nor did Evatt see the United Nations as at once representing the triumph of reason over brute force. Evatt was no pacifist. For him, as for his leaders, Curtin and Chifley, the main and immediate point of the United Nations for the world in general and Australia in particular was that it comprised a collective security system, and collective security is a military concept. The Security Council, Evatt told Parliament when it debated the charter, was responsible for ‘quelling aggression’; it could take ‘any military action necessary to suppress the aggressor’. And, he said with approval, ‘there is a direct obligation on all member States to place forces at the disposal of the Security Council’. But he was not naive and, while doing what he could to get the United Nations collective security system off the ground (not that in a Cold War climate he could do much), he sought also to continue the special defence relationship with the

7 CPD, Vol.184, pp.5017-8 (30 August 1945).
8 Ibid., p.5018.
United Kingdom and to see the Australian–American war-time alliance continue into the peace as a regional buttress to Australian security.

This point is important because Evatt was criticised at the time by the Opposition in Canberra and later by some of his own officials as having pursued his United Nations policies in an unreal vacuum—unreal because they ignored the facts of power distribution and competition among states. As Renouf was to write of his performance at San Francisco, ‘he tended to ignore the realities of world politics’.\(^9\) In fact, Evatt was as concerned as any realist to cover his bets. Hasluck would seem to be right in saying that ‘Evatt saw the United Nations Charter as the commencement of a process of evolution in which successive decisions and lessons learnt in working together would bring in time a better Charter, a better world organization and a new international order’,\(^10\) but he did not in succeeding years rely entirely on that process of evolution. Certainly, he did what he could to encourage that process, but at the same time he pursued more traditional security policies. Admittedly, the reformer in him was to incline him, when listing his government’s priorities, to give pride of place to the United Nations ahead of the British Commonwealth and the relationship with Washington, just as the traditionalist and the realist in the leader of the Opposition, Robert Menzies, inclined him to put the United Nations in third place. This, however, reflected Evatt’s pride in an organisation to the founding of which he felt he had made a special contribution and his almost paternal hopes for it rather than any lack of realism. Evatt at times could take an almost perverse pride in universalism, just as Menzies and his kind could take an almost perverse pride in particularism. This did Evatt no harm with his party but it was not to be in electoral terms a useful trait.

As an internationalist, then, Evatt emerged from the San Francisco Conference with a high and deserved reputation. What, though, of Evatt’s responsibilities as a nationalist, as an Australian foreign minister obliged to uphold Australian interests? For that matter, did he see any distinction between his role as an internationalist and his role as a nationalist? The short answer has been provided by Renouf: ‘To Evatt’s ambition to make the world a better place, there was always one clear reservation — whatever Australia considered essential for its security and welfare, Australia had to have’.\(^11\) Thus, much of Evatt’s campaign on the veto was waged as an internationalist, but on its regional application he was a nationalist pure and simple. His campaign on trusteeship sprang in part

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11 Renouf, p.393.
from notions of justice and internationalist principle, but in large part it reflected his conviction that humane, open and progressive colonial administration improved Australia's regional security. His campaign for wider Assembly powers was the campaign of an internationalist, but it was modified in nationalist terms by his campaign on domestic jurisdiction. In his campaign on full employment, he was a good internationalist, but he was also pursuing an Australian economic and social interest.

It was claimed at the time and often enough since that Evatt hurt Australia at San Francisco in as much as he offended the great powers on whom the success of the United Nations as a provider of security must depend and on some of whom Australian security must separately depend. Except perhaps for some in the United Kingdom delegation, it is unlikely, however, that he really 'offended' the great powers. That he offended the United Kingdom at all brought criticism from the Opposition but, with respect to the British, several points might be made.

One is that Evatt was determined to have Australia accepted by the international community as a sovereign and fully independent state, and it would seem that on that account (and remembering that most members of the international community were not fully aware of the subtle technicalities whereby states still frequently called dominions enjoyed independence within something nevertheless called a Commonwealth), he did tend, if not to exacerbate differences between the dominions and between them and the United Kingdom when they occurred, then at least to see some saving side benefits to such disagreements. Certainly, he seemed pleased to be able to report back to Parliament that 'the members of the British Commonwealth did not in any way act as a bloc' at San Francisco, and he seemed to see it as healthy and proper that 'members of the British Commonwealth did not always agree, during conference discussions, as to the form the Charter should take'.

Another point to be made is that the very nature of the conference put the United Kingdom and the dominions on different sides of a fence. The United Kingdom was one of the great powers, the sponsoring powers, and, while there was some consultation of the traditional kind, the dominions as small powers were bound at times to disagree with the United Kingdom. In the past, there had been a tendency, especially marked in Australia's case, to avoid public disagreement whatever the warmth of private disagreement. This tradition could have been preserved at San Francisco only if, as so often in the past, Australia had been prepared to try to influence the United Kingdom and to leave it at that. Apart from the fact that the United Kingdom demonstrably was tied to agreements reached with her great power peers at Dumbarton Oaks and Yalta, this was

not a posture in which Evatt wanted often to be seen (although it worked
to a degree in the case of domestic jurisdiction), and the attitude of the
other dominions was the same or similar.

Finally, if Australia and New Zealand in previous decades had been
less than keen to revel in the independence for the dominions forced by
South Africa, Canada and the Irish Free State, there remained some in
government circles in the United Kingdom ill at ease with the new
condition of things. For them, as for conservatives in Australia, the
Commonwealth was an unpleasant new term for the old Empire family in
which the United Kingdom was mother and father. From Deakin’s time
early in the federation’s history, nationalist Australian candour had been
resented by the more paternalistic and aristocratic elements in
Westminster and Whitehall. Here, it is interesting to note the attitudes of
old Frederic Eggleston. An adviser to Hughes at the Paris Peace
Conference in 1919, Eggleston had been scandalised by the abrasive
philistinism of Hughes and had left the conference early. Now an adviser
to Evatt at San Francisco (though again he left early, this time on account
of age and illness), Eggleston in the meantime had been a liberal
conservative in Victorian politics and he was no admirer of Evatt’s
diplomatic style: ‘not very tactful...manners none of the best...can be
exceedingly rude and he did not restrain himself’. However, he ascribed
at least as much fault to the United Kingdom side: ‘the Foreign Office
clique of Cadogan, Jebb and C.K. Webster, were not at all cooperative.
Webster was frequently exceedingly rude and intolerant’. Again: ‘some
of the British delegates, such as C.K. Webster and the Foreign Office
representatives, were very rude indeed. Webster is a very dogmatic man,
talks everybody down...’

With respect to the Americans and Russians, and even though Evatt
himself admitted to 'bitter' conflict at San Francisco, they were not
offended by a small power’s assertiveness in the same sense that Britons
could be offended by a dominion’s disrespect. It would be truer of them to
say that at times Evatt irritated them. But about this, too, several points
might be made. The first is that, as has been stressed in earlier chapters,
some degree of confrontation between great and small powers was built
into the conference. The great powers went to the conference with, to their
minds, much of the charter already written at Dumbarton Oaks and Yalta,
and any change sought by small powers for the most part had to involve

13 Eggleston to Bruce, 9 July 1945, NLA, Ms.423/10/86.
14 Eggleston to Casey, 28 July 1945, ibid.,/102.
15 Eggleston to Bruce, 9 July 1945, ibid.,/87.
16 H.V. Evatt, The United Nations, Oxford University Press, Melbourne, 1948,
p.37.
agreement by the great powers to retreat from positions negotiated among themselves. Civility and due deference might have won them over on some points, but generally the great powers played hard and the small powers had to play at least as hard. Evatt did play hard, but he was careful not to push the great powers too far lest they take their ball and go home. As Eggleston put it, ‘we had always said we would vote for the third reading’ if Australian amendments failed.\(^\text{17}\) The second point to be made is that the impression left by perusal of the very full records of the United States delegation’s interminable discussions throughout the conference is that the Americans might at times have found Evatt an irritant, a nuisance, but that overall they saw him as a political operator of a kind familiar to them. The third point relates to personal diplomatic style. There is no point in pretending that Evatt was a smooth operator, that he impressed with his manners and poise, that in his person he had much presence (Canada’s Lester Pearson using words like ‘belligerent’ and ‘pig-headedness and vanity’ in describing his conference performance).\(^\text{18}\) In 1945, the conventions and customs of diplomacy still owed much to their aristocratic origins and, if in that context the United States’ Edward Stettinius could be thought gauche and better off back in industrial management (as many did find him), Evatt was bound personally to irritate. His way up in the world had not included scholarships to private schools or study at ancient institutions overseas. He was a country publican’s son, his winter game was rugby league and not rugby union, his education had been exclusively at state institutions in Sydney, he had married ‘up’ but to an American immigrant and not into local society. Notably unabashed not so much in the extent of his ambition and conceit as in his inability to observe conventional lore in disguising them, he was a problem even for his own Labor Party. He lacked utterly the panache of a Whitlam, but neither did he project the earthy decency of a Curtin or Chifley. The result was that as a foreign minister formulating and pursuing policy he still ranks as one of Australia’s busiest and most innovative; as a diplomat, he could charm on occasion but in general he was a poor performer — strident, loud, unpolished — and he had some extraordinary blind spots. Hasluck has recalled that he was bemused, uncomprehending, rather than embarrassed when United Kingdom ministers at San Francisco dressed him down for letting one of their documents, given to him in confidence, end up in Russian hands (just as a decade later he was to be bemused, uncomprehending, when his admission that he had written to Molotov to ask if the Soviet Union had spies in Australia reduced Parliament to unbelieving mirth).

\(^\text{17}\) Eggleston to Bruce, 9 July 1945, NLA, Ms.423/10/87.

The question remains, though, as to whether behaviour which jangled on the sensitivities of officials and diplomats carried a price. It is obvious enough that in some kinds of delicate negotiations foreign ministers’ style and manners can have an impact, but it is equally obvious that in general states pursue their interests with outcomes not greatly affected by ministerial personality. Evatt, after all, already had a reputation in London and Washington for unpolished assertiveness long before the conference, and in some quarters he was personally disliked, but whether this had much effect on British and American attitudes towards Australia or policies with respect to Australia is to be doubted.

What cannot be doubted is that Evatt at San Francisco achieved for Australia a standing in international politics previously absent. At San Francisco, Australia established itself as a participant in the international mainstream, and the role created for Australia by Evatt in 1945 was continued into the peace, first by Evatt himself and then by the Liberals’ Percy Spender and Richard Casey. The United Nations for some decades was not to achieve the hopes of its founders because of the Cold War, but it did become a major venue for the conduct of international politics and, following Evatt’s example in 1945, Australia used busy participation in its affairs to retain standing in the international community.
Questions for Discussion

1. To what extent, if any, does Dr Evatt’s performance at the San Francisco Conference of 1945 encourage qualification of the orthodox view that a state’s capacity for affecting the course of international politics reflects its relative military–industrial strength?

2. Are there particular circumstances in which small states can affect the course of international politics despite the indifference or even ill-will of great powers? If so, what are they?

3. World political society often is presented as assuming the inviolability of the sovereignty of states. Does this necessarily reduce to farce any notion of universal international organisation?

4. To what extent and in what ways was Dr Evatt at San Francisco forced to compromise either his internationalism or his nationalism?

5. By and large, the new world order established at San Francisco in 1945 did not work in that for forty odd years major conflicts would prove to be beyond its capacity peacefully to resolve. To what extent was this the fault of Evatt and the other charter framers of 1945?

6. Dr Evatt treated the San Francisco Conference as a constituent assembly. Was this constitutionalist, legalist approach likely to be fruitful?

7. The conventional diplomatic qualities (as presented, for example, by Harold Nicolson or even our own Alan Watt and Keith Waller) were not Evatt’s qualities, and yet at San Francisco Evatt enjoyed some diplomatic success against the odds. A fluke, or was the orthodox diplomatist becoming passé, or were the classical criteria never more than gentlemanly disguise?
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IN THIS MONOGRAPH, DR HUDSON CAREFULLY
DESCRIBES AND EVALUATES DR EVATT'S
PERFORMANCE AT SAN FRANCISCO, NOTING HIS
MOTIVES, HIS METHODS, HIS ACHIEVEMENTS, HIS
FAILURES. HE CONCLUDES THAT, WITH QUITE
EXTRAORDINARY INTELLECTUAL EFFORT AND
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