Increase U.S. Food for Peace Program (to relieve hunger abroad) from $2 to $3.3 billion per year? Yes 42, no 52, undecided 6.

Do you favor my extra work on treaty of 28 nations to bar nuclear bombs in space, on appointment by President? Yes 86, no 8, undecided 6.

CIVIL RIGHTS

Favor my vote for strong penalties against rioting and mass civil disturbances under civil rights legislation? Yes 86, no 12, undecided 2.

Favor my vote for permitting owner and his real estate agent to sell home to whomever he wants? Yes 76, no 22, undecided 2.

Favor my vote to prevent discrimination in selecting juries? Yes 77, no 20, undecided 3.

Favor my position against policy of busing students over their parents opposition from suburban to city schools (and vice versa) to make same racial percentage in every school? Yes 85, no 11, undecided 4.

Favor my vote for compromise on moderate civil rights program at this time to avoid too sudden changes? Yes 74, no 21, undecided 5.

Will this cause more disturbances than strong civil rights laws or none? Yes 29, no 60, undecided 11.

Favor "black power" movement for Negro progress? Yes 19, no 73, undecided 8.

Should U.S. Constitution be amended to permit voluntary Bible reading and prayer in public schools? Yes 87, no 10, undecided 3.

I am also giving the form of letter I have used to advise my constituents of these results, and how we have asked our people to share the facts with their friends, office, and neighbors:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C.

DEAR FRIENDS: We have had such a fine response to the Questionnaire I sent out each August, on the basic serious issues facing our Country, and the American people today. The citizens of our Congressional District want to have their say directly, and I am glad to be able to give this opportunity, not at government expense, as an added personal service to my District.

I am writing to you as one of the people on my personal lists to give you the results in our careful tabulation of the Questionnaire replies. As we have around 430,000 people in our District, it is not possible to write to everyone. So I would appreciate your sharing our letter with your friends, office, and neighbors.

Personal regards,

JIM FULTON.

SENATE

TUESDAY, SEPTEMBER 20, 1966

The Senate met at 12 o'clock meridian, and was called to order by Hon. JOSEPH M. MONTOYA, a Senator from the State of New Mexico.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our Father God, we would hush our thoughts to stillness, in sincerity and truth as we wait before Thee, who knowest the secrets of our hearts.

We pause at this wayside altar, not just to bow our spirits in a passing gesture of devotion and then go on our busy way with lives empty of Thee: rather, we come to ask Thy presence and Thy guidance as this day we face the strain of toil, the weight of burdens, and the call of duty. Keep love's banners floating o'er us as we march forward in the ranks of those who do justly and walk humbly with their God.

Keep us at tasks too hard for us, that we may be driven to Thee for strength.

Open our eyes to simple beauty all around us, and our hearts to the loveliness men hide from us because we do not try enough to understand them.

May the words of our mouths and the meditation of our hearts be this day, and always, acceptable in Thy sight, O Lord, our strength and our Redeemer. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 20, 1966.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. JOSEPH M. MONTOYA, a Senator from the State of New Mexico, to perform the duties of the Chair during my absence.

CARL HAYDEN,
President pro tempore.

Mr. MONTOYA thereupon took the chair as Acting President pro tempore.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Monday, September 19, 1966, was dispensed with.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Jones, one of his secretaries, and he announced that on September 19, 1966, the President had approved and signed the following acts:

S. 112. An act to amend the Consolidated Farmers Home Administration Act of 1961 to authorize loans by the Secretary of Agriculture on leasehold interests in Hawaii, and for other purposes;

S. 1684. An act to direct the Secretary of the Interior to adjudicate a claim to certain land in Marengo County, Ala.;

S. 2366. An act to repeal certain provisions of the act of January 21, 1929 (45 Stat. 1091), as amended;

S. 2747. An act to authorize conclusion of an agreement with Mexico for joint measures for solution of the lower Rio Grande salinity problem;

S. 2858. An act to amend section 502 of the Merchant Marine Act, 1936, relating to construction differential subsidies;

S. 3354. An act to amend the law establishing the revolving fund for expert assistance loans to Indian tribes; and

S. 3576. An act to amend section 2241 of title 28, United States Code, with respect to the jurisdiction and venue of applications for writs of habeas corpus by persons in custody under judgments and sentences of State courts.

REPORT OF THE CORREGIDOR-BATAAN MEMORIAL COMMISSION—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 498)

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate a message from the President of the United States, transmitting the report of the Corregidor-Bataan Memorial Commission. Without objection, the message will be printed in the RECORD, without being read, and appropriately referred.

The message was referred to the Committee on Foreign Relations, as follows:

To the Congress of the United States:

Pursuant to the provisions of Public Law 193, 83d Congress, as amended, I hereby transmit for the information of the Congress of the United States the 13th Annual Report of the Corregidor-Bataan Memorial Commission for the fiscal year ended June 30, 1966.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *September 20, 1966.*

REPORT ON TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 499)

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate a message from the President of the United States on the trade agreements program. Without objection, the message will be printed in the RECORD, without being read, and appropriately referred.

The message was referred to the Committee on Finance, as follows:

To the Congress of the United States:

This is the 10th annual report on the trade agreements program, as required by section 402(a) of the Trade Expansion Act of 1962. It covers calendar year 1965.

World trade in 1965 surpassed all previous levels, enriching the lives of peoples around the globe. Record levels of U.S. foreign trade contributed greatly to this advance, and the American people shared fully in its benefits.

However, the successes of 1965 also served to dramatize the vast unrealized potential of the world market and the importance of moving forward with the Kennedy round of tariff negotiations, the great multilateral endeavor to generate more rapid growth in trade. Recently, the pace of these talks has intensified. The major participants have shown renewed determination to conclude an agreement. The United States will continue to exert every effort to assure that

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

these negotiations yield extensive reductions in restraints on trade in all classes of goods, including agricultural products.

The steady growth and freer flow of world trade are essential to full prosperity at home, economic growth and stability in the industrialized countries, and progress in the developing world. We shall do everything in our power to build in future years on the substantial progress in these directions achieved in 1965.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *September 20, 1966.*

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Breskin, one of its clerks, announced that the House had passed, without amendment, the bill (S. 1474) to create a bipartisan commission to study Federal laws limiting political activity by officers and employees of Government.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 9424) to provide for the conservation, protection, and propagation of native species of fish and wildlife, including migratory birds, that are threatened with extinction; to consolidate the authorities relating to the administration by the Secretary of the Interior of the National Wildlife Refuge System; and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. DINGELL, Mr. LENNON, Mr. HAGEN of California, Mr. PELLY, and Mr. MORTON were appointed managers on the part of the House at the conference.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

S. 3261. An act to authorize the Secretary of the Interior to convey certain lands in the State of Maine to the Mount Desert Island Regional School District; and

S. 3421. An act to authorize the Secretary of Agriculture to convey certain lands and improvements thereon to the University of Alaska.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Labor and Public Welfare, without amendment:

S. 2709. A bill to name the Veterans' Administration hospital located in Clarksburg, W. Va., the "Louis H. Johnson Memorial Veterans' Hospital" (Rept. No. 1611);

H.R. 7850. An act to amend section 1822(a) of title 38, United States Code, to extend the provisions for treble-damage actions to direct loan and insured loan cases (Rept. No. 1612);

H.R. 11927. An act to authorize the Administrator of Veterans' Affairs to permit deduction by brokers of certain costs and expenses from rental collections on properties acquired under the veterans' loan programs (Rept. No. 1613);

H.R. 12664. An act to retrocede to the State of Colorado exclusive jurisdiction held by the United States over the real property comprising the Fort Lyon Veterans Hospital reservation (Rept. No. 1614); and

H.R. 13012. An act to provide for the conveyance of certain real property to the city of Biloxi, Miss. (Rept. No. 1615).

By Mr. RANDOLPH, from the Committee on Labor and Public Welfare, with an amendment:

H.R. 203. An act to amend title 38, United States Code, to set aside funds for research into spinal cord injuries and diseases (Rept. No. 1610).

By Mr. ROBERTSON, from the Committee on Banking and Currency, without amendment:

S. 3704. A bill to provide for the striking of a medal in commemoration of the designation of Ellis Island as a part of the Statue of Liberty National Monument, in New York, N.Y. (Rept. No. 1616).

By Mr. McCLELLAN, from the Committee on Government Operations, without amendment:

H.R. 12352. An act authorizing the conveyance of certain property to Pinellas County, Fla. (Rept. No. 1617).

By Mr. KUCHEL, from the Committee on Interior and Insular Affairs, without amendment:

S. 3823. A bill to provide for the participation of the Department of the Interior in the construction and operation of a large prototype desalting plant, and for other purposes (Rept. No. 1618).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 9976. An act to amend the act of September 2, 1964 (Rept. No. 1619).

By Mr. BIBLE, from the Committee on the District of Columbia, without amendment:

H.R. 12119. An act to authorize the Commissioners of the District of Columbia to replace the existing 14th Street Bridge, also known as the Highway Bridge, across the Potomac River, and for other purposes (Rept. No. 1620);

H.R. 16863. An act to amend the act of June 10, 1844, in order to clarify the corporate name of Georgetown University, and for other purposes (Rept. No. 1621); and

H.R. 16940. An act to amend the provisions of the act of April 8, 1935, relating to the board of trustees of Trinity College of Washington, D.C. (Rept. No. 1622).

By Mr. BIBLE, from the Committee on the District of Columbia, with an amendment:

H.R. 16608. An act to amend the charter of Southeastern University of the District of Columbia (Rept. No. 1623).

By Mr. LONG of Louisiana, from the Committee on Finance, without amendment:

H.R. 5852. An act to amend title 38 of the United States Code with respect to the basis on which certain dependency and indemnity compensation will be computed (Rept. No. 1624);

H.R. 6958. An act to amend the Internal Revenue Code of 1954 to promote savings under the Internal Revenue Service's automatic data processing system (Rept. No. 1625); and

H.J. Res. 688. Joint resolution to give effect to the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character, approved at Beirut in 1948 (Rept. No. 1626).

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CURTIS:

S. 3840. A bill to amend the Internal Revenue Code of 1954 to allow teachers to deduct from gross income the expenses incurred in pursuing courses for academic credit and degrees at institutions of higher education and including certain travel; to the Committee on Finance.

(See the remarks of Mr. CURTIS when he introduced the above bill, which appear under a separate heading.)

By Mr. FONG:

S. 3841. A bill for the relief of Renato Geliza Ramil; to the Committee on the Judiciary.

By Mr. TYDINGS:

S. 3842. A bill to amend the District of Columbia Fire and Casualty Act approved October 9, 1949, as amended, to provide that uninsured motorist coverage endorsements required by section 27 to be included in automobile insurance policies may be rejected by the owners of insured vehicles; and

S. 3843. A bill to amend the District of Columbia Motor Vehicle Unsatisfied Judgment Fund Act to provide to certain persons whose motor vehicles are registered elsewhere than in the District of Columbia and to certain nonresidents of the District protection against financial loss arising out of accidents involving uninsured motor vehicles; to the Committee on the District of Columbia.

(See the remarks of Mr. TYDINGS when he introduced the above bills, which appear under a separate heading.)

CONCURRENT RESOLUTION

EXPRESSION OF SENSE OF THE CONGRESS RELATING TO OPPOSITION TO DIPLOMATIC RECOGNITION OF CHINESE COMMUNISTS

Mr. THURMOND (for himself, Mr. DIRKSEN, Mr. MUNDT, Mr. CURTIS, Mr. SIMPSON, Mr. MURPHY, Mr. BENNETT, and Mr. COTTON) submitted a concurrent resolution (S. Con. Res. 108) expressing the sense of Congress that the United States should continue to support the people and the Government of the Republic of China as the representative of China in the United Nations; that the United States should continue to oppose the seating of the Chinese Communists in the United Nations; and that the United States supports the President in not according diplomatic recognition to the Chinese Communists, which was referred to the Committee on Foreign Relations.

(See the above concurrent resolution printed in full when submitted by Mr. THURMOND, which appears under a separate heading.)

RESOLUTION

APPOINTMENT OF A SPECIAL SUBCOMMITTEE OF THE JUDICIARY COMMITTEE TO STUDY ENCROACHMENTS BY THE EXECUTIVE AND JUDICIARY BRANCHES UPON THE POWERS OF THE CONGRESS

Mr. DIRKSEN submitted the following resolution (S. Res. 305); which was referred to the Committee on the Judiciary:

S. RES. 305

Resolved, That (a) the chairman of the Committee on the Judiciary is authorized and directed to appoint a special subcommittee of such Committee which shall make a full

and complete study of the separation of powers between the executive, judicial and legislative branches of Government provided by the Constitution, the manner in which power has been exercised by each branch and the extent if any to which any branch or branches of the Government may have encroached upon the powers, functions, and duties vested in any other branch by the Constitution of the United States.

(b) The special subcommittee shall submit a final report to the Senate before the expiration of the 90th Congress, and may submit such interim reports as it deems advisable. Upon submission of its final report the subcommittee shall cease to exist.

SEC. 2. For the purposes of this resolution, the special subcommittee is authorized to (1) make such expenditures as it deems advisable; (2) employ upon a temporary basis technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized at its discretion to select one person for appointment for each three or final fraction thereof selected by the majority, and the person or persons so selected shall be appointed and the compensation of at least one such person shall be so fixed that his gross rate shall not be less by more than $2,200 than the highest gross rate paid to any other employee of the Committee: and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. Expenses of the special subcommittee under this resolution, which shall not exceed $100,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the special subcommittee.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in connection with routine morning business be limited to 3 minutes, but that an exception be made in the case of the distinguished Senator from Kansas [Mr. CARLSON].

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRAYER IN PUBLIC SCHOOLS

Mr. CARLSON. Mr. President, our schools here in America, as well as their counterparts in Europe, had their origin as offsprings of the church. The first schools in America were the fruits of the Protestant revolt in Europe.

Many Europeans, unable to realize their ideals of life and worship in their homelands, came to America, where they settled and began life anew. Many religious congregations, most of them embracing some form of Protestantism, left Europe and came as groups to America. Naturally, they brought with them their European ideas about religion and the education of their children. These ideas were to give a European background to the beginnings of American education.

Education was given serious attention by these early religious groups. Their chief aim was to train their young for righteous living, as they interpreted it, and to perpetuate an educated ministry for their congregations.

The early schools in America were clearly the instruments of religion. The story of how our schools have been gradually changed to instruments of the State is a long one indeed. The early religious leaders in America felt a moral obligation to educate their children. They apparently felt that there was no harm in appealing to the State, which was then their servant, to assist in compelling parents to observe their obligations.

There are those who assume that old relationships must be terminated simply because new trends and changes usher in new relationships and designate new points of emphasis. This is fallacious reasoning.

Granted our modern schools train the child physically, emotionally, and socially, as well as intellectually. But this does not preclude the preservation of positive moral and religious training which at one time characterized all education in this country.

In the early American schools, religion was not merely a part of the curriculum. Religion was the curriculum. Such an emphasis, to the neglect of everything else, would be absurd in our modern public schools. But is it not equally as absurd to completely eliminate religion from the curriculum?

Some spokesmen today seem to be endeavoring to convince us that freedom of religion means freedom from religion. Some would have us believe that separation of church and state means the abolition of all religion from civic undertakings.

Separation of church and state does not preclude religion, because no state can truly prosper unless its officials are motivated by religious ideals and purposes.

Civil government is the logical outgrowth of religion, and the religion of a nation determines the character of its government. Our civil liberties can be secured only by holding fast to the basic tenets of God's word.

We can realize our national ambitions and goals for our schools, our homes, our churches, and for ourselves as individuals only in loyalty and dedication to the religiously oriented ideals upon which our Nation was founded.

For our country was truly founded on belief in God as the giver of man's unalienable rights. It grew to greatness upon that foundation. "In God we trust" is a part of our country's past and should be a part of its future. With such a religious heritage and history, today's Americans surely must recognize the justification of expressions of faith in God in our many institutions.

VIETNAM

Mr. MANSFIELD. Mr. President, this afternoon the United Nations embarks on the 21st meeting of its General Assembly. There are just under 100 matters on the agenda, but one matter which is not listed is Vietnam—a subject in the minds of all the delegates to the United Nations, a subject in the minds of all Americans, including the President of the United States, and a subject very much, in my opinion, in the minds of the peoples of the world.

Of late, there have been a number of appeals for renewed effort to end the Vietnamese conflict via the path of negotiations. The Secretary-General of the United Nations, Mr. U Thant, for example, has been eloquent in his call for a new perspective. Indeed, the struggle in Vietnam ought to be seen in terms of the enormous and bloody human pain which is being inflicted on combatants and noncombatants in that country, rather than in the painless and sanitized detachment of a football field on which two ideologies clash. For similar reasons, Pope Paul VI has urged a redoubling of efforts to achieve a settlement by negotiations, and he has coupled an expression of human compassion with a warning to call a halt to the rising tide of conflict before it is too late to turn back, not only for Vietnam but also for all of Asia and the entire world.

Other informed persons have added their voices to the deepening concern over the trends of the war. Prominent among those is Arthur Schlesinger, Jr., a former special assistant to the late President Kennedy and to President Johnson. Mr. Schlesinger, writing in the New York Times magazine of September 18, addresses himself to the Vietnam dilemma in an article entitled "The Middle Way Out in Vietnam." Mr. Schlesinger looks back over the years of the Vietnamese involvement, not in a search for scapegoats, but rather with the eyes of the historian and in an honest and frank search for a new approach. He is persuaded that it is not in the interest of any nation and, perhaps, least of all, in the interest of the United States to extend the war deeper into Asia. But he is also convinced that it is not possible for the United States to walk off abruptly and forget the whole business. He urges, therefore, a new approach which will correspond to these dual national realities. In a sentence he calls for a new strategy of deescalation of military activity, coupled with political initiatives in South Vietnam which are aimed at conciliation of the people of that region with a government in Saigon rather than the domination of the Saigon government over the people of the region.

It is an essential of this approach, indeed, of any reasonable approach that there be a renewed effort to initiate negotiations with whomever may be necessary to bring the actual fighting to a halt. In the latter connection, it would be well to recall the three points which U Thant has stated are essential for the creation of "conditions conducive to the holding of a conference and conducive to the creating of conditions for a peaceful settlement of the problem in Vietnam."

First. An end to the bombing of North Vietnam;

Second. Reduction of all military activities in South Vietnam leading to a cease-fire on all sides;

Third. Willingness on all sides to enter into discussions with all who are actually engaged in the fighting.

There is, in my judgment, nothing in those points which is inconsistent with what the President of the United States

has indicated he is prepared to do in the search for a just peace through negotiations. It would be my hope that U Thant, now that he has agreed to remain as Secretary General of the United Nations for this session, will go beyond the simple articulation of these three points and into specific recommendations to the parties concerned. In short, Mr. President, I would urge the Secretary General to set forth a timetable and a step-by-step procedure for the initiation of negotiations and request this Nation and all others involved in Vietnam to follow it.

COMMITTEE MEETING DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be permitted to meet during the session of the Senate today.

Mr. KUCHEL. Mr. President, objection has been lodged with the minority leader. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

On request of Mr. KUCHEL, and by unanimous consent, the Committee on Interior and Insular Affairs was authorized to meet during the session of the Senate today.

AMENDMENT OF INTERNAL REVENUE CODE OF 1954, RELATING TO DEDUCTION OF CERTAIN EXPENSES BY TEACHERS

Mr. CURTIS. Mr. President, I am introducing, for appropriate reference, a bill to correct inequities in rulings by the Internal Revenue Service regarding tax deductions of teachers for educational expenses.

The mail I am receiving, Mr. President, indicates that these rulings have worked a hardship on many teachers in Nebraska at a time when this Nation and its Government profess to be placing new emphasis on educational quality.

Teacher training and preparation are fundamental requirements of improved education, far more important than the bricks and mortar which provide the place for teaching. This has been true through the years and it is still true today.

The Nation is experiencing a critical teacher shortage this fall from coast to coast. I have read articles citing statistics placing much of the blame for this on the Federal Government. We must take steps to encourage qualified teachers to improve their skills and remain in the profession. We must encourage them to work to improve their station in life and thereby the quality of the education provided for our children.

Under the Internal Revenue Service regulations, money spent for education is deductible on individual income tax returns if the expenditure is made to maintain or improve skills required in the taxpayer's job, trade or business or if it is required by the employer as a condition of retaining the taxpayer's job, salary, or status.

This has been interpreted by the IRS to mean that teachers are not entitled to the deductions if they return to college voluntarily, without being forced or required to do so. The deductions are not allowed teachers who go back to school merely to become better teachers or to improve their station in life or increase their salaries.

I believe, Mr. President, that our Government should encourage teachers to act on their own initiative, in the American free-enterprise way, to improve their status.

The bill I am introducing will allow teachers to deduct as business expenses educational expenses connected in any way with their work.

One group particularly hard hit by the IRS rulings, Mr. President, are persons preparing themselves for college teaching. The national effort to improve higher education needs all the encouragement it can get, and this bill would help on an individual basis.

The bill would eliminate the doubt and confusion that now exists by writing into the Internal Revenue Code certain provisions now left entirely to administrative regulations. No longer would teachers have to live under the threat that there might be a technical slip-up in reporting their income and deductions for tax purposes, causing them to run afoul of the Internal Revenue Service. No longer would they have to be threatened with the loss of their job before they could deduct the expenses of furthering their education in order to improve the education available to the children they teach.

This bill is offered in the sincere interest of improving education and clarifying tax deduction policies for teachers, Mr. President, and it should have broad support.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 3840) to amend the Internal Revenue Code of 1954 to allow teachers to deduct from gross income the expenses incurred in pursuing courses for academic credit and degrees at institutions of higher education and including certain travel, introduced by Mr. CURTIS, was received, read twice by its title, and referred to the Committee on Finance.

AMENDMENT OF FIRE AND CASUALTY ACT AND THE MOTOR VEHICLE SAFETY RESPONSIBILITY ACT OF THE DISTRICT OF COLUMBIA

Mr. TYDINGS. Mr. President, 3 weeks ago, just prior to the Labor Day recess, the Senate debated H.R. 9918, a bill to protect the residents of the District of Columbia from insolvent uninsured motorists. The Senate was unable to complete action on the bill at that time, because we lacked a quorum to do so. However, I am hopeful that now the Senate will be able to complete its action on H.R. 9918.

This is purely a local District of Columbia bill, but one which it is our duty to pass as the legislature for the District of Columbia and one which is essential, if Congress is going to fulfill its legislative duty to the District of Columbia to protect its residents' safety and welfare.

As I explained in the debate on the bill prior to the Labor Day recess, the parliamentary situation we face in considering this legislation is a rather unique one. H.R. 9918 was passed in the House over the objections of the leadership of the House District Committee. It is a much better bill than that committee reported. It is the only adequate bill considered by either House in this session of Congress to protect the victims of insolvent uninsured motorists.

Because the bill was passed over the objections of the leadership of the House committee, the word is out that if the Senate amends the bill by so much as changing a comma, and the bill must go back to the House, it will die there. It will die there not just for this session, but for the indefinite future because the leadership of the House District Committee is adamantly opposed to this legislation.

So in the debate prior to the Labor Day recess, I asked Senators who had amendments to this legislation to withhold them until we got the bill on the books. For to amend this legislation is not to improve it. It is to kill it.

For that reason, in the pre-Labor Day recess debate, I volunteered that immediately upon reconvening next January, I would, as chairman of the District of Columbia Subcommittee on Business and Commerce, hold prompt hearings and executive consideration of these amendments and report them to the Senate for action.

When this guarantee proved insufficient to the sponsors of the various amendments to this bill, I volunteered to hold hearings and executive sessions on the amendments during the pendency of the civil rights debate in order to report them during this session.

This guarantee also fell short of what was desired by the proponents of the amendments.

Now if I understand the proponents of the amendments accurately, they seek essentially four amendments to this bill.

First, they wish to have the uninsured motorist clause, required by H.R. 9918 to be inserted in every policy of automobile liability insurance issued in the District of Columbia, carry with it the right of rejection on the part of the policyholder.

Second, they wish to have residents of the District of Columbia whose cars, under District of Columbia law, are legitimately registered and licensed elsewhere brought under the protection of the bill.

Third, they also seek an amendment to include under the protection of the act out-of-State pedestrians who are injured in the District by insolvent uninsured motorists who have cars registered in the District of Columbia.

Fourth, they wish the bill to specifically spell out that any State with a

similar fund which provides reciprocity for District of Columbia residents injured in that State will be entitled to similiar protection for its citizens when they are in the District of Columbia.

I have no basic objecion to these amendments. I think none of them are likely to jeopardize the solvency of the uninsured motorist fund created by this bill. However, as I have so frequently pointed out, to accept any of them as amendments to the bill before it is passed will send the bill to conference—a conference which will never be held. Thus to accept these amendments before the bill is passed is to kill those amendments and the bill.

So that there can be no question as to the willingness of the proponents of this legislation to accommodate the Senators who wish to offer amendments to it, but who do not actually wish to kill the bill, I am today introducing as separate legislation two bills which, when enacted by the Senate, will have the effect of amending H.R. 9918 in the manner in which the Senators who have proposed amendments have suggested.

My only request of the proponents of these amendments is that, in light of my introduction of this legislation and my promise to process it through the Senate District Committee as quickly as possible, that they do not insist on amending, and thereby killing, H.R. 9918 before it is enacted by the Senate.

There is no reason why H.R. 9918 and the two bills I am introducing today to accommodate the sponsors of amendments to it cannot be passed in this session of Congress. In fact, I would hope that by introducing these two bills today and processing them promptly through the District Committee, we can now proceed to pass H.R. 9918 by unanimous consent.

At the District of Columbia Committee meeting held last week, Chairman BIBLE assured me of his willingness to cooperate in reporting these two bills to the floor. I intend to hold an executive session in the Business and Commerce Subcommittee just as quickly as possible in order to report these bills to the full committee. It does not seem to me necessary to hold further hearings, in light of the fact that this subcommittee held hearings on the whole problem of uninsured motorist legislation last year.

In short, Mr. President, I hope, by the action taken today, to facilitate the prompt passage of H.R. 9918. I am confident that I will have the cooperation of all the members of the Senate District Committee in facilitating passage of this very important piece of legislation for the District of Columbia.

I ask unanimous consent that the text of these two bills and my introductory remarks upon H.R. 9918 be reprinted at this point in the RECORD.

The ACTING PRESIDENT pro tempore. The bills will be received and appropriately referred; and, without objection, the bills and remarks will be printed in the RECORD.

The bills, introduced by Mr. TYDINGS, were received, read twice by their titles, referred to the Committee on the District of Columbia, and ordered to be printed in the RECORD, as follows:

S. 3842

A bill to amend the District of Columbia Fire and Casualty Act approved October 9, 1949, as amended, to provide that uninsured motorist coverage endorsements required by section 27 to be included in automobile insurance policies may be rejected by the owners of insured vehicles

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of paragraph (1) of subsection (b) of section 27 of the Fire and Casualty Act approved October 9, 1949 (54 Stat. 1076), as added by section 4 of the District of Columbia Motor Vehicle Unsatisfied Judgment Fund Act, be amended by inserting immediately before the period at the end of such sentence the following: ", except that this coverage may be waived in writing by the insured on or before the effective date of the policy."

S. 3843

A bill to amend the District of Columbia Motor Vehicle Unsatisfied Judgment Fund Act to provide to certain persons whose motor vehicles are registered elsewhere than in the District of Columbia and to certain nonresidents of the District protection against financial loss arising out of accidents involving uninsured motor vehicles

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (n) of section 3 of the District of Columbia Motor Vehicle Unsatisfied Judgment Fund Act is amended to read as follows:

"(n) QUALIFIED PERSON.—A resident of the District of Columbia, or a resident of another State or Territory of the United States or Province of the Dominion of Canada with which the Commissioners have entered into a reciprocal agreement concerning payment of claims from the Fund pursuant to the provisions of this Act, or a resident of any State or Territory of the United States injured as a pedestrian, but the term 'qualified person' shall not include (1) any collision insurance carrier or other insurer seeking indemnification by way of subrogation; or (2) any holder of a certificate of self-insurance within the meaning of that term as used in this Act; or (3) any person who at the time of the accident was operating a motor vehicle in violation of an order of suspension or revocation or without the permission of the owner thereof; or (4) a resident of the District of Columbia whose vehicle was not registered in the District of Columbia when so required under the laws of the District at the time such motor vehicle was involved in an accident within the purview of this Act."

SEC. 2. Section 41 of such Act is amended by adding the following new subsection:

"(f) The Commissioners are authorized and directed to enter into reciprocal agreements with any State under which residents of such State may make claims against the Fund. Such agreement may be made only with a State which by its laws has made provision for the payment of claims to its residents and to residents of the District of Columbia injured or damaged in such State under conditions which are substantially similar to those required by this Act. The term 'State' shall mean: Any State, Territory, or possession of the United States, or Province of the Dominion of Canada."

The remarks presented by Mr. TYDINGS are as follows:

Mr. TYDINGS. Mr. President, today the Senate addresses itself to one of the most pressing problems facing the District of Columbia today—the problem of how to cope with the rapidly rising number of uninsured motorists now cruising the streets of the District daily, inflicting countless thousands of dollars damage on innocent pedestrians, motorists, and property owners without the slightest ability to pay for the damage they do.

Existing law in the District of Columbia is hopelessly inadequate to deal with the uninsured motorist problem. That law allows any uninsured motorist to kill, injure, or maim an innocent pedestrian or motorist before the law even applies to him. Amendments to that law were proposed by the insurance industry, to impose more stringent penalities on an uninsured motorist who caused accidents, and are still totally defective in this regard. They allow the uninsured motorist to "one bite," to destroy one life, to cripple a child, to kill a breadwinner, to mangle a mother. Last February 24, for example, a 42-year-old father of five was struck by an uninsured motorist in the District of Columbia while he was crossing the street as a pedestrian. The uninsured driver was charged by the police for failure to yield the right of way. But this was no compensation to the injured man who lost 6 months' wages, with fractured legs and hips—and had to pay medical bills in the thousands—for the driver who struck him was uninsured.

Less than a year ago, an uninsured motorist ran through a red light in the District of Columbia and struck a husband and wife who were traveling through the intersection in their automobile. Both victims are still out of work because of their injuries. Both suffered severe fractures and disfiguring cuts. The wife received brain damage. But neither one of them will ever collect a dime for their injuries, because the uninsured motorist who hit them has no assets to pay for his wrongdoing. Three years ago, an uninsured 28-year-old struck a pedestrian while crossing Georgia Avenue, fracturing both of the victim's arms and legs, and rendering him totally and permanently blind. That victim also remains without any compensation for his injuries, because the motorist who hit him was uninsured and insolvent.

A week later, an uninsured motorist struck three parked cars in the District, killing a 38-year-old mother, who left a 7-year-old son and a husband, whose job in the construction trade does not allow him enough money to employ a substitute mother. Neither the father nor the child has ever received a cent for the heartache and financial loss that uninsured motorist caused them because he has no assets.

These are not rare cases. These cases occur hundreds of times a year in the District of Columbia. Neither present law nor the amendments to it which the insurance industry proposes will stop this kind of case, because both present law and the proposed amendments to it allow an uninsured motorist one accident such as those I described before he becomes subject in any way to the law. H.R. 9918, the bill we are considering here, will provide some remedy to these poor, hapless people who have no other recourse and whom present law and the insurance industry-proposed amendments to it do not help.

The purpose of the bill is to protect the 815,000 residents of the District of Columbia from financial loss due to the negligent operation of the tens of thousands of uninsured motor vehicles now registered in the District of Columbia.

I think it important that the Members of the Senate realize that in considering this bill they are legislating as a city council, for the benefit of the District of Columbia.

The bill would provide protection in two ways:

First, it would require the inclusion of an uninsured motorist clause in all automobile liability insurance policies issued on vehicles

registered in the District. The uninsured motorist clause would provide insurance protection to the policyholder and members of his family anywhere, anytime, and to others when occupants of the insured's vehicle against financial loss due to the negligence of an uninsured motorist.

Second, the bill would require any uninsured motorist, as a prerequisite to automobile registration, to pay $40 into an uninsured motorist fund, out of which limited amounts may be paid to uninsured victims of the negligence of insolvent uninsured motorists.

In short, H.R. 9918 will provide a source of compensation for the victims of financially irresponsible motorists. A companion measure, S. 1713, which has also been favorably reported, will provide no such compensation but will impose more severe penalties on uninsured motorists who have accidents than present law provides.

THE NEED FOR THIS BILL

The 27,000 motor vehicle accidents which occurred in the District of Columbia last year injured 7,800 persons. More than 12,000 of these accidents involved uninsured motorists. As a result, between 900 and 1,200 of the accident victims remain uncompensated for their injuries, because the drivers who caused them were uninsured and insufficiently solvent to make legal action against the drivers for damages financially worth while.

Existing law in the District of Columbia provides absolutely no protection to motorists, their families, their passengers, or to pedestrians and property owners against financial loss from the negligence of financially irresponsible, uninsured motorists. The so-called Safety Responsibility Act passed by the Congress in 1955 does not require a financially irresponsible motorist to obtain automobile liability insurance until after he has killed or injured an innocent victim and has failed to satisfy a court judgement against him for his negligence.

Moreover, although insurance industry spokesmen in 1954 predicted that the passage of the present Financial Responsibility Act would result in the insurance of 90 percent of the vehicles registered in the District, it appears that the existing law actually encourages financial irresponsibility on the part of many District motorists. Indeed, the number of motor vehicle owners in the District who are insured at all has never reached 90 percent and has actually declined 19 percent in the last 2 years alone, from 86 percent of all registered owners to approximately 67 percent. Nearly one-third of all motor vehicle owners in the District of Columbia—driving about 61,000 vehicles—are now uninsured.

What I am saying, Mr. President, is that the argument which was presented by the insurance industry in 1954, and which will be presented now by those representing their interests, that all that need be done to combat this problem is to have a stiffer financial responsibility law, just does not hold water. They said that in 1954. They said, "When you pass the present District of Columbia financial responsibility law, 90 percent of your automobile owners will insure their cars."

That has not been true. As a matter of fact, the number of motor vehicles registered in the District which are now insured is all the way to 67 percent. Once it was as high as 86 percent.

Moreover, existing District legislation allows an uninsured motorist who has an injury-causing accident to begin driving again after 1 year, even if he is still uninsured and still insolvent, unless the injured party has filed suit for damages against him.

Since a reasonable person will not bear the trouble and expense of a suit against a negligent driver known to be both uninsured and without assets to pay a judgment, existing District law permits the uninsured and insolvent motorist chance after chance to injure others, but provides no way to compensate those injuries. In fact, 2,000 of the 12,000 uninsured motorists who were involved in accidents in the District of Columbia last year had had at least one known previous accident and some had had two or even three.

To prevent the financial tragedies caused victims of uninsured, insolvent motorists, a broadly based group of District of Columbia organizations drafted the bill your committee now reports. This bill is the product of years of study and many months of drafting by the District of Columbia government in close cooperation with the District of Columbia Bar Association, the District of Columbia chapter of the American Automobile Association, the Citizens Traffic Board and the Government Employees Insurance Co., the largest carrier of automobile liability insurance in the District of Columbia than all other insurance companies combined. The bill also carries the endorsement of the Metropolitan Board of Trade.

Four full days of hearings on this bill and alternative bills were held by the Business and Commerce Subcommittee of the Senate District Committee last year.

Your committee is convinced that H.R. 9918, as passed by the House, represents a sound approach to answering the grave problem of financial irresponsibility among uninsured motorists in the District of Columbia.

Enactment of H.R. 9918 will supplement existing law by providing a means by which the victims of uninsured motorists can be compensated for their injuries when the uninsured motorist is insolvent.

HOW THE BILL OPERATES

H.R. 9918 combines the best features of the laws of 28 States to provide a sound financial basis to protect the victims of uninsured motorists from financial loss.

The bill provides programs of protection similar, but superior to those now established by law in Virginia and Maryland, the District of Columbia's neighbors, for the protection of their citizens from financially irresponsible motorists.

Under the bill, a person wishing to register a vehicle in the District of Columbia would have two alternatives. He could purchase a policy of insurance containing the usual public liability and property damage coverage, plus an inexpensive clause protecting him, his family, and his passengers against the negligence of uninsured motorists. If he declined to purchase such insurance, he would have to pay $40 into the unsatisfied judgment fund established by this bill to compensate the victims of uninsured, insolvent drivers against whom the victims have secured a court judgment.

THE UNINSURED MOTORIST CLAUSE

The bill provides that every policy of automobile liability insurance issued on a motor vehicle registered in the District of Columbia must include an "uninsured motorist" provision insuring the owner of the vehicle and his family at all times and in all places, whether driver, passenger, or pedestrian, against injury by uninsured motorists. In addition, the uninsured motorist provision must also insure any nonmember of the insured's family when a driver of/or a passenger in the insured's motor vehicle.

Twenty-five States now require such provisions to be offered in all motor vehicle liability policies issued in those States. Several States including Virginia, require such clauses. The uninsured motorist clause this bill would require would cost a nominal—$4 to $8—but actuarially sound amount.

The limits of coverage provided by the uninsured motorist clause would be identical to the maximum amounts recoverable from the unsatisfied judgment fund created by the bill:

First. A maximum limit of $20,000 for all injuries or deaths arising out of a single accident. Within the $20,000 overall limitation, any individual might recover a maximum of $10,000.

Second. A maximum limit of $5,000 for all property damage arising out of a single accident.

By requiring the inclusion of the uninsured motorist provision in all insurance policies issued on motor vehicles registered in the District of Columbia, the bill provides an actuarially sound program of insurance for most District residents against uninsured motorists. It also helps insure the solvency of the "unsatisfied judgment fund" that persons not covered by an "uninsured motorist clause" must look in case they cannot collect a court judgment obtained against an uninsured motorist whose assets are insufficient.

THE UNSATISFIED JUDGMENT FUND

The "unsatisfied judgment fund" is, then, an essential complement to the uninsured motorist clause in providing the public a minimum financial protection against the depredations of negligent uninsured motorists. The "unsatisfied judgment fund" created by this bill guarantees the victim of a negligent uninsured motorist that, if the motorist proves to have insufficient assets to satisfy a court judgment, the judgment can be paid, at least in part, from the fund.

The limits of recovery from the unsatisfied judgment fund are equal to the protection provided by the uninsured motorist clause required in insurance policies under this bill.

The "unsatisfied judgment fund" will be financed by a charge assessed against any uninsured motorist who seeks to register a car in the District of Columbia. The charge can be adjusted administratively so as to insure the solvency of the fund. Your committee estimates that a charge of $40 for every uninsured motorist who hereafter seeks to register a car in the District, producing a fund of $2,440,000 under present conditions, will be sufficient to assure the solvency of the fund for the foreseeable future.

Further assurance of the solvency of the fund is provided by the following limitations in the bill:

First. Only uninsured persons injured by an uninsured motorist's negligence, who obtain a judgment against that motorist, can claim against the fund. No one covered by an "uninsured motorist clause" can also claim the unsatisfied judgment fund. His sole—but equal—recourse is against his own insurer. Nor do uninsured motorists have any recourse against the fund.

Second. No person otherwise eligible to claim against the unsatisfied judgment fund may do so until he has first sought and obtained judicial judgment of liability against the uninsured motorist and has made all reasonable efforts to collect the amount of that judgment and has failed to do so in part or in whole due to a lack of assets of the judgment debtor. Thereafter, the uninsured motorist's victim may recover the unpaid portion of his judgment from the fund, up to the limits provided by this bill.

UNSATISFIED JUDGMENT FUND NOT INSURANCE

The unsatisfied judgment fund is not insurance, nor is it a substitute for insurance for the uninsured motorist, who must contribute to it. The sole and limited function of the unsatisfied judgment fund is to provide a source of protection for uninsured passengers, pedestrians, and property owners against financial loss from the negligence of uninsured and insolvent drivers. No other

proposal suggested to this committee provides that protection, or any protection for the residents of the District of Columbia against uninsured motorists, who kill, injure, or maim them.

SELF-INSURER EXEMPTIONS

Your committee took special note that the definition of "uninsured motor vehicle" in section 3(r) specifically exempts vehicles owned by holders of certificates of self-insurance under the Interstate Commerce Act. The committee was advised that this exclusion includes D.C. Transit, the Greyhound company, the Trailways company, and the North American Van Lines. Therefore, these interstate common carriers are not subject to the provisions of H.R. 9918.

However, the effect of the exemption on vehicles owned by these carriers does not preclude their passengers residing in the District of Columbia from being fully protected by this bill. Although D.C. Transit, as the major passenger carrier in the Washington metropolitan area, is exempt from the provisions of this bill, it is required to meet the self-insurer requirements of the Interstate Commerce Act providing protection for judgments rendered against it.

INSURANCE INDUSTRY-PROPOSED BILLS ARE INADEQUATE TO MEET THE UNINSURED MOTORIST PROBLEM

The insurance industry has proposed two bills, S. 1713 and S. 1714, to deal with the uninsured motorist problem in the District.

H.R. 9918, the bill your committee now favorably reports, includes the best features of S. 1714, but leaves off its defects. S. 1713, which is a useful complement to H.R. 9918, has been separately reported by the committee.

S. 1714 would require each motor vehicle liability insurance policy in the District to include an uninsured motorist clause, but would give every insured motorist the right to reject that clause as part of his policy. The uninsured motorist clause is a worthwhile feature of motor vehicle insurance. Its inclusion in every policy of motor vehicle liability insurance issued on an automobile registered in the District of Columbia is required by H.R. 9918, which your committee favorably reports.

But S. 1714 would provide no protection for the families, passengers, and person of an insured motorist who rejected the extra coverage of the uninsured motorist clause. Far worse, this insurance industry bill would under no circumstances provide any protection against uninsured motorists to the great number of District of Columbia residents who own no motor vehicle and cannot be covered by any known form of automobile liability insurance.

S. 1713, the second insurance industry-sponsored bill, would amend the present District of Columbia Motor Vehicle Safety Responsibility Act. Because the committee believes S. 1713 may serve as a useful compliment to H.R. 9918, by decreasing the number of uninsured motorists, it has unfavorably reported it separately. However, S. 1713 is no alternative to H.R. 9918. S. 1713 merely makes more burdensome some requirements of the existing law without remedying in any way the existing law's basic defect. For under both existing law and the insurance industry's proposed amendment to it, an insolvent uninsured motorist can have one accident which kills or injures one or more innocent persons before he is required to demonstrate any financial responsibility as a prerequisite to driving.

Neither industry-proposed bill, S. 1713 or S. 1714, would require any contribution from uninsured motorists for the protection of the public, such as the unsatisfied judgment fund H.R. 9918 would create. The insurance industry proposals, taken together or separately, perpetuate the certainty that District residents will be killed or maimed by insolvent uninsured motorists, just as they are today.

Thus, the industry-sponsored bills, like existing law, places a premium on irresponsibility and discourages the most irresponsible drivers from obtaining insurance. Why should an irresponsible, insolvent motorist pay for any insurance if he knows that a suit against him for his possible negligence would be worthless and thus most likely not undertaken? By contrast, H.R. 9918, the uninsured motorist bill, makes suit against the uninsured motorist worthwhile, by providing a fund from which judgment in the case can be satisfied if the defendant proves insolvent. As the likelihood of suit against the uninsured motorist increases, with the costs and trouble for the defendant such suits entail, the incentive for the uninsured to obtain insurance increases.

Moreover, H.R. 9918 also provides an incentive to the more responsible uninsured motorist to obtain insurance, since all insured motorists will have to contribute to the unsatisfied judgment fund. If one must pay $40 merely for the privilege of driving while uninsured, why not instead pay another $40 or $50 to buy a policy of insurance which will protect him as well as the public?

WHAT THE BILL WILL COST

The administration of this bill will not require expenditure of any appropriated funds.

The inclusion of the "uninsured motorist clause" in insurance policies issued on automobiles registered in the District will cost insurance companies nothing, since that clause, like any other, can be merely written into the insurance contract as an actuarially sound cost—about $4 to $8 a year. All policies now issued in Virginia must include such clauses.

The cost of administering the unsatisfied judgment will be paid out of the fund itself. No tax dollars will be spent for this or for any other purpose provided by this bill. Estimates place the annual administrative cost, payable from the fund, at approximately $195,000 per year.

The District's experience has been that when an innocent victim is hit by an uninsured motorist who is judgment-proof, because he has no assets to meet a judgment, the innocent victim will not go to the expense of a lawsuit, because there will be no assets to meet a judgment.

Look what has happened. Two thousand of the twelve thousand uninsured motorists involved in an accident last year were persons who had been involved in an accident before under the existing financial responsibility law.

To prevent the financial tragedy caused victims of uninsured motorists, a broadly based group of District of Columbia organizations has spent many months drafting the bill which the committee now favorably reports. The pending bill is the product of several years of study and many months of drafting, not to mention weeks of hearings in my subcommittee. It was drafted by the District of Columbia Government in close cooperation with the District of Columbia Bar Association, the District of Columbia Chapter of the American Automobile Association, the Citizens Traffic Board, and the Government Employees' Insurance Co., the largest carrier of automobile liability insurance in the District of Columbia. The bill carries the full endorsement of the Metropolitan Board of Trade.

We held 4 complete days of hearings on this bill and alternative bills proposed by the insurance industry.

The District of Columbia Committee is convinced that H.R. 9918, as passed by the House of Representatives, represents a sound approach in answering the grave problem of financial responsibility among uninsured motorists in the District of Columbia. Enactment of H.R. 9918 will supplement District of Columbia law by providing a means by which victims of uninsured motorists can be compensated for injuries when those uninsured motorists prove insolvent.

Mr. President, there is an unusual legislative history to this bill. It was passed by the House of Representatives over the objections of the House District of Columbia Committee. The House of Representatives was so persuaded by the merits of this legislation that its Members took the unique step of overruling a committee which had supported, in my judgment, a completely weak and ineffective insurance industry bill. The House of Representatives overruled the District of Columbia Committee and passed this bill, we are now considering, which would give some protection to the citizens of the District of Columbia.

The legislative fact is that we must pass the bill as the House passed it without amendments, if we are to have any type of decent financial responsibility legislation to protect the citizens of the District of Columbia, because if we were to amend it and send it back to the House, the conference committee would be controlled by Representatives who, without question, would see to it that the bill was killed.

One of my responsibilities on the District of Columbia Committee is to serve as chairman of the Subcommittee on Business and Commerce.

I can assure any Senator who has a meritorious amendment—and there may be some—a full hearing, and an opportunity to add such amendments to the financial responsibility law next year, assuming we enact this legislation into law.

The bill is as it stands, however, a thoroughly sound approach to this grave problem facing the District's residents.

Mr. President, there were 12,000 accidents last year involving uninsured motorists. Between 900 and 1,200 of the accident victims were uncompensated for their injuries.

Mr. President, I submit that if the Senator who asked the question had just one member of his family involved, as were those 900 to 1,200 persons last year who were accident victims of uninsured motorists, he would not ask me what the need is for the bill.

CONCURRENT RESOLUTION RESPECTING RED CHINA MEMBERSHIP IN THE UNITED NATIONS

Mr. THURMOND. Mr. President, I submit, for appropriate reference, a concurrent resolution expressing the sense of Congress that the Government of the United States should continue to meet its commitment to the people and the Government of the Republic of China and continue to support that government as the representative of China in the United Nations. The concurrent resolution further states that the United States should continue to oppose the seating of the Chinese Communist regime in the United Nations so long as that regime persists in defying the principles of the United Nations Charter and expresses the support of Congress for the decision not to accord diplomatic recognition to the Chinese Communist regime.

Mr. President, today the 21st session of the United Nations General Assembly convenes, and it is apparent that there will once again be efforts by the Chinese Communists and their following to oust the Republic of China from the United Nations and replace them with the Chi-

nese Communist regime as the official representative of the Chinese people in the United Nations. The voice of Congress should and must be heard on this issue, and for this reason Congress should adopt a resolution which would fortify the hand of the administration in resisting the efforts of the Chinese Communists to be seated in the United Nations.

Mr. President, the Chinese Communists have consistently shown their utter disregard for the standard of conduct established in the Charter of the United Nations as desirable to insure the peace and tranquility of the world. Through the defiance of the principles and high ideals stated in the Charter of the United Nations and their constant antagonism toward individual freedom and freedom of choice for the people in surrounding nations, they have disqualified themselves from a seat in the United Nations. It is the duty and the privilege of the United States of America, as the bulwark of the free nations of the world, to lead the efforts in the United Nations to retain the representation of the Republic of China and resist the attempt to seat the Chinese Communists in that body. In order to lead a successful fight, the support of the Congress and of the American people is necessary.

Mr. President, I ask unanimous consent that a copy of my newsletter dated September 18, 1966, entitled "Year of the Tiger?" be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks, together with a copy of the concurrent resolution, which I have today submitted.

The ACTING PRESIDENT pro tempore. The concurrent resolution will be received and appropriately referred; and, without objection, the concurrent resolution and newsletter will be printed in the RECORD.

The concurrent resolution (S. Con. Res. 108) was referred to the Committee on Foreign Relations, as follows:

S. CON. RES. 108

Whereas the Government of the United States enjoys close and friendly relations with the Government of the Republic of China, including treaty obligations which this Government honors; and

Whereas the Republic of China is an original and continuing member of the United Nations which has faithfully discharged its obligations under the Charter of the United Nations as a peace-loving member of the community of nations; and

Whereas the Government of the Republic of China has demonstrated that it is worthy of the great traditions and culture of the Chinese people; and

Whereas the Chinese Communist regime continues to proclaim its blatant defiance of the United Nations and its principles; and

Whereas the Chinese Communist regime committed open aggression against United Nations forces in Korea for which it stands condemned by the United Nations, and boasts openly of its "victory" over United Nations forces in Korea; and

Whereas the Chinese Communist regime has suppressed in defiance of United Nations resolutions the human rights of the Tibetan people; and

Whereas the Chinese Communist regime continues to threaten world peace by its military pressures and incursions against the territory of South Vietnam and other freedom-loving countries in Asia; and

Whereas the Chinese Communist regime since its beginning has maintained an attitude of unremitting hostility toward the people and Government of the United States; and

Whereas the Chinese Communist regime continues to hold Americans in prison despite commitments for their release; and

Whereas the Chinese Communists not only seek to impose upon the United Nations, arrogant contentions with respect to their own admission but also to expel the representatives of the Government of the Republic of China from the United Nations: Therefore be it

Resolved by the Senate (The House of Representatives concurring), That it is the sense of the Congress that the United States should continue to meet its commitments to the people and Government of the Republic of China and should continue to support that Government as the Representative of China in the United Nations; and be it further

Resolved, That the United States should continue to oppose the seating of the Chinese Communist regime in the United Nations so long as that regime persists in defying the principles of the United Nations Charter; and be it further

Resolved, That it is the sense of the Congress that the United States supports the President in not according diplomatic recognition to the Chinese Communist regime.

The newsletter, presented by Mr. THURMOND, is as follows:

YEAR OF THE TIGER?

On Tuesday, September 20, the Twenty-first Session of the United Nations General Assembly convenes and will once again be faced with the prospect of having the Red Chinese tiger put in the U.N. tank. To prevent these international bandits from being seated, a unity of purpose and resolution far in excess of our previous best efforts will be required, for the number of free world countries still committed to the lofty ideals upon which the U.N. was founded seems to have dwindled.

Confronted with a situation demanding firm action and a clear-cut policy, the chief spokesmen for the United States, which must provide the leadership for the forces of the free world in the U.N., seem hesitant and inconsistent. Our position is stated ambiguously at times, and contradictorily at other times, so that even our most firm allies must have grave doubts about our intentions.

Secretary of State Dean Rusk set the tone for what should be the firm position of the United States when he told a House Foreign Affairs Subcommittee last March that "talks have, so far, given no evidence of a shift or easing in Peiping's hostility toward the United States and its bellicose doctrines of world revolution . . . Today we and Peiping are as far apart on matters of fundamental policy as we were 17 years ago."

More recently, however, other U.S. officials have made statements which have cast the shadow of doubt that the firmness and conviction expressed by Secretary Rusk is the official view of the United States toward the Red Chinese.

Ambassador Goldberg recently spent several hours closeted with the President reporting on his "difficult and interesting" first year at the U.N. When questioned about Red China after the conference with the President, he is quoted in the press as having said: "We have not yet come to the view of what our attitude will be at the next General Assembly. Before the General Assembly convenes, of course, we will have to come to a view as to what our attitude will be." The U.N. Ambassador went on to say: "At the moment, American policy has not changed."

This response hardly rings with the conviction necessary to assure either the American people or our Allies that U.S. policy toward Red China is firm and resolute. Particularly is this true when this interview is interpreted in the light of previous observations of Ambassador Goldberg. For instance, the National Press Club was told by Mr. Goldberg that "this Administration is anxious to have Communist China join the mainstream of the international community"; and during a television interview, he said: "In handling this whole Chinese situation . . . what is needed is patience and fortitude, firmness and flexibility."

The United States has experienced increasingly narrow margins of victory in the battle against seating the Red Chinese, culminating in last year's tie vote. Since early this year, "trial balloons" have been sent up on a so-called "two-China" policy which would call for the admission to the U.N. of the communist government at Peiping, and the retention in the U.N. of the Nationalist Chinese government in Formosa. This trial balloon is designed to test the sentiment of the people of the United States toward such a policy; and, as is always the case with trial balloons, if it is not shot down, such a policy could become the official position of the United States.

What is needed is for the American people to make their opposition to the seating of the Red Chinese in the U.N. known to President Johnson, and for the Administration to formulate and carry-out a firm policy based on Secretary Rusk's assessment of Red China and fortified by the support of the American people. In the absence of such a public outcry, the United States' position in the U.N. could cave in to "world opinion" and result in either outright admission of the Red Chinese along with expulsion of Nationalist China, or some equally unacceptable compromise, such as the "Two-China" policy.

This is a fight which can be won, if it is waged with the necessary unity of purpose and resolve. On the other hand, too much wavering and flexibility could make this the year of the tiger.

Sincerely,

STROM THURMOND.

Mr. THURMOND. Mr. President, Senators MUNDT, CURTIS, SIMPSON, MURPHY, BENNETT, and COTTON have joined as cosponsors of the concurrent resolution. I ask unanimous consent that the concurrent resolution lie at the desk for 1 week for additional cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL UNICEF DAY—AMENDMENTS

AMENDMENT NO. 931

Mr. BAYH submitted an amendment, intended to be proposed by him, to the amendment (No. 930) proposed by Mr. DIRKSEN to the joint resolution (S.J. Res. 144) to authorize the President to designate October 31 of each year as National UNICEF Day, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 932

Mr. BAYH submitted an amendment, intended to be proposed by him, to Senate Joint Resolution 144, supra, which was ordered to lie on the table and to be printed.

ADDITIONAL COSPONSORS OF BILLS

Mr. INOUYE. Mr. President, I ask unanimous consent that, at its next

printing, the name of the Senator from Wisconsin [Mr. NELSON] be added as a cosponsor of the bill (S. 3308) "to amend the act of October 4, 1961, relating to the acquisition of wet lands for conservation of migratory waterfowl, to extend for an additional 8 years the period during which funds may be appropriated under that act, and for other purposes."

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, at the next printing of S. 3557, to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of business development corporations. I ask unanimous consent that the name of the junior Senator from Maine [Mr. MUSKIE] be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KUCHEL. Mr. President, I ask unanimous consent that at the next printing of S. 3823 "to provide for the participation of the Department of the Interior in the construction and operation of a large prototype desalting plant, and for other purposes," the name of the distinguished junior Senator from Arizona [Mr. FANNIN] be added as a cosponsor.

The PRESIDING OFFICER (Mr. RUSSELL of South Carolina in the chair). Without objection, it is so ordered.

HEARINGS ON S. 3779, TO PROTECT CONSTITUTIONAL RIGHTS OF GOVERNMENT EMPLOYEES AND PROHIBIT UNWARRANTED INVASIONS OF THEIR PRIVACY

Mr. ERVIN. Mr. President, I wish to announce that the Subcommittee on Constitutional Rights of the Committee on the Judiciary has scheduled hearings on S. 3779, a bill to protect the constitutional rights of employees of the executive branch and prohibit unwarranted invasions of their privacy. The dates for the initial hearings are September 23 at 10:30 a.m. and September 28 and 29 and October 3, 4, and 5 at 10 a.m., in room 2228 New Senate Office Building.

At the hearing on Friday morning of this week, Mr. John Griner, president of the American Federation of Government Employees will testify. In the following weeks, the subcommittee will hear representatives of numerous organizations including the Bar Association of the District of Columbia, the American Civil Liberties Union, the Women's Bar Association, the National Association of Government Employees, the National Association of Internal Revenue Employees, the Federal Professional Association, the National Federation of Federal Employees, the United Federation of Postal Clerks, the National Letter Carriers Union, the Association of Customs Inspectors, and the Government Employe's Council. Members of the Civil Service Commission have also been invited.

Mr. President, the mail and telephone calls from employees all over the country indicate extensive concern about the problems S. 3779 is designed to remedy. I hope that the initial hearings will help us refine the language of the bill where necessary to provide additional protections for the basic constitutional rights and liberties of those several million American citizens who also are employees of Government. They should also assist us in developing any amendments necessary to assure the maintenance of a proper balance between the needs of Government and the rights of its employees.

NOTICE OF HEARINGS ON NOMINATIONS OF EDWARD J. BOYLE, SR. AND ALVIN B. RUBIN, OF LOUISIANA, TO BE U.S. DISTRICT JUDGES, FOR THE EASTERN DISTRICT OF LOUISIANA

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that public hearings have been scheduled for Wednesday, September 28, 1966, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Edward J. Boyle, Sr., of Louisiana, to be U.S. district judge, eastern district of Louisiana, vice Robert A. Ainsworth, Jr., elevated.

Alvin B. Rubin, of Louisiana, to be U.S. district judge, eastern district of Louisiana, to fill a new position created by Public Law 89–372 approved March 18, 1966.

At the indicated time and place, persons interested in the hearings may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas [Mr. MCCLELLAN], the Senator from Nebraska [Mr. HRUSKA], and myself, as chairman.

NOTICE OF RECEIPT OF NOMINATION

Mr. FULBRIGHT. Mr. President, as chairman of the Committee on Foreign Relations, I desire to announce that today the Senate received the nomination of Francis J. Galbraith, of South Dakota, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Singapore.

In accordance with the committee rule, this pending nomination may not be considered prior to the expiration of 6 days of its receipt in the Senate.

PRODUCTION AND CONSTRUCTION SLOWDOWN IN AUGUST INDICATES SUSPENSION OF INVESTMENT CREDIT MAY BE WRONG MEDICINE

Mr. PROXMIRE. Mr. President, Senators should take a long look at the hard economic facts of life before voting for the President's program designed to slow down industrial production further.

Recently I pointed out on the floor of the Senate that there are increasing indications that the long economic boom may be coming to a close without any tax increase or suspension of investment incentives. I referred to the Government's daily index of 13 industrial raw materials which had declined from 125 last March to 109 in the past month.

Industrial raw material prices characteristically tend to edge off at the top of booms while other wholesale and most retail prices are still rising.

Economic indicators, a report for the Congressional Joint Economic Committee, issued this morning, reports that new factory orders for durable factory goods fell to a seasonally adjusted $23.1 billion in August, down 4.5 percent from July, and the smallest since last November. Incidentally, new orders for machinery and equipment dropped by $346 million or 6 percent on a seasonally adjusted annual basis. Senators should note that this was before the President asked Congress to cut investment incentives.

Machinery and equipment would be most directly hit by the President's recommendation. In fact, the effect would be to slow down investment in machinery and equipment, since the purchases would be of the kind to enable the businessman to take advantage of the investment credit.

But orders for equipment did fall sharply last month. Durable goods shipments also declined. The order backlog grew more slowly than in July. Construction spending in August slowed to a seasonally adjusted annual rate of $72.8 billion, a drop of half a billion from July, and a huge $5 billion below last March. This reduction brought the construction spending rate down almost precisely to the level of October, 1965.

All of this, Mr. President, raises serious question about action to end the investment tax incentive. For accelerated depreciation and the investment credit. This is especially true since the suspension of the tax incentives cannot have their prime effects for a year or more.

Certainly this recent slowdown in the industrial economy emphasizes the need for policies that will act swiftly to slow inflation now, and that can be promptly reversed to speed up economic activity if the slowdown deepens into recession or seriously growing unemployment.

This is what a sharp cutback in Federal spending will do. It is what suspension of the investment credit and of accelerated depreciation will not do.

FOOD-FOR-PEACE AGREEMENT PAVES WAY FOR SCHOOL MILK

Mr. PROXMIRE. Mr. President, the morning news contains the very gratifying report that Senate and House conferees yesterday agreed on a food-for-peace bill. The conferees are to be congratulated for resolving the differences on this legislation to help provide food for needy persons in other countries.

With the food-for-peace bill now out of the way, it is to be hoped that the same conferees can now turn their attention to the Child Nutrition Act. This is the bill that would extend the special school milk program beyond its present expiration date of June 30, 1967.

As Senators are aware, I have long urged that the special school milk program be made permanent. The Child Nutrition Act would not meet this need but it would extend the program for 3 year beyond next June. That is a satisfying beginning toward a permanent school milk program and a move which

I heartily recommend to the conferees and to my colleagues in the Senate.

I am confident that this vital program to provide nourishing milk for our children will soon receive the attention of the conferees as we enter the waning days of the 89th Congress.

WE SHOULD TAKE A LARGE NUMBER OF OUR SOLDIERS AND THEIR DEPENDENTS OUT OF WESTERN EUROPE

Mr. YOUNG of Ohio. Mr. President, as early as April 1963 I spoke out, as I do now, urging the withdrawal of our troops from Western Europe. At that time, I remember I stated my views that we Americans had reason to be thankful that General de Gaulle was a farsighted leader of his nation and had been doing much to reestablish France as a strong nation; that he admittedly had a Napoleonic complex and dreams of France as she was in the 18th century, but I said at times that we should not take offense. He wants our soldiers to go home and we should be glad to bring them home.

De Gaulle and France, with the support of West Germany and other nations at a time two decades after World War II, should certainly be able to protect themselves. They are prospering as never before and can readily spend their own money for their own defense.

I recall again in November 1963, I spoke out in Ohio that our allies in NATO, particularly France and England, had utterly failed to fulfill their commitments. England, for example, obligated for 55,000 troops in West Germany had but a fraction of that amount. France had withdrawn troops. Operation Big Lift was to demonstrate to Khrushchev that in the short space of 70 hours we are able to transport a complete armored division by air to West Germany ready for combat against aggression. With the advance of science, hundreds of thousands of U.S. servicemen and their dependents now abroad are no longer needed. Our missile power and Polaris manned submarines made this unnecessary. Spending by men in our Armed Forces and their dependents overseas had contributed largely to our Nation's balance-of-payments problem. Operation Big Lift demonstrated to Red China as well as to the Russians our ability to place our military might very rapidly over great distances. We laid on the line to our allies exactly what we intend by Operation Big Lift and that we proposed to bring many servicemen home. They should be stationed where there is greater need for them or they should be permitted to return to civilian life.

Later, in April 1964, I recall speaking out about the good news of the Pentagon's announcement that 7,500 U.S. troops will be returning home from Germany beginning in May of that year. I said again that too many American servicemen were stationed abroad at great expense to our Government and causing undue hardship and separation for many families and spending too much money overseas, and that we had clearly demonstrated our tremendous airlift capability which allows us to fully back up a reduced force in Europe in a matter of hours. Also, new scientific technology and our tremendous fleet of Polaris missile submarines capable of roaming the seven seas and pouring nuclear warheads on enemy targets 2,000 and more miles distant made a cutback of troops feasible. The reduction would cut defense expenditures abroad and significantly ease the outflow of gold from this country. Our allies utterly ignored their responsibility to bear an increased share of their own defense. Neither France nor Britain met their NATO troop commitments. If more men were needed, why not Frenchmen, Germans, and Englishmen? We have no intention of abandoning Europe. However, it is only right that American servicemen be stationed where they are needed.

Early in 1965 I again spoke out, saying that we were making a mistake in maintaining 340,000 members of the Armed Forces and their dependents in Western Europe 20 years after World War II while at the same time increasing the draft to maintain our troop levels because of commitments to Vietnam. I said then, and I say again, that we should order returned to the United States at least half of our GI's now in Europe together with their dependents and thousands of American civilian employees. Not only would this make available more men for possible assignment to southeast Asia, but it would also help to solve our balance-of-payments problem. Duty tours in Europe should be limited to 1 year and dependents of servicemen should remain home. Instead of having the families of officers and enlisted men stationed with them in foreign countries—living like squawmen instead of well fighting men—we should seek to establish a mobile, lean fighting-man force. The grim and apparently increasingly desperate situation in Vietnam shows that now is the time for us to trim the fat from our troop assignments the world over. Then, we can meet our commitments in Vietnam and elsewhere without undue enlargement of our Armed Forces. It seems nit picking when Americans are asked not to take vacations overseas so as to ease the gold drain problem, while at the same time we maintain a million soldiers and civilians in foreign countries in nearly every part of the world, many in countries where the people and government officials evidence a great dislike for us. Furthermore, this is in reality foreign aid—spending American taxpayers' money helping the economy of West Germany and France, already at an all-time high.

Since World War II, Europe has left its defense up to us. We are there in force as a conquering power. Maintaining a million soldiers overseas in Asia, Africa and Europe has caused a burden on our economy. Is it not time for us to withdraw most of our GI's from Europe? The West German and French Governments should relieve us of some of this excess pressure. Why should not these highly prosperous nations defend themselves with their own soldiers from any threatened Russian aggression, which at the moment is nonexistent? They, our allies, have given us no aid whatever in Vietnam. Little Korea has sent more than 20,000 of its finest troops to fight alongside our soldiers. Also, maintaining a large force in Western Europe has resulted in bad relations with the civilian population. German and French Government leaders keep their own forces smaller. We bear their burden. The outflow of gold from our country is not really due to Americans tourists traveling abroad. Unfortunately, at this time we are maintaining nearly 400,000 men and officers of our Armed Forces in West Germany, France and Spain. In addition, we maintain approximately 370,000 dependents there. Also, we foolishly entered into an agreement with the West German Government to employ only German nationals as clerks in our commissaries, PX's, and so forth, thereby depriving some wives of GI's of an opportunity to be gainfully employed. The cost of maintaining our troops plus the expenditures of service families compelled to rent houses and apartments of German and French landlords at exorbitant prices have helped reduce our gold reserves. The Spanish dictator, Franco, also profiteers at our expense.

Following World War II, there was a bitter cold war raging with the Soviet Union and there was a threat of aggression which required the presence of our Armed Forces to deter the Russians. Stalin was then dictator of the Soviet Union. That threat of aggression no longer exists. The threat of military aggression by the Communists in Europe has all but vanished. The present rulers of the Soviet Union are no longer rattling their missiles. The Russians are veering toward capitalism. The Soviet Union is no longer a have-not nation. Its leaders now appear principally dedicated to the objective of raising the standard of living of their people. At the present time we are contributing up to approximately one-third of the manpower and almost 80 percent of the cost of defending Western Europe.

From 1945 to 1966 we gave France more than $9 billion, Italy more than $6 billion, and Western Germany more than $5 billion. These nations, which have become rich and prosperous, show anything but enthusiasm about coming to our aid and assisting us in Vietnam. Not one has sent even one soldier to South Vietnam.

Mr. President, at the very best our troops in France and in the NATO countries must be considered as a token force rather than an effective striking force. We can improve our military and financial situation greatly by bringing most of our Armed Forces and their dependents home.

CAN WE CONTROL THE WAR IN VIETNAM?

Mr. McGOVERN. Mr. President, Dr. Henry Steele Commager, one of the Nation's most thoughtful historians, has authored an article on the Vietnam conflict entitled "Can We Control the War in Vietnam?"

Writing in the September 17, 1966, issue of the Saturday Review of Literature, Dr. Commager observes:

Wars rarely come because they are carefully planned and deliberately launched—not ours anyway—but because circumstances get out of control. They come, most of them, notwithstanding earnest and even sincere efforts to avoid them.

Referring to our involvement in Vietnam, Dr. Commager writes:

Now, once again, we are involved in a war that began, quite fortuitously, as a minor action and developed into a major one. . . But the one thing that is inescapably clear is that nothing is really under control. . . . The record of no other war in our history is so littered with the bric-a-brac of miscalculations, misguided policies, and mistaken predictions.

I ask unanimous consent that this thought-provoking article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAN WE CONTROL THE WAR IN VIETNAM? WHAT HISTORY TELLS US ABOUT "LIMITED CONFLICTS"

(By Henry Steele Commager)

It is in Vietnam that we are fighting, but the ultimate enemy—so we are assured with anxious eloquence—is China. The "aggression" we are called upon to stop is "Communist aggression," and the Communism we are asked to contain is Chinese Communism.

That China is Communist is not denied, and that it is militaristic and aggressive is taken for granted, for after all is this not the very nature of Communism? With every year China grows more powerful and more intractable. Already it has a population of 700 million; already it is well on the way to industrialization; already it has the atomic bomb. Clearly—so the argument runs—it is China that inspires and sustains the war in Vietnam, supplying, if not the men, all other necessities of war. If our intervention should fail of its objectives—whatever they are—it is not Vietnam that will win, but China. And if China is victorious in Vietnam what is to prevent it from moving on to Laos and Cambodia, Thailand and Burma, then to the Philippines and Indonesia, and ultimately—the imagination boggles—into Japan, Australia, and India?

Meantime, we carry the war ever closer to China. Now we bomb within a few miles of the Chinese border; now we engage in "hot pursuit" over Chinese territory; now we grimly warn that there is no sanctuary for enemy planes on Chinese soil. And China, in turn, feels itself surrounded and beleaguered: a hostile Soviet Russia pressing on the long boundary to the North and controlling territory historically Chinese; American bases in Japan, Okinawa, the Philippines, and Taiwan; the Seventh Fleet—most powerful on the globe—ruling the South China Sea; giant bombers based on Guam; almost 300,000 soldiers in Vietnam with more on the way.

We are alarmed—and so are the Chinese—and when two powerful and proud antagonists are alarmed, almost anything can happen. Senator FULBRIGHT and many of his Senatorial colleagues think we are on a "collision course" with China, a view which the Chinese themselves share. Meantime, Secretaries Rusk and McNamara assure us that our own government has no intention of broadening the war. And the military, in turn, however much some of its members might yearn for a showdown now rather than later, discount the notion that China is able to engage in a major war.

There is, alas, neither comfort nor reassurance in all this. Wars rarely come because they are carefully planned and deliberately launched—not ours anyway—but because circumstances get out of control. They come, most of them, notwithstanding earnest and even sincere efforts to avoid them. To assume that statesmen, or military men, sitting in distant capitals, can manipulate the great, seething, and tumultuous process of history as they might manipulate pieces on a chessboard is to ignore the lessons of the past. The lessons of the past are not those implicit in the arguments of a Kahn or a Kissinger; they are rather those explicit in the lines of Euripides:

"And the ends men look for cometh not,
And a path there is where no man thought
So hath it fallen here."

History, to be sure, tells us of wars that were quite deliberately planned. Napoleon knew just what he was doing when he renewed his war on Britain in 1803; so did Bismarck in his wars on Denmark, Austria, and France. Hitler planned his attack on Poland, Norway, the Low Countries, and Russia, and Japan carefully calculated its attack on Pearl Harbor. Such things, it will be said, belong to the bad Old World; they do not happen in the New. Indeed they do not. We do not plan our wars; we blunder into them. Doubtless this has its advantages: We can maintain to the end that we are a "peace-loving" people, even as we are locked in mortal combat with our enemies—who, of course, are not "peace-loving."

That is, in any event, the record of most of our wars. Let us see what light that record throws on the problem that confronts us now.

Begin with the first of our wars, the War for Independence. It is pretty clear that neither the Americans nor the British wanted war in 1775; it is equally clear that neither people followed policies designed to avoid it. Certainly Colonel Smith, who marched so bravely out on the Concord road to capture the gunpowder stored in that town, did not realize that he was inaugurating a great war, nor did the embattled farmers who fired the shot which Emerson later asserted was heard 'round the world. Neither George III nor Washington wanted war, and though Lexington and Concord were fought in April 1775, the Continental Congress was still debating war and independence a year later. And as late as 1776 Washington, John Adams, Thomas Jefferson, and other American leaders are on record as deprecating both independence and war. But war came.

Certainly few wanted and fewer expected war in 1812. That war is, indeed, a classic example of the role of chance and of blundering. The British were too absorbed in their war on Napoleon to give any serious thought to American grievances; certainly they had no desire to take on another enemy. Americans protested against illegal impressment and Indian depredations, but had little stomach for a fight. New England did not want war, and sabotaged it when it came; the belligerence of the West has been exaggerated, and it was in any event a belligerence against Indians. When, in 1812, war finally came, it was unnecessary, for the British had already repealed the odious Orders in Council, the ostensible provocation for war. Nevertheless the war came.

As for the next major war, that with Mexico, it is fair to say that it was ardently desired by some, bitterly opposed by others. Santa Anna probably did not want war, but he wanted to indulge in gestures that might provoke war. Polk did, no doubt, want war, and so, too, did a good many Texans, and, supporting them, a good many land-hungry Middle Westerners. The South was not enthusiastic; New England abolitionists charged that the war was fought merely to get "bigger pens to cram slaves in." Certainly there was no need for war; had reason and not passion been in control, the disputes that agitated Mexico, Texas, and the United States could have been negotiated. The Mexican War is a classic example of the way in which a determined President can maneuver the country into a war neither popular nor necessary.

The Civil War, greatest of our wars, was by no means that "irresistible conflict" which Seward predicted. Neither North nor South really wanted war; Southerners hoped to the end that the North would allow them to go in peace; Northerners hoped, to the end, that the "erring sisters" would in fact return to the fold. So said Oliver Wendell Holmes: in an appeal to "Caroline, Child of the Sun":

"Go, then, our rash sister, afar and aloof,
Run wild in the sunshine away from our roof;
But when your heart aches and your feet have grown sore,
Remember the pathway that leads to our door."

Lincoln put it more sadly in his second Inaugural Address:

"Both parties deprecated war, but one of them would *make* war rather than let the nation survive, and the other would *accept* war rather than let it perish, and the war came. . . . Neither party expected for the war the magnitude or the duration which it has already attained. . . . Each looked for an easier triumph and a result less fundamental and astounding."

When secession came, Lincoln allowed Sumter to fall rather than fire the first shot, and Seward contrived a fantastic plan to reunite the nation by warring on Britain and France. All in vain. Events ruled and overruled the plans of men.

The war with Spain was, if not planned, widely desired and widely popular, for American distrust of Spain was deep-rooted, and American sympathy with the heroic Cubans struggling for independence was ardent. President McKinley, to be sure, tried somewhat ineffectually to avoid war over Cuba, but lacked the backbone to put up any real resistance to the war-mongers. War might have been avoided—Spain was prepared to make almost any concessions—had it not been for the bad luck of the explosion of the battleship *Maine* in Havana harbor. There was no evidence at the time that the Spaniards had blown up the *Maine*, and there has been no evidence since, but the country was not interested in evidence. Spain was held responsible for the foul act, and "Remember the *Maine*" echoed across prairie and plain. That fortuitous event was the fuse which set off the war, just as the ineffectual firing on a U.S. destroyer in the Gulf of Tonkin was the fuse that set off the war on North Vietnam. In both cases an administration pledged to peace eagerly seized on a pretext to wage war.

It was, said Theodore Roosevelt, "a splendid little war." The war that grew out of it was not at all splendid, and took everyone by surprise. Indeed so surprising was it that—like the present enterprise in Vietnam—it was not really a war at all. The Americans had liberated the Philippines from Spanish rule, and the Filipinos, or a substantial number of them, assumed that they were now free. But not at all. McKinley was not prepared to hand the islands back to Spain, nor to set up an international protectorate, nor to leave them alone, exposed to the wicked designs of other nations.

But the Filipinos, like the Vietnamese in 1945, thought that they had helped win their independence, and did not want any foreign, certainly not any Western, power to take over. They thought that independence from Spain meant an end to colonialism, and they were outraged when McKinley calmly assumed that they had nothing to

say about their fate. It did not, apparently, occur to McKinley that the Filipinos would oppose American rule of the islands, and when they did so, he reacted impulsively, almost instinctively, as we later reacted to Vietcong intransigence. He struck back, and we found ourselves engaged in just the kind of jungle warfare in which we are now once again embroiled.

That war dragged on for three years, and before it was over it had engaged 120,000 American troops—the equivalent then of our 300,000 now in Vietnam—and cost almost as many lives as the war with Spain. Like almost all wars between people of different races and colors, between a highly civilized and a more primitive people, this war speedily degenerated into the worst kind of guerrilla fighting, with barbarities and torture on both sides. Within a short time the United States found itself doing in the Philippines what it had condemned Spain for doing in Cuba, just as now we find ourselves doing in Vietnam what we condemned the Germans for doing in the last war.

The First World War affords the best—perhaps the only—example of a war which we entered upon deliberately. We moved toward war with our eyes open; we calculated the risks of fighting, and of not fighting; our decision to declare war was carefully weighed and calculated. Whatever the rights and wrongs of that decision—and looking back on it from the perspective of fifty years, there still seem to be more rights than wrongs—it cannot be alleged that this was an occasion where events overrode human judgment. We did not, of course, see the consequences of our involvement; even the eye of Woodrow Wilson could not penetrate that far into the future.

With the Second World War we were clearly back in the world of chance. Granted, Roosevelt had not been a passive spectator to the drama unfolding before us in Europe and in Asia; granted, too, that by 1941 we had moved, somewhat erratically, toward participation in a "shooting" war, with conscription swelling the ranks of our armed forces, our airplane and munitions factories working day and night, our protection extended to Iceland, and our Navy prepared to shoot submarines on sight. But the election of 1940, like that of 1916, had been fought on a platform that appeared to promise that the government would stay out of "foreign" wars. Public opinion was, in fact, unprepared for war in 1941. And when war came, it came not by our choice, but by the choice of Japan. Once again it could be said that we did not control events, events controlled us. We did not plan the war, controlling each move in a complex game; there were calculations, but they went awry; the moves and finally the game itself got out of hand.

The Korean War does not fit quite so neatly into this pattern of wars into which the United States blundered or strayed, but whatever else may be said of it, this can be said with certainty, that it was not a war we either anticipated or planned. The Korean War caught us by surprise as it caught most of the world by surprise, and so, too, did the ferocity of the fighting. The analogy to our involvement in Vietnam is not far-fetched: We plunged into what we took for a war of aggression; as we moved ever closer to the China boundary, China concluded that it was threatened (as indeed it was by MacArthur and the war hawks, though not by Truman) and itself plunged into the war. We are confident now that escalation of the Vietnam war will not bring in China, but our experience in Korea does not justify that confidence. Nor does it justify our confidence that we can, in the end, impose our will on all participants; in Korea we had to settle for something less than total victory, and to accept an armistice which still hangs over us.

Now, once again, we are involved in a war that began, quite fortuitously, as a minor action and developed into a major one. Because public relations, propaganda, and perhaps pride, are more insistent than ever before, we are assured, more persuasively than ever before, that everything is under control. No need to fear a further enlargement of the war; no need to fear war with China; no need to fear an atomic conflict. But the one thing that is inescapably clear is that nothing is really under control. Month after month, year after year, we have been misled and deceived. We have been told that the conflict in Vietnam was not a real war, that a show of force would bring it to an end; that the Vietcong were being decimated, and were deserting by the thousands; that a few days' bombing would bring North Vietnam to its knees; that we had at last set up a stable government; that the South Vietnamese army was a real fighting force; that the long-awaited social and land reforms were finally being fulfilled; that we had staunch allies who would surely come to our aid. But why go on? The record of no other war in our history is so littered with the bric-a-brac of miscalculations, misguided policies, and mistaken predictions.

Yet those responsible for this matchless record of confusion, self-deception, and error still have the temerity to assure us that everything is under control—their control. We are still asked to believe that the President and his advisors make all the decisions and direct all the actions, that they can calculate with certainty just how far the war will go and how far it will not go; that they can move the pieces on the chessboard of Asia with such deftness and skill that we need never fear that anything will go awry.

Confidence in our ability to control the war in which we are now so hopelessly entangled in part of that larger intellectual and moral vanity which is one of the most frightening features of the American character today. It is of a piece with those games theories which so fascinate the servants of the Rand Corporation, of a piece with Henry Kissinger's careful calculations of the tolerable limits of losses in a nuclear war—is it 50 per cent or 70?—of a piece with Herman Kahn's theory of controlled escalation of atomic warfare, all as neat and impersonal as a computer.

Those whom the gods would destroy they first make vain. To suppose that we are a special people, that we can not only foresee but control the future, that we can bestride the swift currents of history, that the choice of life and death for nations and even for Mankind has been delivered into our hands—this is a special and fearful kind of arrogance and pride. Nothing in our experience promises us that we can subdue the arrogance or conquer the pride.

NEAL S. BLAISDELL, MAYOR OF HONOLULU, ONE OF TRIMMEST FIGURES ON AMERICAN POLITICAL SCENE

Mr. INOUYE. Mr. President, Mayor Neal S. Blaisdell, of Honolulu, former chairman of the U.S. Conference of Mayors, is surely, at 64, one of the trimmest figures on the American political scene.

In an age when we are encouraged from all sides to remain physically fit, while at the same time we are artfully enticed to consume much of what is not good for us, Mayor Blaisdell remains an example for us all.

The mayor, a onetime athletic great, was featured in a recent column by Jim Murray, of the Los Angeles Times, one of this country's outstanding sportswriters.

I ask unanimous consent that Mr. Murray's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HIS HONOR THE MAYOR

(By Jim Murray)

When we think of a big-city mayor, we usually think of a corpulent old party, his stomach straining against his belt, his jowly face obscured by cigar smoke, pudgy fingers bedecked with diamond rings.

His only form of exercise consists of poker with the boys from the Fourth Ward, or an occasional shove of a forefinger into a pearl pushbutton to summon a sycophant so he can dictate a release taking credit for the sun coming up that morning. His dietary habits consist of a daily freeload of lobster and thick steaks washed down with good brandy and thick coffee. His body is as corrupt as his administration. Hizzoner the Pig.

Which is why I was so fascinated the first time I played golf with Neal Shaw Blaisdell, the long-time mayor of Honolulu. The waistline was 32, the stomach hard and flat. The grip was firm. The weight was 160 and the ball left the tee with the crisp click of an Arnold Palmer takeoff. The turn was as effortless and coordinated as Sam Snead's. The score was something else because the putting was rusty, and the play in the sand traps showed he hadn't been neglecting City Hall.

The age was 64. He is one-eighth Hawaiian, which could account for the tawny color, and seven-eighths Yankee sea trader, which could account for the fact he didn't like to lose money. He had been born in the islands, and his father before him, which meant plenty of sunlight and distance swims and strong legs. But he had put in 16 years in a pineapple plant once, which meant a mild onset of tuberculosis.

He was so different from the Eastern seaboard mayors of my youth, whose symbol of office was a belch, that I made some inquiries of his administrative assistant, Brian Casey, a young man 25 years the mayor's junior, who didn't put me in mind of Palmer or Snead or even George Halas, and who has managed to live in the islands 20 years without once getting his hair wet.

PROOF NOT LONG COMING

Blaisdell, it appears, does 150 pushups every morning of his life. A doubter once accosted him at an official reception, and, before the shocked gaze of the diplomatic assemblage, His Honor whipped off his shirt and tie, and dropped to the carpet to do 150 right then and there.

He once challenged to a fist fight a rival for his office who was 20 years younger and was himself a three-letter sport star in college. I know, because I went to college with that rival.

Neal Blaisdell was a three-letter star himself at the University of Hawaii, a left-handed pitcher good enough to get signed by the Chicago White Sox. He pitched for the old Baltimore Orioles, later for the Detroit Tigers. He coached at Bucknell in Pennsylvania after graduation there, and he was football and baseball coach at several Hawaiian high schools.

He lost his first pitch at being mayor of Honolulu but his ERA was so good the party (sort of whispering Republican) started him again the next game. That was 1954. He's been throwing shutouts in elections ever since.

He runs a polyglot island metropolis which has grown from a ukulele-strumming little

resort port to a harsh, strident, demanding strumpet of a city of nearly a million with all the problems of New York and where hardly anybody gets hit over the head with a falling coconut any more.

One son-in-law is Charles Ane, a mastodonic All-American lineman at USC and an All Pro with the Detroit Lions a few years back. Another is Jimmy Clark, another Hawaiian who ran for the Washington Redskins a few years ago.

The city is such a model of racial getting along with each other that I am prepared right now to recommend that other American cities scour the football and baseball locker rooms for guys who not only have curve balls or four-yards-per-carry averages, but who also have passed civics and have guts enough to straight-arm a city council once in a while as well as a defensive halfback. Then, instead of putting them on bubble gum cards, we can put them on ballots.

NEED FOR STRONGER GUN CONTROL LAWS

Mr. DODD. Mr. President, it has been a long and sometimes frustrating struggle to update and strengthen our Nation's gun laws. But I have always been able to take heart from the support of the general public and from State officials, police officers, and lawyers for an effective firearms bill such as S. 1592.

There have been attorneys general such as Thomas Lynch of California and Arthur Sills of New Jersey who against great odds have fought for stronger gun laws.

The National Association of Chiefs of Police, meeting in convention, almost unanimously supported the legislation now before the Judiciary Committee.

Also, one of the most distinguished of organizations, the American Bar Association, at its annual meeting in Montreal on August 8, for the second consecutive year adopted a resolution urging Congress to adopt this proposal.

Mr. President, I ask unanimous consent that the ABA resolution and an exchange of correspondence with me be printed in the RECORD at this point.

I hope that Senators will seriously consider the ABA's views when S. 1592 is brought up for a vote.

There being no objection, the resolution and correspondence were ordered to be printed in the RECORD, as follows:

AMERICAN BAR ASSOCIATION,
Chicago, Ill., August 29, 1966.

Hon. THOMAS J. DODD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DODD: At its meeting in Montreal on August 8, 1966, the House of Delegates of the American Bar Association, upon recommendation of the Section of Criminal Law, adopted the following resolution.

"Whereas, the House of Delegates in August, 1965 by an overwhelming majority approved federal legislation restricting the indiscriminate sale and transportation in Interstate Commerce of certain firearms; and

"Whereas, no action has been taken on this bill by the Congress of the United States; and

"Whereas, the need for this legislation is critical and of the utmost importance in the control of crime and violence; and

"Whereas, the President of the United States has urged the Congress to expedite action on this bill; Now Therefore Be It:

"Resolved, that the American Bar Association reiterates its approval, in principle, of the pending firearms control bill and urges the Congress to act upon this legislation at its present session."

This is being transmitted for your information and whatever action may be appropriate.

Very truly yours,
GIBSON GAYLE, Jr.,
Secretary.

cc: Gerald S. Levin, Esquire, Chairman, Section of Criminal Law; James V. Bennett, Esquire, Former Chairman, Section of Criminal Law.

SEPTEMBER 12, 1966.

Mr. GIBSON GAYLE, Jr.,
Secretary, American Bar Association,
Chicago, Ill.

DEAR MR. GAYLE: I appreciate your sending me the text of the American Bar Association's resolution urging enactment of firearms legislation now pending in the 89th Congress.

The Association's endorsement of S. 1592 in 1965 represented, I felt, a major stride forward in moving the bill through the legislative process. It is, therefore, encouraging to know of the Association's reaffirmation of support, in principle, for enactment of the legislation.

With strong support of this nature, I am certain it is only a matter of time before S. 1592 is enacted into law.

I intend to bring the Association's resolution to the attention of the membership of the Judiciary Committee at our next meeting, in view of the fact that S. 1592 is the pending order of business.

With every good wish, I am,
Sincerely yours,
THOMAS J. DODD,
Chairman.

PRESIDENTIAL VETO OF FEDERAL EMPLOYEES LIFE INSURANCE FUND BILL WAS UNJUSTIFIED

Mr. GRUENING. Mr. President, it was with deep regret that I noted the President had vetoed H.R. 6926 which would have increased life insurance coverage for Federal employees.

This bill was essentially a modest proposal.

As originally recommended by the President, the life insurance coverage for Federal employees would have been increased, at an annual cost of $12 million, for the upper echelon Federal employees with the maximum coverage raised from the present $20,000 to $30,000. This would have been of benefit only to a few thousand high-ranking Federal employees. It would have given no benefits to the 2½ million Federal employees who earn less than $20,000 a year.

After long and careful hearings, the Senate Committee on Post Office and Civil Service recommended and the Senate adopted an amendment to the House-passed bill, raising the coverage for all Federal employees at each level and raising the maximum coverage to $42,000. The additional annual cost would have been $78 million.

The President, in his veto message, objected to this additional $78 million cost as inflationary.

I am opposed to unnecessary Federal spending as much as anyone else but I cannot see economy being obtained at the expense of long-overdue benefits for Federal employees, to whom much is owed.

If $78 million stands between this country and runaway inflation then we are indeed in a sorry state. I cannot believe that this is so.

This proposal would not have been a gratuity to Federal employees. They themselves must pay part of the cost of the insurance premiums and to that extent the proposal would have been deflationary.

This veto must be ascribed to the ever-rising costs of the tragic involvement of the United States in an undeclared war in Vietnam, the costs of which in terms not alone of money but of injured and dead American servicemen are steadily escalating.

It is indeed unfortunate that the mounting costs of that undeclared war must be borne in disproportionate share by the lower paid faithful Federal employees.

It is unfortunate that there will be no attempt made during this Congress to override this veto. I hope that the able and distinguished senior Senator from Oklahoma [Mr. MONRONEY], the chairman of the Senate Committee on Post Office and Civil Service, will, early in the 1st session of the 90th Congress, report a measure to the Senate which will accomplish the objectives of H.R. 6926.

DANGERS FROM CIGARETTES

Mr. KENNEDY of New York. Mr. President, I ask unanimous consent to have printed in the RECORD an article written by Jane E. Brody and published in the New York Times of August 30, 1966. This article describes an experiment conducted by Dr. George E. Moore of the Roswell Park Memorial Institute in Buffalo. The experiment showed that none of the filters on the cigarettes tested completely removed tar and nicotine. The study also shows that some filtered cigarettes release more tar and nicotine than some unfiltered cigarettes.

As Dr. Moore has previously pointed out, lung cancer, emphysema, cardiovascular diseases, and other ailments are known to occur more frequently among smokers than among nonsmokers. The article leads me to question whether any cigarette can be regarded as safe.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SEVERAL FILTER TIPS FOUND "INEFFECTIVE"

(By Jane E. Brody)

The filter tips of several brands of cigarettes are "ineffective" in screening out "harmful" tars and nicotine, according to a study released yesterday.

In two of the nine brands tested in the study, the filter tip cigarettes let through more tars and nicotine than did unfiltered cigarettes of the same brand.

The study was done at Roswell Park Memorial Institute, New York State's cancer research and treatment center in Buffalo. Dr. George E. Moore, director of the institute, said some filters were doing a better job than others, but none was really pro-

tecting smokers from lung cancer, emphysema, cardiovascular diseases and other ailments that are known to occur more frequently among smokers than among nonsmokers.

Despite a number of studies showing that smokers have higher death rates from all causes than do nonsmokers, tobacco companies have maintained that no substance in cigarette smoke has yet been shown to cause disease in humans.

However, studies on animals have implicated cigarette tars in the development of cancer and nicotine in the development of cardiovascular diseases.

Dr. Moore said in a telephone interview yesterday that the less tar that passed to the smoker the less likely he would be to develop cancerous tumors.

He noted that some filter tips allowed nearly three times more tars and nicotine to pass through than did others.

"Some smokers are getting some protection, but others are not getting any, and the consumer has no way of knowing which filter is better. It's almost fraudulent," Dr. Moore said.

Cigarette advertising has given smokers the "impression that just because a cigarette is filtered, then it is helpful in cutting down tars and nicotine. This is simply not true," the doctor added.

The study showed that Pall Mall filter tip cigarettes passed through more tars and nicotine than Pall Mall regulars.

For the filter tips, the smoke contained 43.3 milligrams of tar and 2.13 milligrams of nicotine for each cigarette. These unfiltered Pall Malls passed 32.7 milligrams of tar and 1.75 milligrams of nicotine. A milligram is .00003 of an ounce.

Dr. Moore said, "The reason for this is that the Pall Mall filter tip cigarette is a longer cigarette than the plain, thereby allowing the smoker to smoke more tobacco, and it apparently has a poor filter."

Although the filter tip and regular cigarettes have the same length of tobacco, the smoker tends to smoke more of the available tobacco in the filter cigarettes, he said.

A similar situation was found with Chesterfields, where the filter tip cigarette passed 27.6 milligrams of tar and 1.72 milligrams of nicotine and the regular passed 27 milligrams of tar and 1.18 milligrams of nicotine.

In addition, it was found that Lucky Strike filters allowed 27.3 milligrams of tar to pass through, while regular Lucky Strikes passed 27.2 milligrams of tar. However, Lucky Strike filters allowed 1.34 milligrams of nicotine to pass through, while the regulars passed through 1.42 milligrams.

Of the nine brands tested, True filter cigarettes was found to be most effective in screening out harmful substances. Smoke from one True cigarette contained 16.9 milligrams of tar and .79 milligrams of nicotine.

The other brands tested, in the order of the effectiveness of their filters, were Kent, Marlboro, Winston, Lark, Salem and Lucky Strike.

The tests were made by a "smoking machine," which automatically puffed once a minute with the same amount of pressure until each cigarette had reached the average length at which smokers usually discard them—slightly less than an inch. With extra-long filter tips, the throw-away length was about one inch.

Tars and nicotine were gathered by a Cambridge filter fitted into a holder behind each cigarette. This filter, commonly used by tobacco companies in their own studies, removes all visible particles from the smoke.

After removal from the smoking machine, each filter was weighed to determine the amount of tars collected. Nicotine content was determined by boiling the filter, collecting the condensate and analyzing it for nicotine content by ultraviolet light.

Dr. Moore declared that "the tobacco industry apparently realized that the public wants safer cigarettes." He noted that the production of filter tip cigarettes rose from 2 per cent of the total cigarette output in 1952 to 64.7 per cent in 1965.

Reaction to the study from cigarette manufacturers varied from pleasure to "no comment" to "our studies show differently."

P. Lorillard Company, makers of Kent and True, said it was "delighted" to learn that its brands had received "such a favorable report."

Philip Morris, makers of Marlboro, and R. J. Reynolds, makers of Winston and Salem, had no comment on the study. Liggett & Myers, makers of Lark and Chesterfield, said no one was available yesterday who could comment.

The American Tobacco Company, which manufactures Pall Mall and Lucky Strike, said that according to company studies, its filters cut down on tar and nicotine passing into the smoke.

"The effectiveness of the filter can be seen only when you compare the amount of tobacco and nicotine per inch of tobacco smoked of a filter and unfiltered cigarette," a spokesman explained.

American also noted that True cigarettes were listed as most effective but that "they have not used our brand of Carlton cigarettes. Our tar and nicotine numbers, printed on the package itself, are much lower than on True filter cigarettes."

F.T.C. STUDY URGED

WASHINGTON, August 29 (AP).—Senator WARREN G. MAGNUSON, chairman of the Senate Commerce Committee, urged the Federal Trade Commission today to investigate the report that certain filter cigarettes allowed more tar and nicotine to pass through than the same brands' nonfilter cigarettes.

The Washington Democrat has introduced legislation to require cigarette packages and advertisements to state tar and nicotine contents.

Finds of the tests on cigarette filters

Following are the findings of the Roswell Park study of filter tip cigarettes. The list runs from the least of the most effective filter. All figures are in milligrams:

Brand	*Tar*	*Nicotine*
Pall Mall filters	43.3	2.13
Pall Mall regulars	32.7	1.75
Chesterfield filters	27.6	1.72
Chesterfield regulars	27.0	1.18
Lucky Strike filters	27.3	1.34
Lucky Strike regulars	27.2	1.42
Salem filters	23.6	1.43
Lark filters	23.1	1.26
Winston filters	22.9	1.32
Marlboro filters	22.4	1.24
Kent filters	18.8	1.10
True filters	16.9	0.79

FEDERAL CONTROL OF SCHOOLS

Mr. ROBERTSON. Mr. President, yesterday a civil rights bill which contained a housing provision that was not acceptable to any section of the Nation was dropped, but only for the remainder of the current session. A similar bill undoubtedly will be introduced at the beginning of the next session of Congress, and according to Representative FINO, of New York—see page 22754 of the CONGRESSIONAL RECORD of Thursday, September 15—it will include, or be accompanied by, a far-reaching proposal of the U.S. Commissioner of Education to provide for compulsory integration through redistricting and busing metropolitan areawide public schools.

In connection with the latter bill, Representative FINO quoted the Commissioner, Harold Howe, as saying:

> If I have my way, schools will be built for the primary purpose of economic and social integration.

Mr. President, some in Virginia have called me a reactionary, because I have refused to support a Federal program of aid to public schools. When I was a candidate for the State senate in 1915, two major planks in my platform were better roads and better schools because, of course, in rural areas they of necessity go together. I have been for better roads and better schools ever since. The founder of the Democratic Party, Thomas Jefferson, was the great liberal of his day and time. I have been a student of and a firm believer in the Jeffersonian principles of representative democracy. He advocated a system of public schools for Virginia, but they were to be locally controlled. When the public school system of Virginia was finally established long after Jefferson's death, it was on the basis of local control.

In my opinion, a majority of Virginians still favor that Jeffersonian principle, but I have served in the Congress long enough to know that Federal control inevitably accompanies Federal funds. Anyone who says he favors Federal funds without Federal control is either ignorant of how the Federal Government operates in these matters or else is not intellectually honest about what is involved. In fact, Commissioner Howe has publicly stated that desegregation in public schools is but a start of his program for Federal control.

Under the proposed legislation, Federal control will cover the qualification and assignment of teachers, curricular specifications on a par with the interstate road specifications, the elimination from acceptable textbooks of any material to which a major pressure group objects, and surburban-inner city pupil exchanges.

The pending case of Hobson against Hansen, involving de facto segregation in the public schools of the District of Columbia, illustrates the potential of Federal controls for the adjoining States of Virginia and Maryland and eventually for the entire Nation. That case involves the right of District of Columbia school authorities to cross the State lines of Virginia and Maryland to increase the percentage of white children from the adjoining States in District schools and the percentage of colored students in the adjoining metropolitan areas of Virginia and Maryland.

The impact of the adoption of that principle upon the school systems of all States is illustrated in the leading editorial of the Richmond News Leader of September 19, 1966, entitled "The Judge Has Spoken."

Mr. President, I ask unanimous consent that the editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Richmond (Va.) News Leader, Sept. 19, 1966]

THE JUDGE HAS SPOKEN

Usually when a case comes to court, the plaintiffs have some doubt about the outcome—for indeed, the very reputation of justice depends upon at least the outward appearance of objectivity upon the bench. But in the celebrated schools case of *Hobson* v. *Hansen*, now being argued in the Federal District Court in the District of Columbia, the appointed Judge already has committed himself publicly upon the issue under litigation; the Judge has spoken not only publicly, but spectacularly, vehemently, and precisely on the question at stake. Yet so far, the special Federal Judge, J. Skelly Wright, has not moved to disqualify himself.

Moreover if Judge Wright follows the recommendations he himself made a year and a half ago, the case will have a profound and direct effect upon the school systems of Northern Virginia and Maryland. On February 17, 1965, Judge Wright delivered the James Madison Lecture at the New York University School of Law. He spoke about legal remedies for *"de facto* segregation." He argued that the courts should abandon "judicial restraint," and outlaw any discrimination which might result from the lines of historic school districts, *even if it were necessary to cross the boundaries of political divisions.* His lecture alluded again and again to the situation in Washington, D.C. He left it clear that there was no way to provide "equal" education in Washington, without a court order to bring together the children of Washington and the children of the Virginia and Maryland suburbs into great, centralized "educational parks."

The unofficial speculations of Judge Wright before the NYU School of Law (since published in two law journals) suddenly took on a large significance last January when Julius W. Hobson and a group of white and Negro plaintiffs filed suit against the Washington public schools asking relief from *de facto* segregration in the system. Hobson, a civil rights militant, and his group also sought to dissolve the D.C. School Board, which, under the provisions of the D.C. Code (set by Congress), is appointed by the Federal District Court judges sitting together. The suit therefore was not only against Carl F. Hansen, the redoubtable Superintendent of Schools, but also against the School Board and the Federal District Court as well. Since Hobson therefore sought to sue the very judges who supposedly had jurisdiction in the case, the Chief Circuit Judge appointed another judge—J. Skelly Wright, who normally sits on the D.C. Court of Appeals.

The key factor in the case is that 90 per cent of the pupils in the D.C. system are Negro, and only 10 per cent are white. No matter what Superintendent Hansen were to do, he could not achieve "racial balance" in his schools. Yet since the *Brown* case of 1954, ideologues have held that all-Negro education is inherently inferior. And Hobson is beseeching the court to make the D.C. system provide "educational opportunities, advantages, and facilities . . . equal to [those] afforded and available to white children at public school age similarly situated in adjoining, adjacent, and contiguous areas of Maryland and Virginia." On the face of it, "equality" cannot be obtained without mixing students from the two States and the District.

Hobson's thesis is exactly what was propounded by Judge Wright in his lecture. "Negro children," he says, "suffer from lack of exposure to the middle class culture found in white but not in Negro schools." And again: "Thus children compelled by State compulsory attendance laws to attend the segregated Negro school are deprived of equal protection of the law. The fact that the classification to attend the school is based on geography, and not on race, does not necessarily make the school less segregated or less inferior."

Therefore he argues that school district lines may be unconstitutional no matter what the intent:

"Where the result is segregation, and therefore unequal educational opportunity, the classification used, whatever it is, is constitutionally suspect and a heavy burden is placed on the school board and the State to show, not only innocent intent, but also lack of a suitable alternative."

Judge Wright, in his lecture, specifically touched on the issue now under litigation.

"A judgment must be made in each case based upon the substantiality of the imbalance under particular circumstances. Once substantial racial imbalance is shown, however, no further proof of unequal educational opportunity is required. What may be substantial imbalance in Boston, where the Negro school population is relatively small, may not be in Washington, where the Negro population is approaching 90 per cent. Numbers alone do not provide the answer. The relevant population area is an important consideration. Is the relevant area the city alone or the suburbs as well?"

Judge Wright answers his own question:

"An even more difficult problem is presented by the flight of the white population to the suburbs. The pattern is the same all over the country. The Negro child remains within the political boundaries of the city and attends the segregated slum school in his neighborhood, while the white children attend the vastly superior white public schools in the suburbs. . . . Obviously court orders running to local officials will not reach the suburbs. Nevertheless, when political lines, rather than school district lines, shield the inequality, as shown in the reapportionment cases, courts are not helpless to act. The political thicket, having been pierced to protect the vote, can likewise be pierced to protect the education of the children."

Judge Wright envisions court orders not only to local school boards, but to State officials as well. If Hobson wins his case, therefore, one might expect to see Virginia education authorities instructed to prepare a plan of integration with the District; and Maryland likewise, even if this should require massive central parks and elaborate busing. U.S. Education Commissioner Howe doubtless will be there with his hand on the Federal pipeline.

Finally, Judge Wright foresaw the day when District Courts, such as his, would have power to direct the educational systems of the nation:

"Undoubtedly, if and when the Supreme Court tackles the suburban vis-a-vis the city slum school problem, in the event of a decision in favor of the complainants, it will again remit the remedy to the District Courts, with instructions to ignore the State-created political lines separating the school boards and to run its orders directly against the State, as well as local officials."

Clearly, Judge Wright was an acknowledged partisan in the Hobson issue long before he was appointed to hear the case. It is difficult to see how Superintendent Hansen and his associates can get an objective hearing. Thanks to this special assignment, Judge Wright need not wait for the Supreme Court; he is in a unique position to order his own theories into effect. Virginia's Congressmen ought to be protesting vociferously against this Judge who has already judged.

FREE SPEECH AT BERKELEY

Mr. DODD. Mr. President, for some time we have been faced with headlines from the University of California at Berkeley concerning what at one time was a free speech movement, which later became an anti-Vietnam war movement, and which has involved stopping troop trains on their way to the Oakland Army Terminal, and an attempt at physically taking over the university.

Month after month has been filled with such new items as a student sit-in at the university administration building, a demonstration against the appearance at Berkeley of U.S. Ambassador to the United Nations Arthur Goldberg, the growing use of various kinds of narcotics and drugs, and the general degradation of the academic atmosphere at this great American university.

Instead of advancing freedom at the University of California, student and faculty activists have, in reality, eliminated the entire atmosphere of free and open discussion and debate. This is the conclusion of Prof. Lewis S. Feuer who, after 9 years of teaching philosophy and social science at Berkeley, has left to become profesor of sociology at the University of Toronto.

What has happened to the concept of free speech at Berkeley? In this month's Atlantic Monthly Professor Feuer provides an answer:

Freedom of discussion presupposes that the chief sides in any national debate will be represented. In Berkeley, the supporters of President Johnson's foreign policy are, in effect, denied a forum on the Berkeley campus. The New Left has made it nearly impossible for the national Administration's standpoint to be presented to Berkeley students. This was the effect of the last genuine debate which took place in Berkeley in May, 1965, at which Professor Robert Scalapino and William Bundy defended the Administration's policy in Vietnam against two critics. Although the critics were listened to courteously by Administration supporters, Scalapino and Bundy were almost shouted down. Some activist leaders have defended the one-sidedness of the "free discussion." The time, they say, for equal discussion of all sides is over; now is the time for action, and discussion should be confined at Berkeley to alternative ways of stopping the war machine.

Professor Feuer concludes:

The freedom of speech which emerged in Berkeley this past year was unilateral, a freedom for the new left which the latter was prepared to deny to others.

Among those he holds most responsible for this are the professors and teaching assistants who participated with those who sought to create such an atmosphere at the university:

When teachers abandon their responsibilities, they become false teachers and sow confusion in their students' lives. Freedom of speech, freedom of debate have never been at a lower estate in any major American university in the last generation.

A total breakdown in morals has resulted. According to police reports, almost half the persons arrested in Berkeley during 1965 were students. In a 5-year period, burglaries increased from 147 to 1,164, and thefts from 305 to 664. The city of Berkeley had an 11-percent

increase in crime, while the campus area saw an increase of 39 percent. According to Professor Feuer a "cult of dishonesty" has been growing at Berkeley, and it has been both intellectual and physical.

Professor Feuer quotes Bernard Shaw's statement:

The most tragic thing in the world is a man of genius who is not also a man of character.

He notes that this "in a sense has been the tragedy of Berkeley" and he warns that it may become the larger tragedy of our society. He concludes with this eloquent warning:

The problem of Berkeley is the problem of the American intellectual class. As it grows in power and numbers, wooed alike by the government, foundations, the publishing world, industry, and the universities, it demands for itself the privileges and prerogatives of a third chamber of government. It demands that government officials be especially accountable to it as the guardians of intellect and knowledge. Yet it has scarcely shown itself to possess the character which its pretensions would require.

The twentieth century has shown how the intellectual class can become a primary force for an assault on democratic institutions, and we may yet witness this phenomenon in America disguised under such slogans as participatory democracy.

Lest anyone believe that the new left is not a force which will have to be dealt with and understood, Professor Feuer sounds a timely and important warning.

I wish to bring this article to the attention of my colleagues and request unanimous consent for its insertion into the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE DECLINE OF FREEDOM AT BERKELEY

(By Lewis S. Feuer)

(After nine years of teaching philosophy and social science at the University of California at Berkeley, Professor Feuer will leave to become professor of sociology at the University of Toronto. His angry appraisal of the "free speech" explosion at Berkeley and its aftermath is both compelling and provocative, and the Atlantic is inviting others who are concerned over the implications of the Berkeley experience to comment on Professor Feuer's analysis. The author of "Spinoza and the Rise of Liberalism" and "the Scientific Intellectual," Professor Feuer was an Exchange Scholar at the Soviet Institute of Philosophy in Moscow for 4½ months in 1963.)

Berkeley has become a symbol for the world. To many Americans, it stands for a studentry in senseless rebellion; to the Communist government of North Vietnam, it is a faithful ally whose demonstrations against the United States government are the most valued propaganda; and to much of the academic community, it is the admired "best balanced" university (as of 1964) in the country. "Berkeley," they say on every American campus, "is where the action is." What sort of action has it been during the past academic year, the Year One in Berkeley after the Great Student Uprising? How has freedom fared in the aftermath of the famous Faculty Resolution of December 8, 1964, "that the content of speech or advocacy should not be restricted by the university"?

There was much to be said for the straightforward simplicity of the Faculty Resolution. It was categorical and plain; it made no exceptions. It enunciated a high-minded standpoint. It proposed to American universities that the only regulations concerning political activities on the campuses should be those of "time, place, and manner"—that is, only what was necessary to prevent interference with the normal functions of the university. Yet the very generality of the Faculty Resolution failed to take account of self-defeating consequences, which were altogether likely, especially in the context of the total commitment of some Berkeley activists. The faculty was promulgating a charter which could be used to safeguard the advocacy and planning of immediate acts of violence, illegal demonstrations, terrorist operations, interferences with troop trains, and obscene speech and action. University facilities became available for the organization of all such actions.

Perhaps in a less crisis-ridden atmosphere the Berkeley faculty could have contributed constructively to defining freedom of speech and thought for the university setting. As it was, they laid down an unqualified principle which in practice proved unworkable. My own understanding of the events which followed in the Year One will naturally reflect the fact that I was one of an unorganized minority which tried on December 8 to persuade our colleagues to affirm to the studentry that freedom of speech on the university campus did not extend to advocating and organizing immediate acts of force and violence.

What has happened in Berkeley during the past academic year has been in large part a consequence of that faculty resolution. For it in effect created a moral vacuum in the heart of the university. It founded an enclave which canceled the limits of any previously defined freedom of speech; on the University Plaza, with the university's microphones and amplification, students were to be allowed to advocate and plan any sort of political activity, legal or illegal, violent or nonviolent. Though the regents tried to safeguard the situation with provisos about constitutional limits, the moral effect of the overwhelming faculty vote was decisive. The university enclave was unique in the United States, the only one in which for all practical purposes political authority was excluded, for both the university and the civic powers renounced their responsibilities. On the one hand, the administration was morally bound by its faculty to refrain from all restraint over speech; on the other, the civic powers by long custom and usage were reluctant to enter the student terrain: they did not understand it, they feared it, and they felt it to be the university's business. Thus Berkeley began a most unusual experiment in unrestrained advocacy.

A migration of "non-students" descended on Berkeley. Already thriving in 1964, the non-student colony was reinforced as the news traveled of the Discovery of Freedom in California. Tired radicals came to be rejuvenated; lumpen intellectuals set out to found a Free University; Maoists arrived determined to "escalate now" on the campus; varieties of sexual reformers expounded their creeds by the Sproul Steps microphone. The New York *Times* estimated that there were twenty-five hundred non-students in residence. Some were in flight from stark personal tragedy; others were clinging to rebellion and adolescence, and required periodic transfusions of student vitality to sustain their stance against society. Some were American variants of Raskolnikov, Verkhovensky, and Nechayev. One functionary of the Viet Nam Day Committee (V.D.C.), the newspapers revealed, was a youth who a few years ago had murdered a seven-year-old child in New York; when the federal authorities arrested him for violation of parole, he told how he had come to Berkeley to make himself useful for humanity. Last year the student leaders and their faculty advocates used to become enraged at the mention of the role of the non-students; this year they frankly recognized their primary importance, and some were prepared to embattle the university for the right of non-students to be the officers of campus political groups. "Anyone who has been a student activist at Cal knows why active support from non-students is so often crucial," said the representative activist leaflet "What Do They Think About Student Rights?" in March, 1966. "There are quite a few young people who have dropped out of school to devote full time to such things as the anti-war movement or the civil rights struggle. We want to make use of them, and they are happy to be made use of."

What is a non-student? He is indeed defined negatively. He has no job, no calling, no vocation; he is a guerrilla fighter against society, whether he calls it the Establishment, the Power Structure, the System, or the Protestant Ethic.

It was inevitable that the university would have to resolve the anomaly of non-students as the officers and activists of "student" political organizations. The problem was especially brought home when non-students were in the forefront in between semesters in provoking a violation of the new university rules of procedure. A rally of the V.D.C. voted to defy the new "time, place, and manner" regulation which prohibited more than one rally a week on Sproul Steps by the same organization. Non-students did most of the speaking, and also took part in voting to defy the administration. The anomaly was real and evident; non-students, immune to the university's powers, were voting for acts of disobedience to the university for which students would bear the punishment. There were no occupational hazards for the professional revolutionary on the University Plaza.

Into this atmosphere of moral absolutes of commitment and nihilism came the new chancellor, Roger Heyns, author of *The Psychology of Personal Adjustment*. The chancellor's political ethics was refreshingly free from ideology. It was the ethics of adjustment; a response is "good," he wrote in his textbook, if it "(1) reduces tension, (2) without unduly interfering with the satisfaction of other motives of the individual, and (3) without interfering materially with the adjustment of other people." The chancellor approached the maladjusted with the spirit of a humane scientist. In another book, *The Anatomy of Conformity*, he wrote how "through the use of differential reward 'conformity can be induced' without the person being aware that his behavior is being influenced. . . ." As a practitioner of adjustment, Chancellor Heyns tended to avoid initiatives; he waited patiently till the configuration and relative strengths of opposing forces—faculty, students, regents, and public opinion—were clear; by temperament he tended to coincide in his own stand with the resultant.

When he took office, Chancellor Heyns acted to bring adjustment and conformity. He appointed as his Special Assistant on Student Affairs the popular leading younger activist on the faculty, Associate Professor John Searle. In November, 1964, Searle had stood before the students on the Plaza, and said: "The University is out to destroy the civil rights movement." He was the paradigm of the Faculty Rebel; he had brought back from Oxford the mien of an Angry Young Man, and though he neither sat-down with the students in Sproul Hall nor shared their jail sentences, he encouraged them with spirited words and admiration. From the standpoint of administrative logic, the warrant for the appointment of John Searle was a powerful one; it could scarcely fail, and

might help bring peace of a sort to a university which needed it. If Searle succeeded in his job, he would have helped bring the students to their senses; if he failed, then the activists of studentry and faculty would have started quarreling among themselves. Whatever happened, the administration would emerge in a stronger position. Except morally.

The New Left thus began the academic year with a more dominating position in an American university than the Old Left had ever dreamed of. How did the intellectual climate fare?

In the first place the moderate liberal studentry was disoriented by the appointment of Searle as the chancellor's assistant; it signified in their eyes a capitulation to the student activists. Only about a fifth of the studentry voted in the fall elections which Searle helped arrange. Abetted by this apathy and one of the most cumbersomely devised ballots in the history of voting, the Communist student leader was elected to the rules committee, and acclaimed herself as the first American Communist to be elected to public office in many years.

Second, to the dismay of those who had foreseen a new "civility" in discussion, a university emerged in which the favorite term of discourse was "paranoiac." When student activists showed themselves suspicious of the new arrangements he was proposing, Searle said they were "paranoiac." When one professor attacked another for not endorsing the illegal tactics of the Viet Nam Day Committee, he called him in print "paranoiac." When student leftists were afraid that they would lose their new privilege of showing movies on the campus to raise money, the chancellor's legal consultant called them "paranoid." The Daily Californian, the student newspaper, editorialized on April 21: "We sense that student paranoia has given rise to administrative paranoia, neither of which is improving the atmosphere on campus."

Third, the alienated student left acquired a curious exemption in the university from any laws of morality. The Establishment Left of the administration therefore soon found itself sorely tried by the amorality of its erstwhile comrades in the Alienated Left.

Students' representatives stole a file which Searle brought to a meeting and photographed its contents; the students then claimed they had found evidence of a plot against them and disclaimed any feelings of guilt for either their theft or invasion of privacy. A leading young faculty activist, Acting Assistant Professor Reginald Zelnik, wrote in candid indignation: "Searle has been reviled and called a 'liar,' his personal files have been rifled, and all this without a word of protest from our 'student leaders.'" He complained that "there has been a serious degeneration within the Berkeley student movement recently, that the standards of last year's movement are not being unheld, and that some students have vastly exaggerated certain deficiencies which exist in our campus rules governing activity." He objected to the students' comparing their situation on campus with that "of oppressed Negroes in Mississippi"; their doing so, he wrote, was "an insult to the intelligence of our student body . . . and a cheap attempt to exploit antiracist sentiment by turning it into a situation where it is totally irrelevant." Such epithets as "liar" and "paranoiac" were, however, among the milder terms of the language of the New Left. When students of the Peace Rights Organizing Committee invaded the chancellor's office and were met by the affable vice-chancellor, Earl Cheit, they performed with gusto for the television cameras. They characterized the vice-chancellor to his face in vulgar terms; a gentler student interceded and said that maybe the vice-chancellor *was* a "son of a bitch," but they shouldn't say so.

The faculty activists, distressed by these developments, tried to explain them with a "two-stage" theory of the "movement." Last year, they said, it was noble and high-minded and was protesting real wrongs; this year, on the other hand, it was ignoble, low-minded, and seeking conflict for its own sake. This "two-stage" theory had little objective evidence to support it. Every student tactic this year had its counterpart last year, and if anything, the student leaders could claim with some force that this year they were "betrayed" by their closest faculty friends and hoodwinked by the administration.

The administration's policy of ambiguity, for all its advantages, was bound to involve it in a loss of moral stature among student activists. The special assistant spoke to the students in one way; the chancellor said the opposite to professors. Searle unqualifiedly assured students that the chancellor "fully" accepted "December 8th"; in practice, however, as well as in conversations, Chancellor Heyns professed otherwise. Conflict and misunderstanding were bound to evolve. The issue of the non-students became a locus for recriminations of bad faith. The students state in one of their leaflets (and their account was not challenged): "He [Searle] said he was aware of how important and useful non-students could be to student organizations. He would prefer it if the rules permitted non-students to sit at tables. But Don Mulford [the local Republican state assemblyman] and his sort were paranoiac about 'outside agitators,' so non-students would have to be excluded—*on paper*. Actually, he assured us, the Administration would be happy to wink at any violations. 'You can trust me,' he said. Some of the students believed they could, and others were too polite to say they couldn't. And so the gentlemen's agreement held—until the end of February when the Chancellor decided that the time had come to show who was boss."

What made the issue of the non-students momentous was the university's invitation to United Nations Ambassador Arthur Goldberg to deliver an address on Charter Day, March 25, and receive an honorary degree. Here, in the minds of the student leaders, was their greatest challenge and opportunity, more important than their parades and demonstrations through the streets of Berkeley and Oakland.

This was no skirmish with local policemen; this was a chance, as the most extreme activists saw it, to insult the spokesman for American foreign policy publicly. Berkeley, they hoped, would lead the way for the student movement to stand publicly with the Viet Cong. "To let Chancellor Heyns cripple student political activity at this moment would be more than a counter-revolution in campus politics; it could easily be an event with international consequences," wrote these student leaders. The Berkeley student movement had brought the university to a "grinding halt" last year; could it now pioneer in a counterpart technique which might bring the government of the United States into discredit and defeat?: "The ferment on this campus is unsettling not only for the Regents and the Governor, but for the President of the United States as well."

Several faculty activists spoke to the students on the Plaza at a meeting two days before the ambassador's address. Challenged by the student militants to lead a walkout from the Charter Day ceremony, the faculty activists talked about their disenchantment with the student movement, its lying leaflets and dishonesty. The students replied that to be parliamentary when the United States was engaged in "genocide" was immoral.

There was no Mario Savio present this time to stir the studentry to bring the machine to a grinding halt, nor was there a Joan Baez to sing the volunteers on to starry-eyed disobedience. So the student assemblage voted for a simple walkout, preceded by a display of protest signs, rather than for the physical disruption of the entire ceremony. Waves of multicolored protest signs, held high above the audience, greeted the ambassador as he rose to speak; they conferred their own dishonorary degree, "Doctor of War." Later several hundred students halted the proceedings for a few minutes as they filed to the aisles in secession. Afterward, a "confrontation" was arranged at the gymnasium between the ambassador and the director of the Center for Chinese Studies. Extremist students and non-student leaders later bitterly regretted that they had lost their opportunity to place their veto on the granting of the degree to Arthur Goldberg.

Moral ambiguity thus had had its costs as well as achievements. Major "confrontations" were avoided, and many persons were thankful that Chancellor Heyns had shown himself capable of outmaneuvering the student activists. Yet the plain fact was that freedom of speech in a meaningful sense had virtually vanished from the university, and the administration, despite all its brave phrases, continued to be cowed by several hundred student activists. Above all, no university administration can afford in the long run to acquire a reputation as Machiavellian. This, however, was precisely what was happening in Berkeley.

The concept of the university as a bastion for non-student "guerrilla warfare" against society was bound to provoke a defensive response on the community's part. In January, 1966, Chancellor Roger Heyns became probably the first university head in America to be taken to task by a county grand jury for condoning "the deliberate violation of criminal laws" on the campus. The Alameda jury charged that the Berkeley campus had become the "primary base" for violations of the law, and "a staging area for unlawful off-campus activities such as the attempts to interfere with the passage of troop trains through Berkeley and Emeryville in August, 1965." It cited thirty-four specific instances of such use of the university's facilities. The chancellor replied with a statement which captious newspapermen decried for its characteristic ambiguity: "The laws of the state and our rules cover the use of university facilities. . . . I know of no illegal use of our facilities, and President Kerr and I have requested law enforcement agencies to act if such illegal use occurs."

An incident in May toward the year's end indicated the extent to which suspicion and mistrust had become the norm in the Berkeley community. John Leggett, acting assistant professor of sociology, burst in one evening on his office in Barrows Hall and found the veteran janitor holding some papers in his hand. At once there were charges and innuendos: was the janitor a spy or agent for the chancellor? The aggrieved professor, a militant New Leftist, summoned the police to arrest the proletarian. The next day he enlisted the aid of his distinguished colleague, Professor Franz Schurmann, the director of the Center for Chinese Studies, and both proceeded to the district attorney's office. The following dialogue was reported verbatim in the non-student press:

"Director of Chinese Center: What is the legal status of an office used by a faculty member? Can it be assumed that my office is my private domain?

"Assistant District Attorney: From a legal standpoint, you, as an employee of the university, have no property rights to a room that the university has been good enough to assign for your use. . . .

"Assistant Professor: What about illegal trespass? Obviously the janitor was not conducting janitorial service. He was reading my files.

"Assistant District Attorney: I don't feel he was guilty of illegal trespass. A janitor

is a kind of inspector who has the privilege of traveling about through the building as he sees fit.

"Director of Chinese Center: When a state is totalitarian, the state uses janitors to spy upon professors."

Such was the bizarre comedy played concerning the inquisitive old janitor, Mr. Riley. Almost all of us have had the experience of finding the clean-up men occasionally curious about the papers they pick up on desks. They take it for granted that if the document is secret, the professor will put it in his locked file. Poor Mr. Riley never tried to hide the fact that he had chanced to pick up a paper. Suddenly he was transplanted by the militant acting assistant professor and the director of the Chinese Center into a world of international intrigue. Alternately he was the chancellor's spy, an agent for the Central Intelligence Agency, a bondsman of James Bond, and finally a "fall guy" for unnamed sinister powers. Nobody stopped to think that he was Floyd Riley, janitor in Barrows Hall, the center of social sciences in the United States, where professorial backbiting is now elevated into higher domains of ideological skullduggery, and where a sane janitor wonders what sort of institution it is whose floors he is sweeping.

What meanwhile has happened to the whole concept of freedom of speech on the Berkeley campus? Freedom of discussion presupposes that the chief sides in any national debate will be represented. In Berkeley, the supporters of President Johnson's foreign policy are, in effect, denied a forum on the Berkeley campus. The New Left has made it nearly impossible for the national Administration's standpoint to be presented to Berkeley students. This was the effect of the last genuine debate which took place in Berkeley in May, 1965, at which Professor Robert Scalapino and William Bundy defended the Administration policy in Vietnam against two critics. Although the critics were listened to courteously by Administration supporters, Scalapino and Bundy were almost shouted down. Some activist leaders have defended the one-sidedness of the "free discussion." The time, they say, for equal discussion of all sides is over; now is the time for action, and discussion should be confined at Berkeley to alternative ways of stopping the war machine.

The University Plaza itself became dominated by the non-students. They came on behalf of a variety of causes and movements. Their finest persons were the representatives of the striking farm workers from Delano, telling of their efforts to build a union. At the other extreme were the proponents of "undiluted orgyism," the new "ideological sexuality" which is preached and practiced in Berkeley by the lunatic fringe of the second power. The nonstudents' principal publication, *Berkeley Barb*, described this development: "Berkeley is fast becoming the great experimental 'freedom lab' for the whole country and the world. In Berkeley, amidst all the other forms of rebellion afoot, there is very much a sexual rebellion in the making also. The rebellion here spoken of is not mere 'shacking'. . . . What is here being referred to as betokening a greater rebellion in Berkeley is the incidental rise of sheer, undiluted orgy-ism." The chief of the "orgiastic rebellion" spoke at a Sproul Hall noonday rally to secure recruits for their next session. One could scarcely believe that the faculty majority on December 8 had intended what was taking place in its name.

The administration and faculty representatives on the rules committee have begun to try to move the noonday rallies from the Sproul Steps to the less central Lower Plaza. The student activists, however, are prepared to defend their hold on Sproul Steps. To them it has an immense symbolic significance. It signifies a standing threat to reoccupy Sproul Hall. "These are the Mario Savio Steps," they say, "the steps for which we laid our bodies on the line." At one public meeting of the rules committee several hundred of them hooted and hissed a professor of political science, Herbert McClosky, who last year had vigorously supported them. Now he found their rallies ridiculous and regretted that he had lost several weeks of his research time on this "silly business." At these words, the hooting and hissing became a grandiloquent reproach. Where were the tribunes of December 8? asked the student activists.

Thus the "freedom of speech" which emerged in Berkeley during this past year was unilateral, a freedom for the New Left which the latter was prepared to deny to others. The chief ideologist on the campus, Stephen Weissman, told John Searle bluntly at a public meeting that they even reserved the right to advocate sending "storm troopers" into the classrooms to disrupt them, that their first loyalty was to the "Movement," and that the university in their eyes was not a community but a field for conflict. So enfeebled had the meaning of liberal democratic values become among student activists that the audience passively acquiesced to a kinship with Nazi storm troopers. Indeed, the first day of the spring semester began precisely with an organized attempt to disrupt the large social science course by forcing the professor in charge, Nathan Glazer, into a "confrontation" on Vietnam; when he refused, the principal disrupters, an outside graduate student and a teaching assistant, called excitedly for a walkout. Political dialogue on the Berkeley campus tended to become one between factions of the New Left.

The aftermath of the Charter Day walkout left the university authorities exhausted. Its advisers said among themselves they would hesitate long before they proposed inviting another national Administration spokesman to the Berkeley campus. To be sure, the ever-effervescent John Searle stated to the press, "We clobbered them," an ill-considered remark, since, after all, he owed his administrative appointment to the activists' alleged confidence in him, as the chancellor said. The "clobbered" V.D.C. that evening was symbolically and actually befouling the university gymnasium in its own victory celebration. The lesson of Year One was all too clear. When teachers abandon their responsibilities, they become false teachers and sow confusion in their students' lives. Freedom of speech, freedom of debate have never been at a lower estate in any major American university in the last generation.

The studentry itself, however, has finally begun to take an initiative which may strengthen the administration's will. It rejected by a decisive vote the new constitution which an activist-dominated constitutional convention had proposed, and rescued the administration from the anxieties of another "confrontation" with a New Left student government. But the moderate liberal studentry, generally busy with their studies, was without leadership and lacked an auxiliary corps of fulltime, non-student activists.

What did the Berkeley uprising contribute to the improvement of education at the university? The so-called Educational Reform failed to impress the alienated student activists, who looked for inspiration principally to the writer Paul Goodman. They interpreted the much heralded Muscatine Report as a "power-play" on the part of one faction of the professors. Many moderate students were pleased and guardedly hopeful. But the overwhelming majority of the Berkeley faculty seemed unmoved by the committee's report and regarded with indifference its proposals for more concern with teaching, for one course a quarter on a "pass or fail" basis, and its gesture for smaller sections. Attendance at faculty meetings to discuss Educational Reform dwindled to record lows; at the meeting of the Academic Senate on May 5 which voted down one proposal, 89 persons were present to vote out of a faculty of more than 1500. At a similar meeting on May 10 of the College of Letters and Science, 37 members of a faculty of 900 were present.

Yet one of the proposals of the Educational Reform was, on the face of it, a striking one. Since the Reform committee could not agree on any common philosophy of education, it borrowed a leaf from the multiversity: it proposed to set up a Board of Educational Development which was charged to keep proposing and underwriting daring new experiments in higher education. It was as if a Great Bureaucratic State boldly authorized a Ministry of Revolution and Subversion. The multiversity's way of dealing with Reform is to institutionalize it, and the committee, lacking any basic plan for dealing with the multiversity, characteristically relapsed into its ways of thinking.

The one educational experiment which was begun under the immediate impact of the student uprising was after one short year close to foundering. Its director, Professor Joseph Tussman, chairman of the department of philosophy, was remembered as the professor who at a hectic Plaza meeting in December, 1964, told the massed students that they now had all the power. He was made director of a two-year "experimental college" which was modeled on the venture of Alexander Meiklejohn at Wisconsin more than thirty years ago. Perhaps because it lacked the teaching genius of a Meiklejohn to give it meaning, this latest quest for an educational utopia, to which so many students had attached a touching faith and hope, was by spring in a sorry pass. The director complained that his teaching assistants were "grooving with the students," and not acting as "islands of tranquillity and non-hysteria." He added: "In a very real sense the problem is one of authority. I find myself pushed more and more into a role that is generally described as authoritarian—and that's okay. I accept that." This was indeed a time of transition for many Berkeley professors; from libertarianism to authoritarianism in one short year.

Was the student uprising the harbinger, as so many persons hoped, of a higher student ethic? The facts provide a melancholy refutation. The aftermath of the student uprising brought to the city of Berkeley a period of unprecedented crime. According to the annual police report, almost half the persons arrested in Berkeley during 1965 were students. Close to 3,000 students of all sorts and schools were arrested in the year which followed the Student Uprising of 1964. In a five-year period, burglaries had increased from 147 to 1,164, and thefts from 305 to 664. While the city as a whole during the past year sustained an 11 percent increase in crime, the increase in the campus area was 39 percent. The chief of police reported that the most dramatic upsurge in crime took place at the end of 1964—that is, at the height of the student uprising.

Apart from all statistics and their possible inaccuracies and misreadings, what was most disquieting was that some segments of the New Left proclaimed their readiness to prey on the System. A cult of thievery was flourishing. The Maoist group was most vociferous of all in boasting about its achievements in shoplifting, but others shared its dishonor. This cult of dishonesty has been developing gradually in Berkeley. Three years ago the head of the New Left student party, Slate was found guilty of stealing from a bookstore; his defense was to blame it on the System. The non-student founder of the obscenitarian movement was also arrested for shoplifting. Guerrilla warfare was waged against small storekeepers, aged landladies,

the university's grading system, and selective service.

The faculty and the students in Berkeley have within one year shown changes in their ranks which, if they persist, must affect in the long run the university's character. A process of political selection has gotten under way. Several of the leading moderates and liberals have resigned from the University at Berkeley—most notably, Seymour Lipset, director of the Institute for International Studies, Dwight Waldo, director of the Institute for Governmental Studies, and Paul Seabury, a former national officer of Americans for Democratic Action. According to a study in progress, the number of tenured professors leaving Berkeley has trebled during this time of troubles, with more than thirty resigning this year.

The applications for undergraduate admission for the fall of 1966 had dropped by more than 20 percent, it was announced in February. Whereas 5048 had applied by January 7 of the previous year, only 3672 had applied during the present year. Second and third choices would later raise the number, but the initial decrease was striking. Reports from various departments indicated too that the better graduate students were declining to come to the university. Berkeley has entered upon a process of ideological and moral self-differentiation. It may become a university whose tone will be set by students and teachers of the New Left.

Indeed, much of the Berkeley faculty itself is imbued with an ethos of generational revolt. More than any other in the United States it lacked the stabilizing force of tradition, probably because it was largely the product of an academic gold rush. As the university in the last decade burgeoned in size, with new departments, new centers, and new institutes, there came forward a whole new academic generation, shaped in the post-World War II period, with values which reflected that age of mobility and achievable wealth. The new university was virtually ahistorical, with few roots in the past; in the social sciences especially there was no sense of a continuity with the work of predecessors. Departments were riven by severe conflicts of generations, of personalities and politics—certainly nothing new in academic life. But perhaps only on a campus which had lost sight of scholarly dignity, honor, and courtesy could these episodes of ugly competitiveness and naked hostility have resounded so shockingly.

Berkeley, indeed, is the first "political university" in the United States. This is a development of the highest significance. For the first time the intellectual class of the United States is undertaking to enter politics directly, and to offer to the electorate, through the agency of faculty-student activists, something akin to an Intellectuals' Party. During the spring of 1966 in Berkeley, almost all faculty-student activism converged around the candidacy in the Democratic congressional primary of Robert Scheer, who, running on a platform of militant opposition to the Vietnam war, nearly defeated the liberal incumbent; he carried Berkeley by 14,625 votes to 12,165, but lost in the district as a whole, receiving 28,751 votes against the victor's 35,270. Robert Scheer is a typical product of the Berkeley student movement. In 1961, while a graduate student in economics, he was an editor and founder of a magazine of the New Left, Root and Branch.

"The college left," he wrote at that time in a vocabulary which had ugly connotations, "consists of a few thousand cultural freaks. Its membership is weighted heavily to New York Jews, children of older generation radicals, and Bohemians. For reasons of culture, personality, or choice, they are generally impervious to the normal rewards and concerns of American society." Because the intellectuals were alienated from society, he wrote, they clung to the university—"the University is 'home'; this is the world we understand, and the other one frightens the hell out of us."

Scheer was pro-Castro, anti-John Kennedy, and mildly pornopolitical. His studies came to grief. He grew a shaggy, Castro-like beard, and went to work as a salesman for the famed literary center, City Lights Bookshop, in San Francisco. Subsequently, the System, through the Center for the Study of Democratic Institutions, published a paper by him on Vietnam. He spoke at teach-ins, and according to V.D.C. spokesmen, during the mass demonstration in the Berkeley streets on the night of October 15 supported the breaching of the Oakland police formation. He had been using for some time the rhetoric of a seizure of power by the Oakland poor. Then he became a candidate for Congress. He trimmed his beard so that he looked like a New England whaling captain, and began to wear a bourgeois jacket, as befitted a well-groomed congressional candidate. Student and faculty activists gave time and money to the Scheer campaign. They availed themselves of all techniques, from exhaustive precinct work to demagogy and sexagogy. One day they brought a leading San Francisco go-go dancer to the Lower Plaza to lure the students into politics. She danced for the multitude, but embarrassed her sponsors by telling a reporter that she didn't know who Robert Scheer was.

The New Intellectual class in Berkeley is feeling its way toward a technique for exerting political power through a variety of devices—stopping troop trains, massive demonstrations open-ended toward illegality, and the more staid political primaries. And, of course, the university is in the strange position of being the "staging area" for all these actions. Two demonstrations, of October 15 and November 20, though in large part composed of non-students, assembled and marched from the university grounds. Public criticism indeed moved the chancellor to an agreement with the Berkeley authorities that he would henceforth deny the university grounds to illegal parades. This constituted a welcome departure from the unrestricted Faculty Resolution of December 8. The faculty counterposed no objection. The administration, however, never undertook a straightforward discussion with the students of the inadequacies of December 8. Rather, it rendered a continuing obeisance to the resolution, thereby always providing a basis for students' charges of "bad faith."

A great institution like Berkeley has, however, tremendous resources for recovery of integrity. It is likely that the moderate studentry will eventually assert itself and terminate the hegemony of the non-students on Sproul Plaza. The non-students themselves are an unpredictable segment; Berkeley might cease to be the fashion, and the guerrilla warriors would go elsewhere. Yet meanwhile the possibility remains of troubled days. The virus of violence is strong in Berkeley; in the spring the headquarters of the V.D.C. near the university was bombed and shattered beyond repair. To be sure, the V.D.C. itself included many who advocated or justified the rise of terrorism. But it was remarkable how little concern was shown by the Berkeley community.

In the last reckoning the problem of Berkeley is the problem of the American intellectual class itself, its sudden power, affluence, influence, and immaturity. Here was the largest aggregation of intellectual force in the United States, yet its dealings with basic political issues were often deflected by a congeries of slogans, fantasies, rancors. A whole group of vaguely conformist leftists were now enjoying a vicarious ideological fling in the form of the New Student Left. A cult of youth swept over faculty activists; somehow youth's idealism over faculty activists; somehow youth's idealism must have history on its side, even if it went wrong in particular instances. One could not help remembering that German professors in the nineteen thirties had apologized for their Nazi students in precisely this way, with precisely this faith in the redeeming sincerity of youth. One also remembered the American fellow-traveling professors of the thirties who had underwritten the idealistic Communist commitment of their students; the Berkeley Faculty Activists were their living replicas, using the same words, expressions, and arguments. Many professors were particularly affected by accusations of hypocritical inactivism, especially when such charges came from their students. The intellectual is as susceptible to fashions as any other part of the community, and intellectual fashions are insidious in a way others are not. To fall behind the vanguard is a kind of spiritual death for the intellectual. Thus the old men and the middle-aged men in Berkeley were curiously adrift, and failed to supply that balancing principle, that measure of experience, which was the duty of their years.

In this sense, the problem of Berkeley is the problem of the American intellectual class. As it grows in power and numbers, wooed alike by the government, foundations, the publishing world, industry, and the universities, it demands for itself the privileges and prerogatives of a third chamber of government. It demands that governmental officials be especially accountable to it as the guardians of intellect and knowledge. Yet it has scarcely shown itself to possess the character which its pretensions would require.

The twentieth century has shown how the intellectual class can become a primary force for an assault on democratic institutions, and we may yet witness this phenomenon in America disguised under such slogans as "participatory democracy." Bernard Shaw remarks that the most tragic thing in the world is a man of genius who is not also a man of character. This in a sense has been the collective tragedy of Berkeley.

INVITATION TO VISIT THE QUAD CITIES AREA OF ALABAMA AND THE TENNESSEE VALLEY

Mr. SPARKMAN. Mr. President, some weeks ago I mentioned the Helen Keller home at Tuscumbia, Ala., as one of the attractions which tourists ought to see in a tour of the Deep South country. I repeat the invitation to see Ivy Green, where Helen Keller began the training which overcame handicaps and set an example for people everywhere, but I would like to enlarge the invitation to include the whole Quad Cities area on both sides of the Tennessee River at Muscle Shoals.

I was reminded of this a few days ago when I crossed and recrossed the bridge between Florence and Sheffield and looked at the palisades along the Tennessee, a magnificent sheer cliff rising hundreds of feet above the waters of the river. This is beautiful country, but it is more than that.

This is the place which inspired TVA, a model of regional resource development for the entire world. This is the place at which the dangerous and treacherous Muscle Shoals in former days stopped steamboat traffic on the Tennessee River. It is the site of Wilson Dam, initial dam in the TVA complex of dams and powerhouses. This dam now has one of the highest single-

lift locks in the world. Wilson Dam is a great tourist attraction.

This is the place from which Henry Ford envisioned a 75-mile-long industrial city, a vision which has come to pass in the Huntsville-Decatur-Quad Cities complex of great industrial plants—chemicals, shipbuilding, synthetic fibers, milling textiles, aluminum, and the new electronic space industries. Between the industries the wide Tennessee River lakes behind the dams offer wildlife refuge areas, boat-launching ramps, State parks, good motels, and many recreational opportunities. I recommend this entire area of the State.

At Decatur, the Ford idea has been realized for a dozen or more miles along the river, with handsome industrial buildings rising along the banks of the Tennessee River. An interesting landmark here is the old State bank, built almost a century and a half ago, a simple but handsome Greek building. A short distance from Decatur, on the north side of the river, is Mooresville, one of Alabama's oldest towns. It is famous for its fine ante bellum homes.

On up the river there are the great lakes extending past Guntersville and Scottsboro to the Tennessee line, but before one gets to this water playground area, there is Huntsville—my hometown—which I remember as a small and, some said, a sleepy town. Today it is a bustling city with the fastest growth record of any city in the Nation, and it is the center of America's rocket and space effort. The Huntsville area, with the space center and Redstone Arsenal, is a section which no visitor to Alabama ought to miss.

Good highways traverse this entire area. It is a pleasure to drive in Alabama. In many sections along the river the traveler can see the lakes without leaving the highway, but I suggest a stop for a more leisurely view of this Tennessee Valley country.

So this is another part of a great State. I invite you to see it, and to see all of Alabama. I promise you that you will enjoy a visit to this State in the heart of the Deep South.

THE VISTA VOLUNTEERS OF HAWAII

Mr. INOUYE. Mr. President, the State of Hawaii has an unusually large number of VISTA volunteers working in various communities throughout the United States.

One of these VISTA volunteers is a former resident of Kauai, Hawaii, who is now serving in Fairbanks, Alaska. The Honolulu Star-Bulletin recently described her activities in this community which is so far from her former home.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Honolulu Star-Bulletin, July 7, 1966]

EX-KAUAIAN VISTA WORKER IN FAIRBANKS—GETTING USED TO COLD

The sole V.I.S.T.A. worker in Fairbanks, Alaska, is a former islander—Mrs. Billie Smith.

Mrs. Smith, a widow, used to live on Kauai.

Since her two sons are in college, she decided to "do something." The "something" she decided on was joining V.I.S.T.A. (Volunteers in Service to America).

In Fairbanks, Mrs. Smith has a multi-pronged job of being adviser-big sister-teacher-pal to young village girls who come to the city for schooling or to take jobs.

Headquartered at Hospitality House, a home away from home for these girls, she helps them to adapt to city living.

VISITS JAILS

In addition, she works with young girls who began as bar girls, eventually got into difficulty and landed in jail.

She visits the girls in their cells, brings them books and helps them to find jobs once they're released.

Mrs. Smith has been teaching them to sew and instructing them in nutrition and homemaking skills.

She pointed out that alcoholism, delinquency and unwed motherhood are grave problems in Fairbanks, as they are elsewhere.

BUSY AS BEAVER

She admitted missing the warm beaches and lush gardens of Kauai, but noted she's getting used to Alaska's sub-zero weather and learning to like moose meat, caribou steak and "squaw candy" (dried smoked salmon).

Asked whether she gets lonely there, she replied: "Lonely? I've been so busy I haven't a chance to think about it."

She hopes to open a dressmaking shop to provide jobs for some of the girls.

After her year with V.I.S.T.A., she said, "my sons and I have talked about starting a home for boys. Sort of a Boys' Town idea. If we do, my year with V.I.S.T.A. will be invaluable."

A MIDDLE WAY OUT OF VIETNAM

Mr. McGOVERN. Mr. President, I had scarcely finished reading Richard Goodwin's call for a united citizens front against a wider war in Vietnam when I came across a most important article authored by Arthur Schlesinger, Jr., in last Sunday's New York Times magazine, September 18, 1966.

Mr. Schlesinger, like Goodwin, a former White House assistant to Presidents Kennedy and Johnson, is one of the Nation's ablest historians. His article presents a most carefully reasoned case against the administration's continuous enlargement of the Vietnam war—followed by an appeal for a new effort to negotiate an end to the fighting.

Writes Mr. Schlesinger:

Are the only alternatives widening the war or disorderly and humiliating withdrawal? Surely, our statesmanship is not yet this bankrupt. I think a middle course is still possible if there were the will to pursue it. And this course must begin with a decision to stop widening and Americanizing the war.

I believe it is a matter of national concern when two top-level former White House advisers with the recognized ability of Richard Goodwin and Arthur Schlesinger appeal on successive days for a halt in the growing U.S. involvement in Vietnam. These are tough-minded, realistic thinkers who have seen administration policy being shaped from the inside but who have had the opportunity in recent months for thoughtful reflection free from official pressures. I believe their sobering words of this past weekend deserve the most careful consideration.

I ask unanimous consent that Mr. Schlesinger's superb article be printed at this point in the RECORD.

There being no objection, the article was order to be printed in the RECORD, as follows:

[From the New York Times Magazine, Sept. 18, 1966]

SCHLESINGER SUGGESTS THAT WE RECOVER OUR COOL AND FOLLOW A MIDDLE WAY OUT OF VIETNAM

(By Arthur Schlesinger, Jr.)

Why we are in Vietnam is today a question of only historical interest. We are there, for better or for worse, and we must deal with the situation that exists. Our national security may not have compelled us to draw a line across Southeast Asia where we did, but, having drawn it, we cannot lightly abandon it. Our stake in South Vietnam may have been self-created, but it has nonetheless become real. Our precipitate withdrawal now would have ominous reverberations throughout Asia. Our commitment of over 300,000 American troops, young men of exceptional skill and gallantry engaged in cruel and difficult warfare, measures the magnitude of our national concern.

We have achieved this entanglement, not after due and deliberate consideration, but through a series of small decisions. It is not only idle but unfair to seek out guilty men. President Eisenhower, after rejecting American military intervention in 1954, set in motion the policy of support for Saigon which resulted, two Presidents later, in American military intervention in 1965. Each step in the deepening of the American commitment was reasonably regarded at the time as the last that would be necessary; yet, in retrospect, each step led only to the next, until we find ourselves entrapped today in that nightmare of American strategists, a land war in Asia—a war which no President, including President Johnson, desired or intended. The Vietnam story is a tragedy without villains. No thoughtful American can withhold sympathy as President Johnson ponders the gloomy choices which lie ahead.

Yet each President, as he makes his choices, must expect to be accountable for them. Everything in recent weeks—the actions of the Administration, the intimations of actions to come, even a certain harshness in the Presidential rhetoric—suggests that President Johnson has made his choice, and that his choice is the careful enlargement of the war. New experiments in escalation are first denied, then disowned, then discounted and finally undertaken. As past medicine fails, all we can apparently think to do is to increase the dose. In May the Secretary of the Air Force explained why we were not going to bomb Hanoi and Haiphong; at the end of June we began the strikes against the oil depots. The demilitarized zone between North and South Vietnam has been used by North Vietnam units for years, but suddenly we have begun to bomb it.

When such steps work no miracles—and it is safe to predict that escalation will be no more decisive in the future than it has been in the past—the demand will arise for "just one more step." Plenty of room remains for widening the war: the harbors of North Vietnam, the irrigation dikes, the steel plants, the factories, the power grid, the crops, the civilian population, the Chinese border. The fact that we excluded such steps yesterday is, alas, no guarantee that we will not pursue them tomorrow. And if bombing will not bring Ho Chi Minh

to his knees or stop his support of the Vietcong in South Vietnam, there is always the last resort of invasion. General Ky has already told us that we must invade North Vietnam to win the war. In his recent press conference, the Secretary of State twice declined to rule out this possibility.

The theory, of course, is that widening the war will shorten it. This theory appears to be based on three convictions: first, that the war will be decided in North Vietnam; second, that the risk of Chinese or Soviet entry is negligible, and third, that military "victory" in some sense is possible. Perhaps these premises are correct, and in another year or two we may all be saluting the wisdom and statesmanship of the American Government. In so inscrutable a situation, no one can be confident about his doubt and disagreement. Nonetheless, to many Americans these propositions constitute a terribly shaky basis for action which has already carried the United States into a ground war in Asia and which may well carry the world to the brink of the third world war.

The illusion that the war in South Vietnam can be decided in North Vietnam is evidently a result of listening too long to our own propaganda. Our Government has insisted so often that the war in Vietnam is a clear-cut case of aggression across frontiers that it has come to believe itself that the war was started in Hanoi and can be stopped there. "The war," the Secretary of State has solemnly assured us, "is clearly an 'armed attack,' cynically and systematically mounted by the Hanoi regime against the people of South Vietnam."

Yet the best evidence is that the war began as an insurrection within South Vietnam which, as it has gathered momentum, has attracted increasing support and direction from the north. Even today the North Vietnamese regulars in South Vietnam amount to only a fraction of the total enemy force (and to an even smaller fraction of the American army in South Vietnam). We could follow the genial prescription of General LeMay and bomb North Vietnam back to the Stone Age—and the war would still go on in South Vietnam. To reduce this war to the simplification of a wicked regime molesting its neighbors, and to suppose that it can be ended by punishing the wicked regime, is surely to misconceive not only the political but even the military character of the problem.

As for the assurances that China will not enter, these will be less than totally satisfying to those whose memory stretches back to the Korean War. General MacArthur, another one of those military experts on Oriental psychology, when asked by President Truman on Wake Island in October 1950, what the chances were of Chinese intervention, replied, "Very little. . . Now that we have bases for our Air Force in Korea, if the Chinese tried to get down to Pyongyang, there would be the greatest slaughter." Such reasoning lay behind the decision (the Assistant Secretary of State for Far Eastern Affairs at that time is Secretary of State today) to send American troops across the 38th Parallel despite warnings from Peking that this would provoke a Chinese response. In a few weeks, China was actively in the war, and, while there was the greatest slaughter, it was not notably of the Chinese.

There seems little question that the Chinese have no great passion to enter the war in Vietnam. They do not want to put their nuclear plants in hazard; and, in any case, their foreign policy has typically been a compound of polemical ferocity and practical prudence. But the leaders in Peking are no doubt just as devoted students of Munich as the American Secretary of State. They are sure that we are out to bury them; they believe that appeasement invites further aggression; and, however deep their reluctance, at some point concern for national survival will make them fight.

When will that point be reached? Probably when they are confronted by a direct threat to their frontier, either through bombing or through an American decision to cross the 17th Parallel and invade North Vietnam. If a Communist regime barely established in Peking could take a decision to intervene against the only atomic power in the world in 1950, why does anyone suppose that a much stronger regime should flinch from that decision in 1966? Indeed, given the present discord in Peking, war may seem the best way to renew revolutionary discipline, stop the brawling and unite the nation.

It is true that the Chinese entry into the Korean War had at least the passive support of the Soviet Union; but it would be risky today to rely on the Sino-Soviet split to save us from everything, including Soviet aid to China in case of war with the United States or even direct Soviet entry into the war in Vietnam. For the Soviet Union is already extensively involved in Vietnam—more so in a sense than the Chinese—and it would be foolish to suppose that, given Moscow's competition with Peking for the leadership of the Communist world, Russia could afford to stand by and allow Communist North Vietnam or Communist China to be destroyed by the American imperialists.

As for the third premise (that military "victory" is in some sense possible): The Joint Chiefs of Staff, of course, by definition argue for military solutions. They are the most fervent apostles of "one more step." That is their business, and no one should be surprised that generals behave like generals. The fault lies not with those who give this advice but those who take it. Once, early in the Kennedy Administration, the then Chairman of the Joint Chiefs outlined the processes of escalation in Southeast Asia before the National Security Council, concluding, "If we are given the right to use nuclear weapons, we can guarantee victory." President Kennedy sat glumly rubbing an upper molar. After a moment someone said, "Mr. President, perhaps you would have the general explain to us what he means by victory." Kennedy grunted and dismissed the meeting. Later he said, "Since he couldn't think of any further escalation, he would have to promise us victory."

What is the purpose of bombing the north? It is hard to find out. According to Gen. Maxwell Taylor, "The objective of our air campaign is to change the will of the enemy leadership." Secretary McNamara, on the other hand, has said, "We never believed that bombing would destroy North Vietnam's will." Whatever the theory, the results would appear to support Secretary McNamara. The northern strategy, instead of driving Hanoi to the conference table, seems to have hardened the will of the regime, convinced it that its life is at stake, brought it closer to China and solidified the people of North Vietnam in its support.

"There is no indication," General Westmoreland said the other day, "that the resolve of the leadership in Hanoi has been reduced." In other words, bombing has had precisely the effect that the analyses of the United States Strategic Bombing Survey after the Second World War would have forecast. Under Secretary of State George Ball was a director of that survey; this may well be why he has been reported so unenthusiastic about the air assault on the North.

And, far from stopping infiltration across the 17th Parallel, bombing, if our own statistics are to be believed, has stimulated it. "It is perfectly clear," Secretary McNamara has said, "that the North Vietnamese have continued to increase their support of the Vietcong despite the increase in our effort. . . . What has happened is that the North Vietnamese have continually increased the amount of resources, men and material that they have been willing to devote to their objective."

Nor can we easily match this infiltration by enlarging our own forces—from 300,000, for example, to 500,000 or 750,000. The ratio of superiority preferred by the Pentagon in guerrilla war is 10 to 1, which means that every time we send in 100,000 more men the enemy has only to send in 10,000 or so, and we are all even again. Reinforcement has not created a margin of American superiority; all it has done is to lift the stalemate to a higher and more explosive level. Indeed, there is reason to suppose that, in its own manner, the enemy can match our every step of escalation up to the point of nuclear war.

U.S. News & World Report says in its issue of Aug. 22: "It's clear now to military men: bombing will not win in Vietnam." This is a dispiriting item. Why had our military leaders not long ago freed themselves from the illusion of the omnipotence of air power, so cherished by civilians who think wars can be won on the cheap? The Korean war, as Gen. Matthew B. Ridgway has said, "taught that it is impossible to interdict the supply route of an Asian army by airpower alone. We had complete air mastery over North Korea, and we clobbered Chinese supply columns unmercifully. . . . But we did not halt their offensive nor materially diminish its strength." If air power was not decisive in Korea, where the warfare was conventional and the terrain relatively open and compact, how could anyone suppose that it would be decisive against guerrillas threading their way through the hills and jungles of Vietnam?

The bombing illusion applies, of course, to South as well as to North Vietnam. Tactical bombing—bombing in direct support of ground operations—has its place; but the notion that strategic bombing can stop guerrillas runs contrary to experience. And we had it last winter, on the authority of the Secretary of State, that despite the entry of North Vietnamese regulars the war in South Vietnam "continues to be basically a guerrilla operation."

Sir Robert Thompson, who planned the successful British effort against the Malayan guerrillas and later served as head of the British advisory mission in Saigon, has emphasized that the defending force must operate "in the same element" as their adversaries." Counterinsurgency, he writes, "is like trying to deal with a tomcat in an alley. It is no good inserting a large, fierce dog. The dog may not find the tomcat; if he does, the tomcat will escape up a tree; and the dog will then chase the female cats. The answer is to put in a fiercer tomcat."

Alas, we have no fiercer tomcat. The counterinsurgency effort in Vietnam has languished, while our bombers roam over that hapless country, dumping more tonnage of explosives each month than we were dropping per month on all Europe and Africa during the Second World War. Just the other day our bombs killed or injured more than 100 cvilians in a hamlet in the Mekong Delta—all on the suspicion that two Vietcong platoons numbering perhaps 60 men, were there. Even if the Vietcong had still been around, which they weren't, would the military gain have outweighed the human and political loss? Charles Mohr writes in The Times: "Almost every provincial hospital in Vietnam is crowded with civilian victims of the war. Some American doctors and other officials in the field say the majority are the victims of American air power and South Vietnamese artillery."

The trouble is that we are fighting one war, with our B-52's and our naval guns and our napalm, and the Vietcong are fighting another, with their machine guns and ambushes and forays in the dark. "If we can get the Vietcong to stand up and fight, we will blast him," General Westmoreland has

plaintively said; and when they occasionally rise to the surface and try to fight our kind of war, we do blast them. But the fact that they then slide back into the shadows does not mean that we are on the verge of some final military triumph. It means simply that we are driving them underground—where they renew themselves and where our large, fierce dog cannot follow.

Saigon officials have been reporting that Vietcong morale is declining as long as I can remember; these reports need not be taken seriously now. I know of no convincing evidence that the Vietcong lack the political and emotional commitment to keep fighting underground for another 20 years.

Our strategy in Vietnam is rather like trying to weed a garden with a bulldozer. We occasionally dig up some weeds, but we dig up most of the turf, too. The effect of our policy is to pulverize the political and institutional fabric which alone can give a South Vietnamese state that hope of independent survival which is our presumed war aim. Our method, in other words, defeats our goal. Indeed, the most likely beneficiary of the smashed social structure of South Vietnam will be Communism. "My feeling," Gen. Wallace Greene, commandant of the Marine Corps, has wisely said, "is that you could kill every Vietcong and North Vietnamese in South Vietnam and still lose the war. Unless we can make a success of the civic-action program, we are not going to obtain the objectives we have set."

Much devotion and intelligence are at present going into the programs of reconstruction, but prospects are precarious so long as the enemy can slice through so much of South Vietnam with such apparent immunity; and so long as genuine programs of social reform threaten the vested interests of the Saigon Government and of large landholders. In any case, as claimants on our resources, these programs of pacification are hopelessly outclassed by the programs of destruction. Surely, the United States with all its ingenuity, could have figured out a better way to combat guerrilla warfare than the physical obliteration of the nation in which it is taking place. If this is our best idea of "protecting" a country against "wars of national liberation," what other country, seeing the devastation we have wrought in Vietnam, will wish American protection?

At the same time, our concentration on Vietnam is exacting a frightful cost in other areas of national concern. In domestic policy, with Vietnam gulping down a billion and a half dollars a month, everything is grinding to a stop. Lyndon Johnson was on his way to a place in history as a great President for his vision of a Great Society; but the Great Society is now, except for token gestures, dead. The fight for equal opportunity for the Negro, the war against poverty, the struggle to save the cities, the improvement of our schools—all must be starved for the sake of Vietnam. And war brings ugly side-effects: inflation; frustration; angry protest: attack on dissenters on the ground that they cheer the enemy (an attack often mounted by men who led the dissent during the Korean war); premonitions of McCarthyism.

We also pay a cost abroad. Our allies naturally draw away as they see us heading down the road toward war with China. When we began to bomb the oil depots, James Reston wrote: "There is now not a single major nation in the world that supports Mr. Johnson's latest adventure in Hanoi and Haiphong." As nations seek to disengage themselves from the impending conflict, the quasi-neutralism of leaders like de Gaulle gains new plausibility.

On any realistic assessment, Western Europe and Latin America are far more significant to American security than South Asia; yet the Vietnam obsession has stultified our policy and weakened our position in both these vital areas. The war has clouded the hope, once mildly promising, of progress toward a *détente* with the Soviet Union. It has helped block agreements to end underground nuclear testing and to stop the spread of nuclear weapons. It has precipitated the decision of U Thant to resign as Secretary General of the United Nations and condemns the U.N. itself to a time of declining influence.

Our rejection of the views of our friends and allies—our conviction, as Paul H. Smith has put it, "that we alone are qualified to be judge, jury and executioner"—ignores Madison's solemn warning in the 63rd Federalist: "An attention to the judgment of other nations is important to every government for two reasons: the one is that independently of the merits of any particular plan or measure, it is desirable, on various accounts, that it should appear to other nations as the offspring of a wise and honorable policy; the second is that in doubtful cases, particularly where the national councils may be warped by some strong passion or momentary interest, the presumed or known opinion of the impartial world may be the best guide that can be followed. What has not America lost by her want of character with foreign nations; and how many errors and follies would she not have avoided, if the justice and propriety of her measures had, in every instance, been previously tried by the light in which they would probably appear to the unbiased part of mankind."

The Administration has called the critics of its Vietnam policy "neo-isolationists." But surely the real neo-isolationists are those who have isolated the United States from its allies and raised the tattered standard, last flourished 15 years ago by Douglas MacArthur, of "going it alone."

How have we managed to imprison ourselves in this series of dilemmas? One reason surely is that we have somehow lost our understanding of the uses of power. Understanding of power implies above all precision in its application. We have moved away from the subtle strategy of "flexible response" under which the level of American force was graduated to meet the level of enemy threat. The triumph of this discriminate employment of power was, of course, the Cuban missile crisis (where the Joint Chiefs, as usual, urged an air assault on the missile bases). But President Johnson, for all his formidable abilities, has shown no knack for discrimination in his use of power. His technique is to try and overwhelm his adversary—as in the Dominican Republic and Vietnam—by piling on all forms of power without regard to the nature of the threat.

Given this weakness for the indiscriminate use of power, it is easy to see why the application of force in Vietnam has been surrendered to the workings of what an acute observer of the Johnson foreign policy, Philip Geyelin, calls "the escalation machine." This machine is, in effect, the momentum in the decision-making system which keeps enlarging the war "for reasons only marginally related to military need."

The very size and weight of the American military presence generate unceasing pressures to satisfy military demands. These may be demands to try out new weapons; the London Sunday Telegraph recently ran an informative article comparing the Vietnam war to the Spanish Civil War as a military testing ground and laboratory. Or they may be cries for "one more step," springing in part from suppressed rage over the fact that, with military power sufficient to blow up the world, we still cannot compel guerrilla bands in black pajamas to submit to our will. Whatever the reason, Sir Robert Thompson has noted of the American theory of the war: "There was a constant tendency in Vietnam to mount large-scale operations, which had little purpose or prospect of success, merely to indicate that something aggressive was being done."

The Administration has freely admitted that such operations, like the bombing of the North, are designed in part to prop up the morale of the Saigon Government. And the impression is growing now that they are also in part undertaken in order to smother doubts about the war in the United States and to reverse anti-Administration tendencies in the polls. Americans have become curiously insensitive to the use of military operations for domestic political purposes. A quarter-century ago President Roosevelt postponed the North African invasion so that it would not take place before the midterm elections of 1942; but today observers in Washington, without evidence of shock, predict a new venture in escalation before the midterm elections of 1966.

The triumph of the escalation machine has been assisted by the faultiness of the information on which our decisions are based. Nothing is phonier than the spurious exactitude of our statistics about the Vietnam war. No doubt a computerized military establishment demands numbers; but the "body count" of dead Vietcong, for example, includes heaven knows how many innocent bystanders and could hardly be more unreliable. The figures on enemy strength are totally baffling, at least to the ordinary citizen relying on the daily newspaper. The Times on Aug. 10 described "the latest intelligence reports" in Saigon as saying that the number of enemy troops in South Vietnam had increased 52,000 since Jan. 1 to a total of 282,000. Yet, "according to official figures," the enemy had suffered 31,571 killed in action in this period, and the infiltration estimate ranged from 35,000 as "definite" to 54,000 as "possible."

The only way to reconcile these figures is to conclude that the Vietcong have picked up from 30,000 to 50,000 local recruits in this period. Since this seems unlikely—especially in view of our confidence in the decline of Vietcong morale—a safer guess is to question the wonderful precision of the statistics. Even the rather vital problem of how many North Vietnamese troops are in South Vietnam is swathed in mystery. The Times reported on Aug. 7: "About 40,000 North Vietnamese troops are believed by allied intelligence to be in the South." According to an Associated Press dispatch from Saigon printed in The Christian Science Monitor of Aug. 15: "The South Vietnamese Government says 102,500 North Vietnamese combat troops and support battalions have infiltrated into South Vietnam.

"These figures are far in excess of United States intelligence estimates, which put the maximum number of North Vietnamese in the South at about 54,000."

But General Westmoreland told his Texas press conference on Aug. 14 that the enemy force included "about 110,000 main-force North Vietnamese regular army troops." Perhaps these statements are all reconcilable, but an apparent discrepancy of this magnitude on a question of such importance raises a twinge of doubt.

Nor is our ignorance confined to battle-order statistics. We have always lacked genuine knowledge of and insight into the political and cultural problems of Vietnam, and the more we press all problems into a military framework the worse off we are. The Administration in Washington was systematically misinformed by senior American officials in Saigon in 1962–63 regarding the progress of the war, the popularity of Diem, the effectiveness of the "strategic hamlet" program and other vital matters. It was not that these officials were deliberately deceiving their President; it was that they had deceived themselves first. Ordinary citizens restricted to reading the American press

were better informed in 1963 than officials who took top-secret cables seriously.

The fact is that our Government just doesn't know a lot of things it pretends to know. It is not discreditable that it should not know them, for the facts are elusive and the judgments incredibly difficult. But it is surely inexcusable that it should pretend to know things it does not—and that it should pass its own ignorance on to the American people as certitude. And it is even less excusable that it should commit the nation to a policy involving the greatest dangers on a foundation so vague and precarious.

So now we are set on the course of widening the war—even at the cost of multiplying American casualties in Vietnam and deepening American troubles at home and abroad; even at the risk of miring our nation in a hopeless and endless conflict on the mainland of Asia beyond the effective employment of our national power and beyond the range of our primary interests; even at the risk of nuclear war.

Why does the Administration feel that these costs must be paid and these risks run? Hovering behind our policy is a larger idea—the idea that the war in Vietnam is not just a local conflict between Vietnamese but a fateful test of wills between China and the United States.

Our political and rhetorical escalation of the war has been almost as perilous as our military escalation. President Kennedy's effort was to pull Laos out of the context of great-power conflict and reduce the Laotian civil war to rational proportions. As he told Khrushchev at Vienna in 1961, Laos was just not important enough to entangle two great nations. President Johnson, on the other hand, has systematically inflated the significance of the war in Vietnam. "We have tried to make it clear over and over again," as the Secretary of State has put it, "that although Hanoi is the prime actor in this situation, that it is the policy of Peking that has greatly stimulated Hanoi. . . . It is Ho Chi Minh's war. Maybe it is Mao Tse-tung's war."

"In the forties and fifties," President Johnson has said, "we took our stand in Europe to protect the freedom of those threatened by aggression. Now the center of attention has shifted to another part of the world where aggression is on the march. Our stand must be as firm as ever." Given this view, it is presumably necessary to pay the greatest costs and run the greatest risks—or else invite the greatest defeat.

Given this view, too, there is no reason not to Americanize the war. President Kennedy did not believe that the war in Vietnam could succeeed as a war of white men against Asians. It could not be won, he said a few weeks before his death, "unless the people [of South Vietnam] support the effort. . . . We can help them, we can give them equipment, we can send our men out there as advisers, but they have to win it, the people of Vietnam." We have now junked this doctrine. Instead, we have enlarged our military presence until it is the only thing that matters in South Vietnam, and we plan now to make it still larger; we have summoned the Saigon leaders, like tribal chieftains on a retainer, to a conference in an American state; we crowd the streets of Saigon with American generals (58 at last count) and visiting stateside dignitaries. In short, we have seized every opportunity to make clear to the world that this is an *American* war—and, in doing this, we have surely gone far to make the war unwinnable.

The proposition that our real enemy in Vietnam is China is basic to the policy of widening the war. It is the vital element in the Administration case. Yet the proof our leaders have adduced for this proposition has been exceedingly sketchy and almost perfunctory. It has been proof by ideology and proof by analogy. It has not been proof by reasoned argument or by concrete illustration.

The proof by ideology has relied on the syllogism that the Vietcong, North Vietnam and China are all Communist states and therefore must be part of the same conspiracy, and that, since the Vietcong are the weakest of the three, they must therefore be the spearhead of a coordinated Chinese plan of expansion. The Department of State, in spite of what has struck most people as a rather evident fragmentation of the Communist world, has hated to abandon the cozy old clichés about a centralized Communist conspiracy aimed at monolithic world revolution.

As late as May 9, 1965, after half a dozen years of public Russo-Chinese quarreling, Thomas C. Mann, then No. 3 man in the department, could talk about "instruments of Sino-Soviet power" and "orders from the Sino-Soviet military bloc." As late as Jan. 28, 1966, the Secretary of State could still run on about "their world revolution," and again, on Feb. 18, about "the Communists" and their "larger design." While the department may have accepted the reality of the Russo-Chinese schism by September, 1966, the predominant tone is still to regard Asian Communism as a homogenous system of aggression. The premise of our policy has been that the Vietcong equal Hanoi and Hanoi equals Peking.

Obviously, the Vietcong, Hanoi and Peking have interests in common and strong ideological affinities. Obviously, Peking would rejoice in a Hanoi-Vietcong victory. But they also have divergent interests and purposes—and the divergencies may prove in the end to be stronger than the affinities. Recent developments in North Korea are instructive. If any country was bound to Peking by ties of gratitude, it was North Korea, which was preserved as an independent state by Chinese intervention 15 years ago. If any country today is at the mercy of Peking, it is again North Korea. When North Korea now declares in vigorous language its independence of China, does anyone suppose that North Vietnam, imbued with historic mistrust of China and led by that veteran Russian agent Ho Chi Minh, would have been more slavish in its attitude toward Peking?

The other part of the Administration case has been proof by analogy, especially the good old Munich analogy. "I'm not the village idiot," the Secretary of State recently confided to Stewart Alsop. "I know Hitler was an Austrian and Mao is a Chinese. . . . But what is common between the two situations is the phenomenon of aggression." The Vietnam war, President Johnson recently told the American Legion, "is meant to be the opening salvo in a series of bombardments or, as they are called in Peking, 'wars of liberation.'" If this technique works this week in Vietnam, the Administration suggests, it will be tried next week in Uganda and Peru. But, if it is defeated in Vietnam, the Chinese will know that we will not let it succeed elsewhere.

"What happens in South Vietnam," the President cried at Omaha, "will determine—yes, it will determine—whether ambitious and aggressive nations can use guerrilla warfare to conquer their weaker neighbors." The Secretary of State even described an exhortation made last year by the Chinese Defense Minister, Marshal Lin Piao, as a blueprint for world conquest comparable to Hitler's "Mein Kampf."

One thing is sure about the Vietnam riddle: it will not be solved by bad historical analogies. It seems a trifle forced, for example, to equate a civil war in what was for hundreds of years the entity of Vietnam (Marshal Ky, after all, is a North Vietnamese himself) with Hitler's invasion of Austria and Czechoslovakia across old and well-established lines of national division; even the village idiot might grasp that difference.

When President Eisenhower invoked the Munich analogy in 1954 in an effort to involve the British in Indochina, Prime Minister Churchill, a pretty close student of Munich in his day, was unmoved. The Chinese have neither the overwhelmingly military power nor the timetable of aggression nor, apparently, the pent-up mania for instant expansion which would justify the Hitler parallel. As for the Lin Piao document, the Rand Corporation, which evidently read it with more care than the State Department bothered to do, concluded that, far from being Mao's "Mein Kampf," it was a message to the Vietcong that they could win "only if they rely primarily on their own resources and their own revolutionary spirit," and that it revealed "the lack, rather than the extent, of Peking's past and present control over Hanoi's actions."

In any case, guerrilla warfare is not a tactic to be mechanically applied by central headquarters to faraway countries. More than any other form of warfare, it is dependent on conditions and opportunities within the countries themselves. Whether there are wars of national liberation in Uganda and Peru will depend, not on what happens in Vietnam, but on what happens in Uganda and Peru.

One can agree that the containment of China will be a major problem for the next generation. But this does not mean that we must re-enact in Asia in the sixties the exact drama of Europe in the forties and fifties. The record thus far suggests that the force most likely to contain Chinese expansionism in Asia (and Africa, too) will be not Western intervention but local nationalism. Sometimes local nationalism may call on Western support—but not always. Countries like Burma and Cambodia preserve their autonomy without American assistance. The Africans have dealt with the Chinese on their own. The two heaviest blows recently suffered by Peking—the destruction of the Communist party in Indonesia and the declaration of independence by North Korea—took place without benefit of American patronage or rhetoric.

In an unpredictable decades ahead, the most effective bulwark against "international" Communism in some circumstances may well be national Communism. A rational policy of containing China could have recognized that a Communist Vietnam under Ho might be a better instrument of containment than a shaky Saigon regime led by right-wing mandarins or air force generals. Had Ho taken over all Vietnam in 1954, he might today be enlisting Soviet support to strengthen his resistance to Chinese pressure—and this situation, however appalling for the people of South Vietnam, would obviously be better for the United States than the one in which we are floundering today. And now, alas, it may be almost too late: the whole thrust of United States policy since 1954, and more than ever since the bombing of the North began, has been not to pry Peking and Hanoi apart but to drive them together.

Is there no way out? Are the only alternatives widening the war or disorderly and humiliating withdrawal? Surely, our statesmanship is not yet this bankrupt. I think a middle course is still possible if there were the will to pursue it. And this course must begin with a decision to stop widening and Americanizing the war—to limit our forces, actions, goals and rhetoric. Instead of bombing more places, sending in more troops, proclaiming ever more ardently that the fate of civilization will be settled in Vietnam, let us recover our cool and try to see the situation as it is: a horrid civil war in which Communist guerrillas, enthusiastically aided and now substantially directed

from Hanoi, are trying to establish a Communist despotism in South Vietnam, not for the Chinese but for themselves. Let us understand that the ultimate problem here is not military but political. Let us adapt the means we employ to the end we seek.

Obviously, military action plays an indispensable role in the search for a political solution. Hanoi and the Vietcong will not negotiate so long as they think they can win. Since stalemate is a self-evident precondition to negotiation, we must have enough American armed force in South Vietnam to leave no doubt in the minds of our adversaries that they cannot hope for victory. They must also have no illusion about the prospect of an American withdrawal. The object of the serious opposition to the Johnson policy is to bring about not an American defeat but a negotiated settlement.

Therefore, holding the line in South Vietnam is essential. Surely, we already have enough American troops, firepower and installations in South Vietnam to make it clear that we cannot be beaten unless we choose to scuttle and run, which will not happen. The opponents of this strategy talk as if a holding action would put our forces under siege and relinquish all initiative to the enemy. This need not, of course, be so. It is possible to slow down a war without standing still; and, if our present generals can't figure out how to do this, then let us get generals who can. Generals Ridgway and Gavin could doubtless suggest some names. Moreover, there is a South Vietnamese army of some 600,000 men which can take all the initiative it wants. And if we are told that the South Vietnamese are unwilling or unable to fight the Vietcong, then we must wonder all the more about the political side of the war.

The object of our military policy, as observers like Henry Kissinger and James MacGregor Burns have proposed, should be the creation and stabilization of secure areas where the South Vietnamese might themselves undertake social and institutional development. Our resources should go, in the Vietnam jargon, more to clear-and-hold than to search-and-destroy (especially when search-and-destroy more often means search-and-drive-underground). We should get rid of those "one-star generals who," in the words of Sir Robert Thompson, "regard their tour in Vietnam as an opportunity to indulge in a year's big-game shooting from their helicopter howdahs at Government expense."

At the same time we should induce the Saigon Government to institute generous amnesty provisions of the kind which worked so well in the Philippines. And we should further increase the incentive to come over by persuading the South Vietnamese to abandon the torture of prisoners—a practice not only horrible in itself but superbly calculated to make the enemy fight to the bitter end. In the meantime we must end our own shameful collaboration with this barbarism and stop turning Vietcong prisoners over to the South Vietnamese when we know that torture is probable.

As for bombing the North, let us taper this off as prudently as we can. Bombing is not likely to deter Hanoi any more in the future than it has in the past; and, given its limited military effect, the Administration's desire to gratify the Saigon Government and the American voter is surely not important enough to justify the risks of indefinite escalation. Moreover, so long as the bombing continues there is no chance of serious negotiation. Nor does the failure of the 37-day pause of last winter to produce a settlement refute this. Thirty-seven days were hardly enough to persuade our allies that we honestly wanted negotiation; so brief an interlude left no time for them to move on to the tricky job of persuading Hanoi. For Hanoi has substantial reasons for mistrusting negotiation—quite apart from Chinese pressure or its own hopes of victory. Ho has entered into negotiation with the West twice in the past—in 1946–47 and again in 1954—and each time, in his view, he lost at the conference table things he thought he had won on the battlefield.

For all our official talk about our readiness to go anywhere, talk to anyone, etc., it cannot be said that the Administration has pursued negotiation with a fraction of the zeal, imagination and perseverance with which it has pursued war. Indeed, some American scholars who have studied the matter believe that on a number of occasions when pressure for negotiation was mounting we have, for whatever reason, stepped up the war.*

Nor can it be said that the Administration has laid fairly before the American people the occasional signals, however faint, which have come from Hanoi—as in the early winter of 1965, when U Thant's mediation reached the point of selecting the hotel in Rangoon where talks might take place, until we killed the idea by beginning the bombing of the North. Nor, for all our declarations about "unconditional" negotiations, have we refrained from setting conditions—such as, for example, that we won't talk to the Vietcong unless they come to the conference table disguised as North Vietnamese. Though the Vietcong constitute the great bulk of the enemy force, they have been given little reason to think we will negotiate about anything except their unconditional surrender.

It is hard to see why we should not follow the precedent of Laos, when we admitted the Pathet Lao to the peace talks, and offer the Vietcong the prospect of a say in the future political life of South Vietnam—conditioned on their laying down their arms, opening up their territories and abiding by the ground rules of free elections. Nor is there reason to see why we have been so reluctant again to follow the Laos model and declare neutralization, under international guarantee, our long-run objective for Vietnam. An imaginative diplomacy would long since have discussed the ways and means of such neutralization with Russia, France, Britain and other interested countries. Unsatisfactory as the situation in Laos may be today, it is still incomparably better than the situation in South Vietnam.

On the other hand, negotiation is not an exclusive, or even primary, American responsibility. Along with a military stalemate, the other precondition of a diplomatic settlement is surely a civilian government in Saigon. Marshal Ky is one of those Frankenstein's monsters we delight in creating in our "client" countries, very much like the egregious General Phoumi Nosavan, who single-handedly blocked a settlement in Laos for two years. Like Phoumi, Ky evidently feels that Washington has committed itself irrevocably to him—and why should he not after the laying on of hands at Honolulu?—and that, whatever he does, we cannot afford to abandon him.

Robert Shaplen, in the August 20 issue of The New Yorker, reported from Saigon that the atmosphere there "is being compared to the miasma that surrounded Diem and his tyrannical brother Ngo Dinh Nhu" and that "many Vietnamese believe that the Americans, having embraced Ky so wholeheartedly and supported him so long, are just as responsible as his Government for the recent repressive acts."

*See "The Politics of Escalation in Vietnam," by Franz Schurmann, Peter Dale Scott and Reginald Zelnik of the University of California; to be published in October by Fawcett Books (paperback) and Beacon Press (hardcover).

I am sure that President Johnson did not intend to turn over American policy and honor in Vietnam to Marshal Ky's gimcrack, bullyboy, get-rich-quick regime. The time is bound to come when Ky must learn the facts of life, as General Phoumi eventually and painfully learned them.

But why wait? In our whole time in Vietnam, there has never been a Government in Saigon which had the active loyalty of the countryside. It might be an agreeable experiment to encourage one to come into existence. Instead of identifying American interests with Ky and rebuffing the broader political impulses in South Vietnam, we should long since have welcomed a movement toward a civilian regime representing the significant political forces of the country and capable both of rallying the army and carrying forward programs of social reform. We should give such a Government all possible assistance in rebuilding and modernizing the political and institutional structures of South Vietnam. And if it should favor the neutralization of its country, if it should seek negotiation with the Vietcong, even if it should release us from our commitment to stay in Vietnam, we should not think that the world is coming to an end.

It is not too late to begin the deescalation of the war; nor would the reduction of our military effort damage our international influence. "There is more respect to be won in the opinion of this world," George Kennan has written, "by a resolute and courageous liquidation of unsound positions than by the most stubborn pursuit of extravagant or unpromising objectives." France was stronger than ever after de Gaulle left Algeria, the Soviet Union suffered no lasting damage from pulling its nuclear missiles out of Cuba. And the policy of de-escalation recommended here is, of course, something a good deal less than withdrawal.

De-escalation could work *if* there were the will to pursue it . . . This is the hard question. The Administration, disposed to the indiscriminate use of power, enmeshed in the grinding cogs of the escalation machine, committed to the thesis that China is the enemy in Vietnam, obviously could not turn to de-escalation without considerable inner upheaval. The issue in the United States in the months to come will be whether President Johnson's leadership is sufficiently resilient and forbearing to permit a change in the direction of policy and arrest what is coming increasingly to seem an accelerating drift toward a great and unnecessary catastrophe.

TRAFFIC IN FIREARMS

Mr. DODD. Mr. President, for 6 years, now, I have been investigating the very serious traffic in firearms sold through the interstate mails and delivered to juveniles, criminals, addicts, and others.

I have had proposed legislation pending before Congress for more than 3 years. Each attempt to pass a stronger gun-control law has been stymied by gun lobbyists, misled sportsmen, and spokesmen representing that portion of the gun industry which wants no further legislation whatsoever.

Although representing only a minority, these opponents have repeatedly demonstrated their effectiveness. No new gun law has been passed, and the present bill, S. 1592, which I introduced as a part of the President's crime bill package, has been stalled for weeks in the Committee on the Judiciary.

During these same years, a number of public opinion polls have been conducted by professional, respected opinion takers

on the question of stronger and more effective gun laws.

I have yet to see one of these polls register less than 70 percent of the public in favor of new laws to reduce effectively the flow of deadly weapons into the hands of potential troublemakers. I might add that in each of these polls the questions were based on proposals going far beyond any legislation under serious consideration, such as the registration of all guns and the fingerprinting of gun owners. Even so, 70 percent or more favored more effective controls.

A poll published in the Washington Post of September 14, 1966, finally drops below this 70-percent mark.

In this Gallup poll, based on a question which suggests that the legislation now before the Senate would require a record to be made of the gun and the name of the purchaser, only 68 percent of the non-gun-owning public favored stronger controls.

However, that same poll shows that 56 percent of the gun owners themselves favor such a strong law and would vote for its enactment.

I wonder what effect this revelation will have on the small army of self-styled spokesmen for the 20 million American hunters and gun owners who say they want no gun law at all.

Mr. President, I ask unanimous consent that the Gallup poll be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Post, Sept. 14, 1966]

THE GALLUP POLL: GUN OWNERS THEMSELVES FAVOR CURBS

PRINCETON, N.J., September 13.—Few issues spark such heated reactions as gun controls, and few issues are so widely misunderstood.

Some of the opposition to the registration of guns comes from those who think that this would mean banning all guns. Actually, the law proposed would not prohibit a person from owning a gun—either for sport or protection—but would require that a record be made of the name of the gun purchaser. The purpose of such a law would be to keep guns out of the hands of persons with a criminal record, the mentally disturbed and others unqualified to handle weapons.

The mood of the public for nearly three decades has been to impose controls on the sale and possession of weapons.

The survey questions and findings:

"Would you favor or oppose a law which would require a person to obtain a police permit before he or she could buy a gun?"

[In percent]

	All persons	*Gun owners*
Yes	68	56
No	29	41
No opinion	3	3

Those who favor such a law:

1. Too many people get guns who are irresponsible, mentally ill, retarded, trigger happy, criminals.
2. It would save lives.
3. It's too easy to get guns.
4. It would be a help to the police.
5. It would keep guns out of the hands of teenagers.

Reasons of those who oppose such a law:

1. Such a law would take away the individual's rights.
2. Such a law wouldn't work—people would still get guns if they wanted to.
3. People need guns for protection.

"Which of these three plans would you prefer for the use of guns by persons under the age of 18—forbid their use completely, put restrictions on their use, or continue as at present with few regulations?"

[In percent]

	All persons	*Gun owners*
Forbid use	27	17
Restrictions on use	55	59
Continue as at present	15	22
No opinion	3	2

CURRENT AGRICULTURAL POLICY—SPEECH DELIVERED BY SENATOR PEARSON

Mr. SIMPSON. Mr. President, a speech delivered by the distinguished junior Senator from Kansas [Mr. PEARSON] to the national brand convention on July 16, 1966, at Dodge City, Kans., describes the actions of the administration which have generated the current agricultural political discontent.

The speech explores why the administration took these actions, what the political consequences may be, and finally attempts to evaluate not only where we are, but also where we are going in American agriculture.

Mr. President, I ask unanimous consent that this speech be printed at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH DELIVERED BY SENATOR JAMES B. PEARSON TO THE NATIONAL BRAND CONVENTION, JULY 16, 1966

These comments are going to be critical of the Administration, of the agricultural policy of President Johnson and Secretary Freeman. Yet this is not to say that this shall be a partisan political speech. I emphasize that the growing volume of criticism of recent Administration actions has come from both parties.

The truth of the matter is that just as we need a non-political foreign policy we also need agricultural bi-partisanship.

The other day a rural North Dakota newspaper editor expressed this idea. He noted that there were a lot of strong Democrats and Republicans in his area and that they take their politics seriously. But the editor stated, "When a neighbor is in trouble partisanship ends and we all pitch in. When one of us is attacked all of us are attacked . . . be the attackers—elements, beast, man or government." And so after reviewing some of the highlights of the Administration's "war on farm prices" the editor closed by saying "We've been attacked, partisanship thus has ended, we've closed ranks and are fighting back."

Let me digress for one further word of explanation or definition. Should I hereafter use the word politics or political, once again I do not do so in a partisan sense. But a political attitude is an expression of democracy, is a manifestation of the attitude and the will of the people and it is in that meaning that the word is used.

Thus, let me make note that during the past two months there has been considerable talk in the press about political unrest among farmers and ranchers. It is this rural unrest to which I now direct my attention. Yet I shall not describe the adverse economic effects of recent administration actions or why such government action has been unjustified. Your knowledge concerning your own interest is greater than mine and it is not necessary for me to go over the arguments you have formed for yourselves or heard from others.

I want to approach the events of the past few months from a somewhat different perspective. I want to briefly describe the actions which generated the current agricultural political discontent. I should like to explore with you why the Administration took these actions; what the political consequences may be and finally to attempt to evaluate not only where we are but where we are going in American agriculture.

First, I think some historic background is necessary in order to keep matters in proper order.

Certainly the present Secretary of Agriculture is no stranger to controversy. In fact, if we look back over the past several decades one gets the impression that this is an inevitable occupational hazard of being the Secretary of Agriculture. As one astute political observer once stated: "Among the many mysteries which surround the government of the United States there is none more baffling than why anyone should want to be Secretary of Agriculture." Indeed, the very mention of the name of Charles Brannon, Truman's Secretary of Agriculture still generates heated debate in many circles.

The trials and tribulations of Ezra Taft Benson were endless and harrowing. But I suppose that if Benson proved nothing else he, at least, demonstrated an enormous capacity for sticking it out under intense political pressures.

Orville Freeman entered the office under a cloud of doubt due to the fact that he was almost totally lacking in agricultural experience. However, it is to Mr. Freeman's credit that during his first year in office he helped to improve the image of agriculture which had become somewhat tarnished in the minds of the urban public and particularly the big city press. Freeman launched a successful public relations effort which stressed the great successes and achievements of agriculture rather than its failures and problems.

He first began to get in real political hot water with his proposals for stringent and mandatory controls which he indicated he would like to ultimately see extended throughout agriculture. At about this time the increase in beef imports and his unconvincing efforts to explain them brought the cattlemen down on his neck.

Because of growing pressure from farmers and ranchers and with Congress in firm opposition, Mr. Freeman was forced to abandon many of his policies and proposals, several of which I believe were not only ill-conceived but—to a degree—dangerous.

After these rebuffs, the Administration in cooperation with Congress and the majority of the farm organizations put together a program in 1965 which no one found entirely satisfactory but which the majority, I believe, thought to be a reasonably satisfactory temporary compromise. Because of this and because there were signs of slight improvement in the agricultural economic picture the relations between the Administration and the country's agricultural interests had improved considerably by the fall of 1965.

However, between January and June of this year this situation was completely reversed.

The first signs of trouble appeared when the Administration, in announcing its proposed budget, recommended that major cuts should be made in federal funds to agriculture research and extension programs and to the school milk and lunch programs.

During this same time, the Department of Agriculture began to quietly dump millions of bushels of government-owned corn and wheat stocks on the open market. An action, by the way, which Secretary Freeman only two months earlier had stated would not be taken. As a result of these two developments, discontent and resentment were beginning to develop. And this criticism was

brought to a high point in early May when the Department of Commerce announced that it was imposing stringent restrictions on the export of cattlehides. The uproar over this incident was loud—but I will refer to this matter later on.

It was also during March, April and May that the Secretary and other top Administration officials were talking a great deal about food prices and inflation. Gardner Ackley, Chairman of the Council of Economic Advisers, revealed that the massive dumping of corn was intended to encourage pork production which would in turn bring down pork prices. The Defense Department announced that it was cutting back on its purchases of pork and leather and was substituting margarine for butter. Also it became known during this period that the Administration was increasing the import quotas on such products as sugar and cheese.

Now the clear implication that emerged from all the public and off-the-record statements by officials was that the Administration was trying to blame the inflation on farm prices. And the picture that emerged from the various actions—such as the cattlehide embargo, the dumping of corn and so forth was that the Administration was actively pushing a policy of attempting to freeze or roll back farm prices.

The Administration got so carried away with this whole food-price inflation program that President Johnson claimed that he had instructed Mrs. Johnson to purchase cheaper cuts of beef and expressed the hope that housewives across the country would do the same.

All this was finally capped off when Secretary Freeman was reported as having expressed pleasure over the recent downturn in farm prices and as having predicted with considerable satisfaction that future decreases would be forthcoming.

Well, I don't have to tell you that farm prices have not been a significant factor in the current inflation. The error of the Administration's policy on the inflation's cause plus the fact that it was exercising price control without legal authority—and—was in fact manipulating existing laws to accomplish purposes contrary to the intent of Congress inevitably created a great political storm. The President and the Secretary finally got the message and last month they started doing some fast backpedaling. The USDA launched a massive public relations effort to win back the support of the farmer. but as one farm expert has noted, "the Administration really is in a corner. It keeps telling the farmer that it is his friend. But the farmer is still skeptical."

The reaction of farmers and ranchers is clear.

What was the reaction in Congress?

I can assure you that it was vigorous and intense. Except possibly for Vietnam and inflation, I don't think any other single issue has been subjected to as much debate as this one. Both Democrats and Republicans have taken part, and the debate has been almost entirely highly critical of the Administration's actions.

Let me cite a couple examples. The Congressional reaction to the cattlehide export embargo was so intense that the Commerce Department ultimately has to retreat, acknowledge that it had been wrong, and restore a portion of the cutback. In regard to this particular episode, I remember the day that Bill House dropped by my office after he had attended the hide hearings held by the House agricultural committee. Bill told me that the Secretary of Commerce John Connor got such a dressing down by the committee that he almost felt sorry for him. Now Bill was exaggerating, of course, because I am sure he could not really feel very sorry for Mr. Connor. However, the treatment that Connor and other Administration officials received is indicative of the Congressional reaction to the export embargo. I played a part.

Another example of Congressional attitude toward the Administration's efforts to roll back farm prices is the resolution recently passed in the Senate, which I and 42 other Senators had sponsored, declaring the intent of Congress that the Administration should be prohibited from further arbitrary actions to hold down farm prices which, as you know, are still considerably below parity.

Now an equally important question is what has been the reaction of the general public.

Specifically, has all the Administration talk about food prices and inflation aroused significant anti-farm sentiment among the consumers?

There is no doubt that it has caused a certain amount of damage. However, as far as I can tell from sampling city newspapers and from conversations with my Senate colleagues from urbanized states, it is my impression that while the Administration's actions certainly created opposition among farmers and ranchers, their actions won few friends among urban voters and opinion leaders.

One of the reasons for this is that responsible newspaper editors and urban political leaders know that farm prices have not been a significant cause of the current inflation. But there is another reason why the Administration's actions elicited little support from the urban areas. This is simply that a great number of people were appalled at the way the Administration has carried out these actions. For example, the cattlehide incident was spotted by fair observers as an irresponsible and heavy-handed affair.

By in large then, I would say that from agriculture's point of view the general reaction to the actions by the Administration in the past few months has been rather encouraging. However, the fact that the Administration made the decision to take these actions has potentially dangerous implications for the future of agriculture. There is no question that these actions were taken because the Administration made the judgment that they would gain more political votes than they lost. The fact that it apparently has not turned out this way is due to a certain extent to the manner in which these actions were taken.

But regardless of how they were handled, the fact remains that they were taken. In trying to explain why these decisions were made, I have heard a lot of people say that they are due to the fact that the Administration is against the farmer. Now this is a simple and easy answer, but I believe that it is a dangerously naive one. I shall defend the Administration against the charge that it is deliberately anti-farmer for the simple reason that both the President and the Secretary are experienced enough in politics to know that you don't make political hay by being anti-anybody except for extremist groups of both the right and the left.

Thus, the question is not whether the Administration is *against* the farmer but whether he really is *for* him. When the political chips are down is this Administration really prepared to stand up and do right by agriculture?

In this lies the most crucial question mark about agriculture's future. It is too early to answer with certainty. However, one thing is absolutely clear; the national political climate is changing dramatically and at a faster pace than many of us realize. The United States is a nation increasingly dominated economically, socially, and politically by a few giant cities such as New York, Detroit, Chicago, and Los Angeles. Thirty-five percent of the entire population lives in the 25 metropolises with populations of at least one million.

The danger presented is that in the making of national policies, the needs and problems of agriculture, and non-metropolitan areas as well, will be ignored. In some instances this might be unintentional and simply the result of unfamiliarity and lack of concern. In other cases it might be the result of deliberate political calculation. In either case the end result for agriculture could only be negative.

Thus, in assessing agriculture's long range future, I would first emphasize that farmers and ranchers have simply got to face the fact that they are becoming an extremely small minority. Now if a minority this small is to have any significant political influence, the members must be politically informed and active and above all they must be united in their common purpose.

One of the reasons why organized labor in this country has been politically successful is that when the union spokesmen come to Washington, they are pretty well agreed in what they are going to ask Congress to enact or oppose. But, unfortunately, when agriculture comes to Washington, it too often speaks with many different and often sharply conflicting voices. Given the extent of disunity among agriculture organizations, it is a wonder that agriculture is as well off today as it is. Complete unity is neither possible nor desirable, but the tensions and conflicts among agricultural organizations and spokesmen is a luxury that cannot be afforded in the future. Farmers and ranchers and their organizations and leaders must take heed of the changing national political climate and make a greater effort to find common ground and coordinated action.

In addition to the need for greater unity, I would also suggest that farmers and ranchers and all the individuals and groups whose own economic welfare is so closely tied to agriculture should make a much greater effort to work together than has been the case in the past. I am thinking particularly of the businessmen and workers in the thousands of towns and cities across the country whose welfare and interests are so closely tied to agriculture. I think there is great potential here for strengthening rural America's political power. There have been too few efforts in this direction in the past, there must be many more in the future.

WHO ARE THE REAL ISOLATIONISTS?

Mr. GRUENING. Mr. President, in an excellent article in the New York Times magazine for September 18, 1966, Mr. Arthur Schlesinger, Jr., famed historian and former adviser to President Kennedy and President Johnson, had this to say about the label "neoisolationists" which some seek to append to those who would speak out against the United States further enmeshing itself in a senseless, undeclared, and costly war in Vietnam:

> The Administration has called the critics of its Vietnam policy "neoisolationists." But surely the real neoisolationists are those who have isolated the United States from its allies and raised the tattered standard, last flourished 15 years ago by Douglas MacArthur, on going it alone.

A similar theme is developed in the leading editorial in The Nation for September 12, 1966, under the title "Who Are the Isolationists?" in which it is stated:

> In essential respects it is the Johnson Administration that is isolationist. Its opponents would favor a constructive foreign policy. Their opposition is to a policy of aggression that has alienated allies and hardened the resolution of opponents—policy

that, in the view of such an experienced observer as U Thant, carries within the fulminate of a third World War.

The point made by many of us who for over 2½ years have advocated a changed position for the United States with respect to Vietnam is the direct antithesis of isolation. When the United States "goes it alone" it is isolating itself from the other nations in the world.

When the United States says to the community of nations: we will escalate, and escalate and further escalate our military actions in Vietnam—take it or leave it—it is not acting in concert with other nations but rather is isolating itself from all other nations.

The so-called nonisolationist says: form alliances and act together with your allies. In Vietnam we are in violation of our pledges to other nations under the Charter of the United Nations, under the Geneva accords, and under the SEATO Treaty. It is hard to contend that the administration—rather than its critics—is not assuming an isolationist posture before the entire world.

I ask unanimous consent that the editorial entitled "Who Are the Isolationists?" in the September 12, 1966, issue of The Nation be printed at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHO ARE THE ISOLATIONISTS?

Santayana's oft-quoted saying that those who do not remember the past are doomed to repeat it needs a corollary: those who misread the past are even more inexorably doomed to reiterate ancient errors. The Johnson Administration's favorite stereotype—the identification of the advocates of de-escalation in Vietnam with the appeasers at Munich in 1938—is an example of how history can be distorted by politicians whose only use for the past is to justify their misdeeds in the present. A related inversion of the truth is lumping current critics of American foreign policy (Senator FULBRIGHT, for instance) with the pre-World War II isolationists, some of whom were pro-German, some pro-Fascist or both.

In essential respects it is the Johnson Administration that is isolationist. Its opponents would favor a constructive foreign policy. Their opposition is to a policy of aggression that has alienated allies and hardened the resolution of opponents—policy that, in the view of such an experienced observer as U Thant, carries within it the fulminate of a third World War.

Mr. Johnson and his aides give lip service to the United Nations while undercutting it at every turn. This is *de facto* isolationism—the sacrifice of international order to domestic political advantage. The reason U Thant is reluctant to accept another term as Secretary-General is the ambivalence which President Johnson, Secretary Rusk and Ambassador Goldberg have exhibited time and again in their relations with him. Why should he remain in an office in which he is powerless to restrain the continuing American probing of supposed Soviet and Chinese impotence to give significant aid to North Vietnam and the National Liberation Front? If it should turn out to be based on a miscalculation, this experimentation threatens to bring on a disastrous showdown—disastrous because the circumstances will permit neither a compromise between the belligerents nor retreat of either from hardened positions.

The headlines show the accelerating progress toward this kind of confrontation, as in "Strategists See Need in Vietnam for 600,000 GIs" (*The New York Times*, August 29), and in the same issue "Moscow Training Fliers for Hanoi." The correspondent reports on articles in three leading Soviet newspapers, stating that at least one detachment of Vietnamese pilots have completed a combat flying course under the direction of "Soviet battle veterans" and have returned to North Vietnam, while another group is under instruction. Inexperienced Vietnamese pilots in MIG-17s are not much of a menace to American fliers, but now there are suggestions that the Soviet Union may supply MIG-21s or the "all-weather" MIG-23s.

Should the Vietnamese prove unequal to the difficulties of their mission, rather than allow a sister Communist state to be destroyed the Russians may send their own pilots into combat. According to Donald Grant, the staff correspondent of the *St. Louis Post-Dispatch* at the UN, U Thant was told in Moscow recently that Russian pilots would be sent to fly MIG-21s in Vietnam, and Russian crews would man the Russian-built surface-to-air missile sites which, by whomever manned heretofore, have made a dismal showing against U.S. aircraft. Thant is said to have repeated this to Under Secretary of State George Ball and Sen. ROBERT F. KENNEDY, and presumably Secretary Rusk has been informed. But, Grant writes, UN diplomats "see no signs that Thant's view will have any real impact on U.S. policy." A familiar story.

Suppose, however, that the worst does not come to the worst, and a lethal confrontation between the two great powers is providentially avoided. This would not invalidate the predictions of a war lasting a decade or longer which have been coming from both sides. Ten years? One can hardly conceive of Johnson's predatory brand of internationalism surviving for even half that period. Either it will win a speedy victory—a happy ending which few competent observers expect—or he may have difficulty convincing a majority of the voters in 1968, a fact of which Mr. Johnson is keenly aware.

Alastair Buchan's comments on the Johnson gamble in the London *Observer* are worth noting in this connection. Precisely because our commitments are so far-flung (and, to date, so unsuccessful) while domestic difficulties continue to mount, Buchan sees a coming reversion to those international obligations that the United States could discharge effectively, such as deterrence of nuclear war and economic assistance to countries politically and industrially qualified. That kind of internationalism the critics of the Administration could and would support. It is Johnson's ventures abroad in search of monsters to destroy that the critics condemn and that Johnson himself, were he to reflect, could see leading only to disaster.

SARATOGA PERFORMING ARTS CENTER IN NEW YORK STATE—A SUMMER CULTURAL ATTRACTION

Mr. KENNEDY of New York. Mr. President, I would like to call attention to the conclusion of a successful first season of the Saratoga Performing Arts Center.

During this season more than 85,000 people visited Saratoga Springs to attend 21 performances of the New York City Ballet. An additional 83,000 visitors attended the 14 concerts of the Philadelphia Symphony Orchestra. These attendance figures reflect the enthusiastic public response to the programs offered by the center.

In commenting on the quality of the programs at the center, Mr. Paul Hume remarked in the Washington Post of July 31:

> The happy fact is that a superlative combination of excellences has come together at Saratoga . . . one of the world's greatest ballet companies and one of the world's finest symphony orchestras . . . At a single stroke the Saratoga Performing Arts Center has placed Saratoga in the very top circle of summer music centers.

The Saratoga Performing Arts Center provides a unique setting for the performance of these programs. The amphitheater at the center was designed and engineered with imagination and competence by Architect John MacFayden and acoustical consultant Paul Veneklasen. It seats 5,100 and is placed in a graceful natural locale which permits the seating of almost 2,000 more on the surrounding lawn.

Hotel, dining, and other refreshment facilities are within walking distance, at the nearby Gideon Putnam State Reservation.

The arts center adds a new dimension to the many attractions of Saratoga Springs, the renowned racetrack, the National Racing Museum, the spas, the Yaddo Gardens, swimming pools, and a series of golf courses for every player. The center's performances make a visit to Saratoga that much more enjoyable.

The Saratoga area is also interesting from a historical standpoint. Nearby is the Saratoga battlefield and museum where the tide of the Revolutionary War was turned by the defeat of Gen. John Burgoyne, who was attempting to capture the capital at Albany and cut the Colonies in two. Saratoga lay along the "road to empire"—the Hudson River—Champlain waterway. Along this route the French, British, Indians, and colonists warred for nearly 100 years to settle the destiny of the continent, and their fortresses and battlegrounds may still be seen today.

I join my fellow citizens of New York in saluting the Saratoga Performing Arts Center. It reflects the vigor and vitality of this historic area. I look forward to its growth as a national summer cultural center. I call the center to the attention of my colleagues as one of the new attractions that makes upstate New York an outstanding place to visit and enjoy.

THE DICKEY-LINCOLN SCHOOL POWER PROJECT

Mrs. SMITH. Mr. President, because of the very considerable opposition in the House of Representatives to the Dickey-Lincoln School Power Project—because the House Appropriations Committee has cut the President's proposed budget on the item by one-third from the requested $1,200,000 for fiscal year 1967—because the House Appropriations Committee placed a delaying restriction even on these reduced funds by imposing the restriction and condition of another study on this project—and because the House will vote on this project tomorrow, I deem it appropriate and urgent to place before the Congress the high points of the testimony given to-

day by the Army Engineers before the Senate Appropriations Subcommittee on Public Works this morning.

These very pertinent points were made in the statement of General Leber and in answer to questions asked by myself and the chairman of the subcommittee, the senior Senator from Louisiana. Army Engineers witnesses testified that:

First. There was no need for further study and investigation of the project for it had been studied several times, citing studies in 1953, 1956, 1959, 1963, and 1965;

Second. That these studies had clearly established that the project met all three tests of comparability, financial feasibility, and favorable benefit-cost ratio;

Third. That the benefit-cost ratio was a very favorable 1.9-to-1 ratio—in other words, annually the benefits will be twice as great as the cost of the project;

Fourth. That the Army Engineers had a capability of $2 million of work on the project in fiscal 1967 even though the President had asked for only $1,200,000 and the House Appropriations Committee had cut the amount down to only $800,000;

Fifth. That the action of the House Appropriations Committee would delay the action program on the project by at least 1 year; and

Sixth. That the status of the treaty negotiations was that while all the details had been worked out, the treaty had not yet been ratified because of change in personnel handling the treaty, but was about to be ratified.

PROTESTANT CLERGYMEN OPPOSE ADMISSION OF RED CHINA TO U.N.

Mr. DODD. Mr. President, an advertisement appeared in yesterday's New York Times and Washington Post carrying the results of a nationwide poll of Protestant ministers concerning the question of admission of Communist China to the United Nations.

This poll and the story behind it is of significant interest, and I wish to briefly discuss the reason for this poll, and the nature of its conclusions.

On February 22, 1966, the General Board of the National Council of Churches adopted a resolution calling for the admission of Communist China to the United Nations and granting of U.S. diplomatic recognition to the Chinese Communist regime. These resolutions were adopted by a nearly unanimous vote.

As a result of these resolutions and other statements by individual churchmen, the impression has been created that the majority of American clergymen support both Communist China's admission to the United Nations and its recognition by the United States. Denominations belonging to the National Council of Churches have a total of more than 40 million members. Despite any disclaimers, the political impact of such resolutions is to encourage the impression that these sentiments are held by the great majority of Protestant church members and clergymen.

As the advertisement in yesterday's New York Times points out, the 30,000 replies to a nationwide poll of Protestant clergymen demonstrates that—contrary to the impression conveyed by the National Council of Churches resolution—the overwhelming majority of Protestant ministers oppose the admission of Red China to the U.N.

The poll was conducted by the Reverend Daniel A. Poling, chaplain of the Interfaith Memorial Chapel of the Four Chaplains in Philadelphia, and chairman of the board of Christian Herald magazine. The results indicated that 71.4 percent of American Protestant clergymen polled were opposed to the admission of Communist China to the United Nations or American recognition of that government. The same poll showed that 93.7 percent of American Protestant clergymen were opposed to the "expulsion of the Republic of China from the United Nations in order to satisfy Communist Chinese conditions for joining."

Commenting on what these results mean, Dr. Poling stated:

> This great reaffirmation of support of present United States policy toward Communist China was made in spite of the tremendous and continuing campaigns advocating appeasement of Red China which have been leveled at American clergymen. The results of this poll should set the record straight. Those church bodies or officials who may take a different point of view have every right to do so. However, it is now clear that they speak only for themselves and not for the Protestant community.

Following the poll, a clergymen's Emergency Committee on China was formed. The committee is backed by Reverend Poling, Dr. Walter Judd, and a number of other religious leaders, and it will combat the ideas concerning China which has been adopted by the National Council of Churches.

I wish to share with my colleagues the results of this poll, together with the text of an advertisement which is planned for use in a number of major newspapers.

I request unanimous consent for the insertion of this material at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Press release from the Clergymen's Emergency Committee on China, Rev. Daniel A. Poling, chairman; Rev. David C. Head, executive secretary]

NATIONWIDE POLL OF PROTESTANT CLERGYMEN INDICATES 71.4% OPPOSED TO U.N. ADMISSION OF RED CHINA OR U.S. RECOGNITION OF PEIPING—NATIONAL PROTESTANT CLERGYMEN'S COMMITTEE ON CHINA ORGANIZED

NEW YORK, N.Y., August 31, 1966.—Reverend Daniel A. Poling, Chaplain of the interfaith memorial Chapel of the Four Chaplains and Chairman of the Board of Christian Herald magazine, today announced the results of a nationwide poll which indicated that 71.4% of American Protestant clergymen polled were opposed to the admission of Red China to the U.N. or American diplomatic recognition of Peiping. The same poll showed that 93.7% of American Protestant clergymen were opposed to the ". . . expulsion of the Republic of China from the U.N. in order to satisfy Communist Chinese conditions for joining."

Dr. Poling also announced the formation of the Clergymen's Emergency Committee on China to ". . . provide factual information and material on Red China to American clergymen and, whenever necessary, to articulate the sentiments of the majority on the question of concern."

In his statement announcing the results of the poll, Dr. Poling said: "On February 22, 1966, the General Board of the National Council of Churches, meeting in St. Louis, adopted a resolution calling for the admission of Communist China to the United Nations and the granting of United States diplomatic recognition of the Peiping regime.

"This widely-publicized resolution—and similar statements from some other church bodies—has caused dismay in nations throughout the world who stand in firm opposition against Communist aggression and enslavement and who look to the United States as the leader in this crucial world struggle. Particularly tragic is the effect on the morale of young Americans battling Communism in Vietnam. If their own churches and church leaders favor accommodation with totalitarian, atheistic and predatory Communism, should they give their lives in resisting it?

"In the belief that these resolutions and statements do not represent the American Protestant community—and that the great majority of Protestant clergymen are one with their fellow Americans in opposing any steps which would help strengthen Communist China—I undertook to poll individual American Protestant clergymen on this historic question.

"A master list of Protestant clergymen from every state of the Union was obtained through the Dunhill International List Co. of New York City, and 65% of these were selected at random and mailed a form containing three questions: are you in favor of the admission of Communist China to the United Nations at this time?; are you in favor of the expulsion of the Republic of China from the United Nations in order to satisfy Communist Chinese conditions for joining?; are you in favor of the United States granting diplomatic recognition to Communist China at this time? Nearly 30,000 clergymen mailed their completed forms back to Philadelphia. The services of John Felix Associates in New York were employed to make an independent tabulation of the results.

"The 'No's' were overwhelming. Of those responding: 72.9% were opposed to the admission of Communist China to the United Nations; 25.6% were in favor, the balance did not reply; 93.7% were opposed to meeting the basic Red Chinese condition for joining the United Nations; 2.9% were in favor, the balance did not reply; 71.4% were opposed to diplomatic recognition of the Peiping regime; 25.8% were in favor, the balance did not reply. This great reaffirmation of support of present United States policy toward Communist China was made in spite of the tremendous and continuing campaigns advocating appeasement of Red China which have been leveled at American clergymen.

"The results of this poll should set the record straight. Those church bodies or officials who make take a differing point of view have every right to do so. However, it is now clear that they speak only for themselves and not for the Protestant community."

Dr. Poling went on to announce the organization of the Clergymen's Emergency Committee on China by saying: "Well-financed and well-publicized pressures for appeasement of Red China still continue. It is therefore vital that clergymen be kept informed of the true facts—without illusion or wishful thinking—so that the will of the majority will not be overcome by a small minority through default. For this reason, the ad hoc Clergymen's Emergency Committee on China has been formed—to provide factual information and material on Red

China to American clergymen and, whenever necessary, to articulate the sentiments of the majority on the questions of concern.

"We call on clergymen of all faiths to join with us in this emergency movement. We call on the American people of all faiths to support this movement. We have a transcendent moral and spiritual responsibility: to the young Americans who are daily giving their lives in Vietnam in the struggle for freedom against a ruthless Communist enemy; to the enslaved Chinese people who have no place to look for hope but to us; to the hundreds of millions more who live in Communist darkness throughout the world; and to the basic security and safety of our beloved country."

The Reverend David C. Head has been appointed Executive Secretary of the new Committee which will have its national headquarters at 342 Madison Avenue in New York City. Rev. Head served with the American Baptist Convention and was former pastor of the Grace Baptist Church in Brooklyn, New York. He was Vice President, Public Relations & Development of The King's College, Briarcliff Manor, New York and served as the Director of their National Freedom Education Center.

For further information contact: Rev. David C. Head, Telephone: 661-3375.

Because The New York Times gave a lead story position and almost a whole page to "198 academic experts on China," including a high school teacher, and an assistant professor of library science, but gave only six inches to the following poll of 30,000 clergymen, we are paying for this space to bring the story to the American public.

71.4% of American Protestant Clergymen polled vote "No" to the admission of Communist China to the United Nations, to United States diplomatic recognition of Peiping.

93.7% of American Protestant Clergymen polled vote "No" to satisfying Red China's primary condition for joining the United Nations; the expulsion of the Republic of China.

On February 22, 1966, the General Board of the National Council of Churches, meeting in St. Louis, adopted a resolution calling for the admission of Communist China to the United Nations and the granting of United States diplomatic recognition to the Peiping regime.

This widely-publicized resolution—and similar statements from other church bodies—has caused dismay in nations throughout the world who stand in firm opposition against Communist aggression and enslavement and who look to the United States as the leader in this crucial world struggle. Particularly tragic is the effect on the morale of young Americans battling Communism in Vietnam. If their own churches and church leaders favor accommodation with totalitarian, atheistic and predatory Communism, should they give their lives in resisting it?

In the belief that these resolutions and statements do not represent the American Protestant community—and that the great majority of Protestant clergymen are one with their fellow Americans in opposing any steps which would help strengthen Communist China—Dr. Daniel A. Poling, Chaplain of the Chapel of Four Chaplains in Philadelphia, undertook to poll *individual* American Protestant clergymen on this historic question.

Three questions were put to over 65% of the Protestant clergymen, selected at random from every state in the Union: are you in favor of the admission of Communist China to the United Nations at this time?; are you in favor of the expulsion of the Republic of China from the United Nations in order to satisfy Communist Chinese conditions for joining?; are you in favor of the United States granting diplomatic recognition to Communist China at this time?

The "No's" were overwhelming. Of those responding, 72.9% were opposed to the admission of Communist China to the United Nations; 93.7% were opposed to meeting the basic Red Chinese conditions for joining the United Nations; 71.4% were opposed to diplomatic recognition of the Peiping regime. This great reaffirmation of support of present United States policy toward Communist China was made in spite of the tremendous and continuing campaigns advocating appeasement of Red China which have been levelled at American clergymen.

The results of this poll should set the record straight. Those church bodies or officials who may take a differing point of view have every right to do so. However, it is now clear that they speak only for themselves and not for the Protestant community.

Well-financed and well-publicized pressures for appeasement of Red China still continue. It is therefore vital that clergymen be kept informed of the true facts—without illusion or wishful thinking—so that the will of the majority will not be overcome by a small minority through default. For this reason, the ad hoc *Clergymen's Emergency Committee on China* has been formed—to provide factual information and material on Red China to American clergymen and, whenever necessary, to articulate the sentiments of the majority on the questions of concern.

We call on clergymen of all faiths to join with us in this emergency movement. We call on the American people of all faiths to support this movement. We have a transcendent moral and spiirtual responsibility; to the young Americans who are daily giving their lives in Vietnam in the struggle for freedom against a ruthless Communist enemy; to the enslaved Chinese people who have no place to look for hope but to us; to the hundreds of millions more who live in Communist darkness throughout the world; to the basic security and safety of our beloved country.

It is our duty to face this responsibility. It is our duty to stand fast against those who would betray these principles by dishonoring our national commitments—and break faith with both the dead and the living—through advocacy of the policy of seeking to get good by appeasing evil. Will you, who read this, join with us?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

NATIONAL UNICEF DAY—PRAYER IN PUBLIC SCHOOLS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. Without objection, the Chair lays before the Senate the unfinished business, which the clerk will state.

The LEGISLATIVE CLERK. Senate Joint Resolution 144, to authorize the President to designate October 31 of each year as National UNICEF Day.

The Senate proceeded to consider the joint resolution.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I rise to oppose both the Dirksen amendment and the Bayh resolution.

I confess that it saddens me not to be in agreement with my good friend the Senator from Illinois [Mr. DIRKSEN] on the matter now pending before the Senate. The Senator from Illinois stood as firm as the rock of Gibraltar against the two most controversial measures to be considered by this Congress; namely, the proposal to repeal section 14(b) of the Taft-Hartley Act, and the proposal to enact a Federal forced housing law.

I stood shoulder to shoulder with him in both of these fights. I believe that he and I battled together on these two measures because we share a common devotion to local self-government and individual freedom.

Strange as it may seem, I believe that the motive which prompts him to offer his amendment and the motive which impels me to oppose it are identical. Each of us, I think, takes his respective position because of the realization of the importance of faith in God to our Nation.

It is impossible to overmagnify the importance of faith in God. It is, in my judgment, the most potent force in the universe. Faith in God gives men and women the strength to face the storms of life and their consequences with the peace which passes understanding. In times of greatest stress, faith in God has the miraculous power to lift ordinary men and women to greatness.

I oppose the Bayh resolution for a very simple reason. While each Senator or Representative may interpret Supreme Court opinions, Congress does not have authority as a collective body to do so.

The issues now before the Senate are concerned with the first amendment.

If we are to understand the first amendment, we must recur to history. This is so because we cannot understand the institutions and laws of today unless we understand the historical events out of which they arise.

As we recur to history, we will do well to remember that a nation which ignores the lessons history teaches is doomed to repeat the tragic mistakes of the past. Let us pray that America may not do this in respect to church and state relationships.

The most heartrending story of history is that of man's struggle against civil and ecclesiastical tyranny for the simple right to bow his own knees before his own God in his own way.

As one of America's wisest jurists of all time, the late Chief Justice Walter P. Stacy, of the Supreme Court of North Carolina, declared in the opinion he wrote in *State* v. *Beal* (199 N.C. 278):

For some reason, too deep to fathom, men contend more furiously over the road to heaven, which they cannot see, than over their visible walks on earth [and] It would be almost unbelievable, if history did not

record the tragic fact, that men have gone to war and cut each other's throats because they could not agree as to what was to become of them after their throats were cut.

The Founding Fathers who wrote the Constitution of the United States were acutely aware of these truths.

They saw with the eyes of history the cruelties of the Spanish Inquisition, the massacre of the Huguenots of France, the slaughter of the Waldensians in the Alpine Valleys of Italy, the hanging and jailing of English and Irish Catholics by Protestant England, the hunting down of the Covenanters upon the crags and moors of Scotland, the branding, hanging, and whipping of Quakers, and the banishing of Baptists by Puritan Massachusetts, and the hundreds of other atrocities committed in the name of religion.

The Founding Fathers knew, moreover, that even during their own lifetimes those who did not conform to the doctrines and practices of the churches established by law in the places where they lived, such as Scotch-Irish Presbyterians in Ulster, Catholics in England and Ireland, and dissenters in various American Colonies, had been barred from civil and military offices because of their faiths, had been compelled to pay tithes for the propagation of religious opinions they disbelieved, and had had their marriages annulled and their children adjudged illegitimate for daring to speak their marriage vows before ministers of their own faiths, rather than before clergymen of the established churches.

The Founding Fathers were determined that none of these tragic historical events should be repeated in the nation they were creating.

To this end they inserted two provisions in the Constitution of the United States.

The first of these provisions appears in article VI and declares that "no religious test shall ever be required as a qualification to any office or public trust in the United States."

The second appears in the first amendment, and states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

What did the Founding Fathers intend to do when they embodied these words in the first amendment? The answer to this question becomes clear when we consider the events which preceded the writing of the first amendment.

At the time of the settlement of the Thirteen Original Colonies, virtually every nation in Western Europe and the British Isles had what were known as established churches. Those churches were established by law, and the law compelled all persons, including those who dissented from their religious beliefs, to attend their services. The law furthermore required all persons to pay taxes for the construction of church buildings and the support of the clergy of the established churches.

An overwhelming number of the colonists who came from Europe to America came primarily to secure religious liberty and freedom from taxation for the support of established churches. Unfortunately, when those people came to America, they found that in many of the Colonies predominant groups had set up established churches here, and that in consequence they were compelled, in such Colonies, to pay taxes for the support of churches whose religious doctrines they disbelieved.

There is more than a modicum of historical truth in the statement of Artemus Ward to the effect that:

The Puritans nobly fled from a land of despotism to a land of freedom, where they could not only enjoy their own religion, but could prevent everybody else from enjoying his.

The Colonies of Virginia, North Carolina, South Carolina, Georgia, and Maryland had established churches, and the Anglican Church was the favorite under their laws.

In the Colonies of Massachusetts, Connecticut, and New Hampshire, the Congregational Church was established by law.

In the Colony of New York, the Dutch Reformed and Anglican Churches, in turn, were established by law.

The people who lived in those Colonies were compelled to pay taxes for the support of religious institutions whose doctrines they disbelieved. Moreover, they were compelled to frequent the services of such religious institutions. They rebelled against those practices. They said, in the first place, that it was tyrannical for a government to attempt to regulate the relationship of worship between the individual man and his God. Then, as they pondered the words found in the 22d chapter of Matthew, verses 15 to 22, which declare that we are enjoined to "Render, therefore, unto Caesar the things which are Caesar's; and unto God the things that are God's," they also came to the conclusion that in addition to being tyrannical, the regulation of worship by government was also sinful. So they began to fight to separate church from state and to disestablish all churches. Their demand for the disestablishment of churches comprised two things: First, an end to the financial-legal connection between state and church; and second, a recognition of the rights of all persons to exercise freely their own modes of worship.

The process by which church and state became separated in the original States is an interesting story, and I wish time sufficed for me to detail it. However, the story has been told in a most accurate and most illuminating manner by R. Freeman Butts, in chapter 3, at pages 39–45, of his work entitled "The American Tradition in Religion and Education."

I ask unanimous consent that an excerpt from his book, in which he pictures how the people of the various original States secured the separation of church and state prior to the writing of the first amendment, be printed at this point in the body of the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The historical meaning of separation of church and state cannot be determined by a narrow analysis of any specific event in any one place at any one time. It must be seen as a developing principle and practice that had its roots in the past and that took form on an uneven front throughout the new Nation that was struggling to come into existence during the Revolutionary and early national periods. It was a principle that emerged more rapidly in some States and more slowly in others. But the trend was unmistakable.

In some States where establishment had never gained a foothold and the practice of religious freedom was strong, there was little or no problem of separation as in Rhode Island, Pennsylvania, and Delaware. In other States where the establishment was strong, where the religious population was highly homogeneous, and where the tradition of religious freedom was weak, the principle of separation was slower in formulation and in practice, as in Massachusetts, Connecticut, and New Hampshire. In still other States where the establishment was strong but where the religious population was rapidly becoming heterogeneous, the process of separation and the formulation of the principle of separation was relatively rapid, notably in Virginia. Thus it took Virginia scarcely 10 years from 1776 to 1786 to complete the process by legal enactment, whereas it took Massachusetts more than 50 years from 1776 to 1833 to arrive at virtually the same stage in its constitutional development.

It was in the midst of this unmistakable historical process that the first amendment was debated in Congress in 1789 and finally ratified in 1791. The meaning of the first amendment cannot be discovered by a narrow examination of the meaning of its specific words at a specific time, but those words must receive their meaning from the more inclusive process in which they were formulated, debated, and approved. Any sound historical interpretation of the meaning of the first amendment should be derived from the larger cultural setting in which it was developed. No narrow historicism will suffice. The indisputable fact, as we shall see in the next few pages, is that the American people were moving from establishment to separation in the Revolutionary and early national periods; they were moving in different States at different rates and it is fair to say from different motives, but they were moving.

The first amendment was an integral part of this movement. It was sponsored by and fought for by persons who had been through the process in their own States or who otherwise clearly saw the direction of the trend as did the followers of the enlightenment. The framers of the first amendment were in the vanguard of the movement. The first amendment thus reflected the most advanced thinking on the subject of separation at the time of its adoption, and it in turn not only showed the way but speeded up the process in the laggard States.

In general, the process of separation, from the pre-Revolutionary to the early national periods, went through three identifiable stages:

1. Toleration by the single establishments: Dissenting groups and the leaders who believed in religious freedom continued and speeded up the fight against the established churches in the effort to win the right to the free exercise of public religious worship. This right they wrung from the conservative groups in State after State in the form of concessions and the granting of privileges of free worship. Something of this process has been described in chapter 2.

2. Multiple establishments: The liberal groups believing in religious freedom discovered, however, that they were still in an underprivileged position because the legal support of taxes and property rights was still assigned by the state to the established

churches. They discovered that free exercise was still a shadowy grant of toleration so long as the established churches had the support of tithes and so they renewed the fight to disestablish more completely the favored churches. The established churches, on their part, tried to compromise by persuading the legislatures to open up the tax privileges to the dissenting groups one by one. This meant that gradually more and more churches were admitted into the establishment and given the legal rights of taxation for their own public worship.

Thus, establishment came to be applied, not just to one church, but to any or all churches that had legal and financial connections with the state. This extended meaning of establishment was widely recognized at the time of the passing of the first amendment. Any cooperation between the state and any or all churches was considered to be establishment. In some States this compromise was agreed upon and was maintained for a relatively long time, as in Massachusetts, Connecticut, and New Hampshire; in other States the compromise lasted for only a short time, as in Maryland and South Carolina. In still other States the effort to achieve this compromise was defeated, notably in Virginia. It was this expanded meaning of multiple establishment that the first amendment was designed to prevent on the national level as well as to prevent the narrow establishment of a single church.

At the time of the formulation and ratification of the first amendment in the period 1789–91 all States that still had some form of establishment in effect had moved into the form of multiple establishment. As described in chapter 2, Massachusetts, Connecticut, and New Hampshire all provided for their distinctive town form of multiple establishment, and Maryland and South Carolina had provided for their respective State forms of multiple establishment. These were the only States in which establishment was still recognized in the basic laws of the several States, when the debates over the first amendment began in 1789. South Carolina quickly dropped its elaborate provisions for multiple establishment from its constitution of 1790, whereas Maryland did not amend its constitution until 1810.

Thus, in 1789 five of the original States still had authorized establishments. They were all multiple establishments. Before the first amendment was ratified in 1791, South Carolina had eliminated its constitutional provisions for multiple establishment. After the adoption of the first amendment in 1791 there were only four States whose basic laws embodied the principle of establishment. The Massachusetts constitution of 1780 and the Connecticut codified laws of 1784 made multiple establishment compulsory; Maryland's constitution of 1776 and New Hampshire's constitutions of 1784 and 1791 permitted multiple establishments at the discretion of the legislatures.

It is this meaning of multiple establishment which has been forgotten, conveniently overlooked, or never understood by the various groups today who urge that cooperation between church and state is admissible so long as the state treats all religious groups equally and fairly. That was exactly the purpose of the several colonial provisions for multiple establishment as described in chapter 2, and it was exactly the purpose of the attempts made in Virginia to achieve multiple establishment, as will be described in the following pages. Of course, they would have ruled out some sects which the dominant churches did not consider to be "safe" or legitimate religious groups, but the principle of multiple establishment is the same whether few, many, or all religious groups are taken into it. The state would always have to decide what was and what was not a religious group if it set out to "cooperate" with them all.

3. Separation: It was soon discovered that the compromise of establishing all recognized churches even on an equal or impartial basis was not sufficient. It might be possible to reconcile this kind of establishment with the outward forms of free exercise of public worship, but it was soon clearly seen that it could not be reconciled with genuinely equal rights of conscience. So long as the state was in the position of determining which churches should have legal and financial privileges of support, there could be no real equality of religious conscience. It was still a grant of privilege by the state to a religious doctrine. Such a principle could not square with the growing belief fostered by the enlightenment that equal rights of conscience were natural and inalienable rights which the state could not infringe and which the state must protect.

Therefore, the struggle went on to sever all legal connections and to prohibit all financial support for any and all religious beliefs. It was recognized that if the state could grant a privilege, it could define which religious beliefs were entitled to that privilege. So the final stage in separation came when all forms of establishment were abolished. Thus, complete disestablishment of financial and legal support for religion by the state was necessary to achieve a genuinely free exercise of religion resting upon the solid grounds of equal rights of conscience.

This final step was clearly in the minds of those who proposed and struggled for the adoption of the first amendment of the Constitution. The first amendment was clearly an integral part of the larger definition of civil rights as contained in the other amendments which made up the American Bill of Rights.

The whole story of this historical process in the course of which the principle of separation of church and state emerged should be told in detail State by State, but the necessities of space limit us to presenting only one example of a State which had a strong establishment. This example, Virginia, shows the completion of the process before the first amendment was formulated, and is important because the leaders in Congress from Virginia were the ones who gave the primary form to the first amendment as it went through the various stages of debate and adoption.

Other examples among the original States could be given to show that the process of separation was well underway in a majority of States before the adoption of the first amendment. Separation had already been achieved in eight of the original States. This was accomplished in the constitutions of 1776 of New Jersey, Pennsylvania, Delaware, and North Carolina; in the constitutions of 1777 of New York and Georgia; by statute in 1786 in Virginia; and by original charter in Rhode Island.

The fact that some States did not complete the process of separation until after the first amendment simply means that they were somewhat later in a process of which the first amendment was at once a reflection and also a formative influence. The first amendment was the application on the national level of the same principle that was developing in the States.

Mr. ERVIN. Mr. President, I shall not undertake to add to this story further details of the movements in the various original States to obtain religious freedom and freedom from taxation to support religious institutions. Suffice it to say that by the time the first amendment was written, the original States of Virginia, North Carolina, Georgia, New York, Rhode Island, Pennsylvania, Delaware, and New Jersey disestablished religion, and did so under constitutions and laws which forbade the establishment of any religion and the levying of taxation for the support of any religion.

So, Mr. President, at the time when the first amendment was drafted, the only States in which any establishment of religion was still in existence were Massachusetts—which continued such establishment until 1833; Connecticut—which continued such establishment until 1818; Maryland—which continued such establishment until 1810; New Hampshire—which continued such establishment until 1819; and South Carolina—which abolished such establishment in 1790. But in those five States there was no single established church at that time. There was an establishment of all of the churches which the people who dominated those States deemed to be respectable churches. They provided for an impartial use of taxes for the support of all of the churches which, in their view, were respectable.

However, it is interesting to consider the specific events in the State of Virginia which preceded the writing and the ratification of the first amendment. This is true because those most responsible for the writing into our Constitution of the first amendment were two Virginians—Thomas Jefferson and James Madison. By referring to the events in the State of Virginia which preceded the writing of the first amendment, we can find exactly what was meant by the Founding Fathers when, in the first amendment, they provided that "Congress shall make no law respecting an establishment of religion."

This is true because the events in Virginia show exactly what James Madison meant when he insisted on writing into the first amendment the words "an establishment of religion."

In 1776, Virginia, as an independent Commonwealth, adopted a new constitution; James Madison was a member of the constitutional convention which drafted it. He succeeded in writing into the constitution of that great Commonwealth the proposition that all men are equally entitled to the free exercise of religion according to the dictates of conscience. After the adoption of that constitution, the Virginia Legislature met, and there ensued a great conflict between those who wanted religious freedom and freedom from taxation and those who wanted to retain an establishment of religion in that great Commonwealth. In the legislature of 1776, where the contest between those two groups began, Madison was able to persuade the legislature to provide that no dissenters should be compelled to pay any taxes to the established church of Virginia—the Church of England, which had been established there in 1629.

He also secured at that session the passage of a law which suspended for the time being the requirement that even members of the Church of England should pay taxes for its support. But the legislature of 1776 expressly reserved the most crucial question; namely, whether general taxes should be levied for the support of all of the denominations which the controlling element in the Virginia Legislature deemed to be respectable denominations. This ques-

tion was reserved for subsequent legislatures.

In the Virginia Legislature of 1779 there occurred another great fight which centered around two bills. One was introduced by James Henry. It undertook to establish, by law, virtually all of the Christian churches as the established churches of Virginia, and to lay taxes for the support of all of them on an impartial basis. It is significant that in this bill references to an establishment of religion appear at a number of points, in contexts which clearly show that James Henry and the others of his day understood the term "an establishment of religion" to mean an official connection between the State and one or more churches, whereby the State recognized such church or churches and provided for taxation for its or their support.

In the same legislature, James Madison introduced Thomas Jefferson's bill for religious freedom in Virginia. It is one of the great documents which preceded the writing of the Constitution. It laid down two propositions: First, the proposition that there should be no religious qualification as a test for holding office; and second, the proposition that it is sinful and tyrannical to tax a man for the propagation of religious doctrine which he disbelieves. This document is of so much importance that it should be made available to all Members of the Senate before they vote on the amendment and the resolution. For this reason, I ask unanimous consent to have printed at this point in the body of the RECORD, as part of my remarks, Thomas Jefferson's bill for religious freedom in Virginia.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

THOMAS JEFFERSON'S BILL FOR RELIGIOUS FREEDOM

I

Whereas Almighty God hath created the mind free * * * to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor, whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness * * * therefore the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which in common with his fellow citizens he has a natural right; that it tends only to corrupt the principles of that religion it is meant to encourage, by bribing with a monopoly of worldly honors and emoluments, those who will externally profess and conform to it * * * to suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil governments, for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail if left to herself, that she is the proper and sufficient antagonist to error and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them:

II

Be it enacted by the general assembly, That no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinion in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

III

The rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present, or to narrow its operation, such act will be an infringement of natural right.

Mr. ERVIN. Mr. President, the opposing forces in the Virginia Legislature of 1779 were so nearly equal in power that it was impossible to secure the enactment of either of those bills. So the contest, which had been renewed there, was renewed a third time in the legislature of 1784.

In that legislative body was introduced not only Jefferson's bill for religious freedom in Virginia, but also a new bill which was sponsored by Patrick Henry. That bill was entitled "A Bill Establishing a Provision for Teachers of the Christian Religion." It undertook to give official recognition to virtually all Christian churches and to provide taxes for their support. In order that we might understand what Madison meant when he used the term "an establishment of religion," it is necessary that the bill to which I have referred should be called to the attention of Senators. I ask unanimous consent that the bill may be printed at this point in the RECORD as a part of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

A BILL ESTABLISHING A PROVISION FOR TEACHERS OF THE CHRISTIAN RELIGION

Whereas the general diffusion of Christian knowledge hath a natural tendency to correct the morals of men, restrain their vices, and preserve the peace of society; which cannot be effected without a competent provision for learned teachers, who may be thereby enabled to devote their time and attention to the duty of instructing such citizens, as from their circumstances and want of education, cannot otherwise attain such knowledge; and it is judged that such provision may be made by the legislature, without counteracting the liberal principle heretofore adopted and intended to be preserved by abolishing all distinctions of preeminence amongst the different societies or communities of Christians;

Be it therefore enacted by the general assembly, That for the support of Christian teachers—per centum on the amount, or—in the pound on the sum payable for tax on the property within this Commonwealth, is hereby assessed, and shall be paid by every person chargeable with the said tax at the time the same shall become due; and the sheriffs of the several counties shall have power to levy and collect the same in the same manner and under the like restrictions and limitations, as are or may be prescribed by the laws for raising the revenues of this State; and be it

Enacted, That for every sum so paid, the sheriff or collector shall give a receipt, expressing therein to what society of Christians the person from whom he may receive the same shall direct the money to be paid, keeping a distinct account thereof in his books. The sheriff of every county, shall on or before the —— day of ——— in every year, return to the court, upon oath, two alphabetical lists of the payments to him made, distinguishing in columns opposite to the names of the persons who shall have paid the same, the society to which the money so paid was by them appropriated; and one column for the names where no appropriation shall be made. One of which lists, after being recorded in a book to be kept for that purpose, shall be filed by the clerk in his office; the other shall by the sheriff be fixed up in the courthouse, there to remain for the inspection of all concerned. And the sheriff, after deducting 5 per centum for the collection, shall forthwith pay to such person or persons as shall be appointed to receive the same by the vestry, elders or directors, however denominated of each such society, the sum so stated to be due to that society; or in default thereof, upon the motion of such person or persons to the next or any succeeding court, execution shall be awarded for the same against the sheriff and his security, his and their executors or administrators; provided that 10 days previous notice be given of such motion. And upon every such execution, the officer serving the same shall proceed to immediate sale of the estate taken, and shall not accept of security for payment at the end of 3 months, nor to have the goods forthcoming at the day of sale; for his better direction wherein, the clerk shall endorse upon every such execution that no security of any kind shall be taken; and be it

Further enacted, That the money to be raised by virtue of this act, shall be by the vestries, elders, or directors of each religious society, appropriated to a provision for a minister or teacher of the gospel of their denomination, or the providing places of divine worship, and to none other use whatsoever; except in the denominations of Quakers and Menonists, who may receive what is collected from their members, and place it in their general funds, to be disposed of in a manner which they shall think best calculated to promote their particular mode of worship; and be it

Enacted, That all sums which at the time of payment to the sheriff or collector may not be appropriated by the person paying the same, shall be accounted for with the court in manner as by this act is directed; and after deducting for his collection, the sheriff shall pay the amount thereof (upon account certified by the courts to the auditors of public accounts, and by them to the treasurer) into the public treasury, to be disposed of under the direction of the general assembly, for the encouragement of seminaries of learning within the counties whence such sums shall arise, and to no other use or purpose whatsoever.

This act shall commence, and be in force, from and after the —— day of —— in the year ——.

Mr. ERVIN. The importance of the bill sponsored in 1784 by Patrick Henry becomes apparent when we recall that it provoked one of the greatest documents vindicating the cause of religious freedom ever penned on the face of the earth. There was a bitter contest between Madison and his opponents in the

Virginia Legislature of 1784. The legislature was on the verge of passing the bill sponsored by Patrick Henry, which would have recognized the legal interest of the State in virtually all the Christion churches then functioning in Virginia, and which would have imposed taxes on all Virginians for the support of such churches. But Madison, at the last moment, was able to persuade the Legislature of Virginia to put off the final vote on the bill sponsored by Patrick Henry until the next session of the legislature, which was scheduled for November 1785. Between that time and the time when the legislature next met James Madison made one of the greatest of all appeals for religious freedom. It was called "The Memorial and Remonstrance Against Religious Assessments." The memorial of James Madison is crucial in determining what the Founding Fathers meant when they yielded to the insistence of James Madison and wrote into the first amendment the provision that Congress shall make no law respecting an establishment of religion.

On a number of occasions in his remonstrance, which was a protest against the bill sponsored by Patrick Henry during the preceding legislature to levy taxes for the support of virtually all Christian churches in Virginia, James Madison used the word "establishment" at least five times in contexts which showed that in the mind of James Madison "an establishment of religion" meant an official relationship between the State and one church or many or all churches and the imposition of taxation for the support of one church or many churches or all churches.

Mr. President, I ask unanimous consent that the memorial and remonstrance of James Madison against religious assessments be printed at this point in the RECORD as a part of my remarks.

There being no objection, the memorial and remonstrance were ordered to be printed in the RECORD, as follows:

MEMORIAL AND REMONSTRANCE AGAINST RELIGIOUS ASSESSMENTS TO THE HONORABLE THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF VIRGINIA

We, the subscribers, citizens of the said Commonwealth, having taken into serious consideration, a bill printed by order of the last session of general assembly, entitled "A Bill Establishing a Provision for Teachers of the Christian Religion," and conceiving that the same, if finally armed with the sanctions of a law, will be a dangerous abuse of power, are bound as faithful members of a free State, to remonstrate against it, and to declare the reasons by which we are determined. We remonstrate against the said bill:

1. Because we hold it for a fundamental and undeniable truth, "that religion or the duty which we owe to our Creator and the manner of discharging it, can be directed only by reason and conviction, not by force or violence." The religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right. It is unalienable; because the opinions of men, depending only on the evidence contemplated by their own minds, cannot follow the dictates of other men: It is unalienable also; because what is here a right toward men, is a duty toward the Creator. It is the duty of every man to render to the Creator such homage, and such only, as he believes to be acceptable to him. This duty is precedent both in order of time and degree of obligation, to the claims of civil society. Before any man can be considered as a member of civil society, he must be considered as a subject of the Governor of the Universe: And if a member of civil society, who enters into any subordinate association, must always do it with a reservation of his duty to the general authority; much more must every man who becomes a member of any particular civil society, do it with a saving of his allegiance to the Universal Sovereign. We maintain therefore that in matters of religion, no man's right is abridged by the institution of civil society, and that religion is wholly exempt from its cognizance. True it is, that no other rule exists, by which any question which may divide a society, can be ultimately determined, but the will of the majority; but it is also true, that the majority may trespass on the rights of the minority.

2. Because if religion be exempt from the authority of the society at large, still less can it be subject to that of the legislative body. The latter are but the creatures and vicegerents of the former. Their jurisdiction is both derivative and limited: it is limited with regard to the coordinate departments, more necessarily is it limited with regard to the constituents. The preservation of a free government requires not merely, that the metes and bounds which separate each department of power may be invariably maintained; but more especially, that neither of them be suffered to overleap the great barrier which defends the rights of the people. The rulers who are guilty of such an encroachment, exceed the commission from which they derive their authority, and are tyrants. The people who submit to it are governed by laws made neither by themselves, nor by an authority derived from them, and are slaves.

3. Because, it is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens, and one of [the] noblest characteristics of the late revolution. The freemen of America did not wait until usurped power had strengthened itself by exercise, and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much, soon to forget it. Who does not see that the same authority which can establish Christianity, in exclusion of all other religions, may establish with the same ease any particular sect of Christians, in exclusion of all other sects? That the same authority which can force a citizen to contribute 3 pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?

4. Because, the bill violates that equality which ought to be the basis of every law, and which is more indispensable, in proportion as the validity or expediency of any law is more liable to be impeached. If "all men are by nature equally free and independent," all men are to be considered as entering into society on equal conditions; as relinquishing no more, and therefore retaining no less, one than another, of their natural rights. Above all are they to be considered as retaining an "equal title to the free exercise of religion according to the dictates of conscience." Whilst we assert for ourselves a freedom to embrace, to profess, and to observe the religion which we believe to be of divine origin, we cannot deny an equal freedom to those whose minds have not yet yielded to the evidence which has convinced us. If this freedom be abused, it is an offense against God, not against man: To God, therefore, not to men, must an account of it be rendered. As the bill violates equality by subjecting some to peculiar burdens; so it violates the same principle, by granting to others peculiar exemptions. Are the Quakers and Menonists the only sects who think a compulsive support of their religions unnecessary and unwarrantable? Can their piety alone be intrusted with the care of public worship? Ought their religions to be endowed above all others, with extraordinary privileges, by which proselytes may be enticed from all others? We think too favorably of the justice and good sense of these denominations, to believe that they either covet preeminencies over their fellow citizens, or that they will be seduced by them, from the common opposition to the measure.

5. Because the bill implies either that the civil magistrate is a competent judge of religious truth; or that he may employ religion as an engine of civil policy. The first is an arrogant pretension falsified by the contradictory opinions of rulers in all ages and throughout the world; the second an unhallowed perversion of the means of salvation.

6. Because the establishment proposed by the bill is not requisite for the support of the Christian religion. To say that it is, is a contradiction to the Christian religion itself; for every page of it disavows a dependence on the powers of this world: it is a contradiction of fact; for it is known that this religion both existed and flourished, not only without the support of human laws, but in spite of every opposition from them; and not only during the period of miraculous aid, but long after it had been left to its own evidence, and the ordinary care of providence. Nay, it is a contradiction in terms; for a religion not invented by human policy, must have preexisted and been supported, before it was established by human policy. It is moreover to weaken in those who profess this religion a pious confidence in its innate excellence, and the patronage of its author; and to foster in those who still reject it, a suspicion that its friends are too conscious of its fallacies, to trust it to its own merits.

7. Because experience witnesseth that ecclesiastical establishments, instead of maintaining the purity and efficacy of religion, have had a contrary operation. During almost 15 centuries, has the legal establishment of Christianity been on trial. What have been its fruits? More or less in all places, pride and indolence in the clergy; ignorance and servility in the laity; in both, superstition, bigotry, and persecution. Inquire of the teachers of Christianity for the ages in which it appeared in its greatest luster; those of every sect point to the ages prior to its incorporation with civil policy. Propose a restoration of this primitive state in which its teachers depended on the voluntary rewards of their flocks; many of them predict its downfall. On which side ought their testimony to have greatest weight, when for or when against their interest?

8. Because the establishment in question is not necessary for the support of civil government. If it be urged as necessary for the support of civil government only as it is a means of supporting religion, and it be not necessary for the latter purpose, it cannot be necessary for the former. If religion be not within [the] cognizance of civil government, how can its legal establishment be said to be necessary to civil government? What influence in fact have ecclesiastical establishments had on civil society? In some instances they have been seen to erect a spiritual tyranny on the ruins of civil authority; in many instances they have been seen upholding the thrones of political tyranny; in no instance have they been seen the guardians of the liberties of the people. Rulers who wished to subvert the public liberty, may have found an established clergy con-

venient auxiliaries. A just government, instituted to secure and perpetuate it, needs them not. Such a government will be best supported by protecting every citizen in the enjoyment of his religion with the same equal hand which protects his person and his property; by neither invading the equal rights of any sect, nor suffering any sect to invade those of another.

9. Because the proposed establishment is a departure from that generous policy, which, offering an asylum to the persecuted and oppressed of every nation and religion, promised a luster to our country, and an accession to the number of its citizens. What a melancholy mark is the bill of sudden degeneracy? Instead of holding forth an asylum to the persecuted, it is itself a signal of persecution. It degrades from the equal rank of citizens all those whose opinions in religion do not bend to those of the legislative authority. Distant as it may be, in its present form, from the inquisition it differs from it only in degree. The one is the first step, the other the last in the career of intolerance. The magnanimous sufferer under this cruel scourge in foreign regions, must view the bill as a beacon on our coast, warning him to seek some other haven, where liberty and philanthropy in their due extent may offer a more certain repose from his troubles.

10. Because, it will have a like tendency to banish our citizens. The allurements presented by other situations are every day thinning their number. To superadd a fresh motive to emigration, by revoking the liberty which they now enjoy, would be the same species of folly which has dishonored and depopulated flourishing kingdoms.

11. Because, it will destroy that moderation and harmony which the forbearance of our laws to intermeddle with religion, has produced amongst its several sects. Torrents of blood have been spilt in the Old World, by vain attempts of the secular arm to extinguish religious discord, by proscribing all difference in religious opinions. Time has at length revealed the true remedy. Every relaxation of narrow and rigorous policy, wherever it has been tried, has been found to assuage the disease. The American theater has exhibited proofs, that equal and complete liberty, if it does not wholly eradicate it, sufficiently destroys its malignant influence on the health and prosperity of the State. If with the salutary effects of this system under our own eyes, we begin to contract the bonds of religious freedom, we know no name that will too severely reproach our folly. At least let warning be taken at the first fruits of the threatened innovation. The very appearance of the bill has transformed that "Christian forbearance, love and charity," which of late mutually prevailed, into animosities and jealousies, which may not soon be appeased. What mischiefs may not be dreaded should this enemy to the public quiet be armed with the force of a law?

12. Because, the policy of the bill is adverse to the diffusion of the light of Christianity. The first wish of those who enjoy this precious gift, ought to be that it may be imparted to the whole race of mankind. Compare the number of those who have as yet received it with the number still remaining under the dominion of false religions; and how small is the former. Does the policy of the bill tend to lessen the disproportion? No; it at once discourages those who are strangers to the light of (revelation) from coming into the region of it; and countenances, by example the nations who continue in darkness, in shutting out those who might convey it to them. Instead of leveling as far as possible, every obstacle to the victorious progress of truth, the bill with an ignoble and unchristian timidity would circumscribe it, with a wall of defense, against the encroachments of error.

13. Because attempts to enforce by legal sanctions, acts obnoxious to so great a proportion of citizens, tend to enervate the laws in general, and to slacken the bands of society. If it be difficult to execute any law which is not generally deemed necessary or salutary, what must be the case where it is deemed invalid and dangerous? and what may be the effect of so striking an example of impotency in the government, on its general authority.

14. Because a measure of such singular magnitude and delicacy ought not to be imposed, without the clearest evidence that it is called for by a majority of citizens; and no satisfactory method is yet proposed by which the voice of the majority in this case may be determined, or its influence secured. "The people of the respective counties are indeed requested to signify their opinion respecting the adoption of the bill to the next session of assembly." But the representation must be made equal, before the voice either of the representatives or of the counties, will be that of the people. Our hope is that neither of the former will, after due consideration, espouse the dangerous principle of the bill. Should the event disappoint us, it will still leave us in full confidence, that a fair appeal to the latter will reverse the sentence against our liberties.

15. Because, finally, "the equal right of every citizen to the free exercise of his religion according to the dictates of conscience" is held by the same tenure with all our other rights. If we recur to its origin, it is equally the gift of nature; if we weigh its importance, it cannot be less dear to us; if we consult the declaration of those rights which pertain to the good people of Virginia, as the "basis and foundation of government," it is enumerated with equal solemnity, or rather studied emphasis. Either then, we must say, that the will of the legislature is the only measure of their authority; and that in the plenitude of this authority, they may sweep away all our fundamental rights; or, that they are bound to leave this particular right untouched and sacred; Either we must say, that they may control the freedom of the press, may abolish the trial by jury, may swallow up the executive and judiciary powers of the State; nay that they may despoil us of our very right of suffrage, and erect themselves into an independent and hereditary assembly; or we must say, that they have no authority to enact into law the bill under consideration. We the subscribers say, that the general assembly of this Commonwealth have no such authority: And that no effort may be omitted on our part against so dangerous an usurpation, we oppose to it, this remonstrance; earnestly praying, as we are in duty bound, that the Supreme Lawgiver of the Universe, by illuminating those to whom it is addressed, may on the one hand, turn their councils from every act which would affront His holy prerogative, or violate the trust committed to them; and on the other, guide them into every measure which may be worthy of His [blessing, may re]dound to their own praise, and may establish more firmly the liberties, the prosperity, and the happiness of the Commonwealth.

Mr. ERVIN. I make the assertion without fear of successful contradiction that no man can read James Madison's Remonstrance without coming to the conclusion that what James Madison and the other men of his generation had in mind when they wrote the first amendment was that there should be no official relationship of any character between government and any church, or many churches, or all churches, and no levying of taxes for the support of any church, or many churches, or all churches or any institutions conducted by any of them.

Madison caused his remonstrance to be widely distributed throughout the State of Virginia. As a result of his remonstrance, when the members of the legislature which was scheduled to convene in November 1785 were elected, those who supported Madison in his fight for religious freedom were in an overwhelming majority. They enacted into law by a large majority Jefferson's bill for religious freedom. We cannot overmagnify the importance which Thomas Jefferson and James Madison attributed to Jefferson's Statute for Religious Freedom or their demand that people should not be compelled by law to support in an official manner or by taxes any religious institutions.

I believe the clearest proof of the transcendent importance which Thomas Jefferson attributed to that statute is shown by the epitaph on the gravestone which he is said to have written himself.

As one ascends the hill which leads to Jefferson's home at Monticello, he passes the burial ground of members of the Jefferson family. He passes the spot where the mortal remains of Thomas Jefferson rest in the tongueless silence of the dreamless dust. On the gravestone of Thomas Jefferson is the epitaph which speaks with as much eloquence as Jefferson used in writing the Declaration of Independence or the Statute of Virginia for Religious Freedom. The statement is as follows:

> Here was buried Thomas Jefferson, author of the Declaration of American Independence; of the Statute of Virginia for Religious Liberty; and father of the University of Virginia.

At the time that Jefferson decided that those were the words which he wished to have engraved on the stone which marks his last resting place, he had been a member of the Legislature of Virginia; he had been Governor of the State of Virginia; he had represented Virginia in the Continental Congress; he had served as American Minister to France; he had officiated as Secretary of State in George Washington's Cabinet; he had been Vice President of the United States under John Adams; and he had been twice elected to the highest office within the gift of the American people—the Presidency itself.

Yet Thomas Jefferson was not concerned that he should be remembered for the high offices which he had filled, but he was concerned that he should be remembered as the author of the Virginia Statute for Religious Freedom, one of the greatest documents ever penned by man. It lays down the proposition that it is sinful and tyrannical to compel a man to make contributions of money for the propagation of opinions that he disbelieves.

After the drafting of the Constitution of the United States, many Americans were dissatisfied with it because it did not contain any bill of rights, and particularly because it did not contain any provision which would guarantee religious freedom beyond the provision which merely specified that no religious qualification should ever be required as a

test for holding public office in our Nation. When New York, New Hampshire, and Virginia ratified the Constitution, they adopted resolutions which insisted that the Constitution should be amended by incorporating into it a guarantee of religious freedom and a guarantee of freedom from taxation for the support of religious institutions.

My own State of North Carolina and the State of Rhode Island both postponed ratifying the Constitution, and their conventions stated in substance that they would not ratify the Constitution unless it were amended so as to provide for a total disestablishment of religion.

As a result of the demands of these five States, and the demands of thousands of other Americans throughout the other original States, the Constitution was amended in this respect. It was amended at the instigation of James Madison, who was elected to serve in Congress from the State of Virginia in the First Congress which met under the Constitution. As soon as this Congress convened, he began his great fight to have the first amendment written into the Constitution.

I wish I had sufficient time to detail the fight which occurred in Congress on this point. There were some who wished to maintain some vestige of religious support by Government, and some who merely wished to put in the restriction that there should be no single established church. But Madison insisted at all times that the first amendment should embody in it the provision that Congress should pass no law respecting an establishment of religion or prohibiting the free exercise of religion.

James Madison triumphed after much fighting. On September 23, 1789, Madison made a report to the House of Representatives concerning the action of the conference committee of the Senate and House, which had been appointed to reconcile varying views as to the language of the first amendment. This conference committee agreed with Madison and recommended the words which now are incorporated in the first amendment.

So we can say that James Madison, whom historians calls the father of the Constitution, was responsible for the phrasing of the first amendment. The meaning of the words of the first amendment that "Congress shall make no law respecting an establishment of religion" is crystal clear. By those words, James Madison and his contemporaries intended to prohibit the Government from establishing any official relation between Government and religion and to prevent the Government from using tax moneys to support or assist in the support of any religious institutions of any character whatsoever.

As Justice Black said in *Everson* v. *Board of Education*, 330 U.S. 1:

> The people there, as elsewhere, reached the conviction that individual religious liberty could be achieved best under a government which was stripped of all power to tax, to support, or otherwise to assist any or all religions, or to interfere with the beliefs of any religious individual or group.

I have attempted to set out as clearly as possible the conviction of James Madison and his contemporaries that there should be no establishment of religion, and the meaning which they attributed to the words, "establishment of religion." Those words clearly implied to them that there should be no official relationship between Government and any religious organization and no support of any religious organization by tax moneys.

It is interesting to note that the Supreme Court of the United States has consistently adhered to this meaning of this term, "an establishment of religion," when it has dealt with cases involving the first amendment.

I wish to read some excerpts from opinions of the Supreme Court dealing with this question. Justice Jackson declared in the Everson case.

> This freedom (i.e., religious freedom) was first in the Bill of Rights because it was first in the forefathers' minds; it was set forth in absolute terms, and its strength is its rigidity. It was intended not only to keep the States' hands out of religion, but to keep religion's hands off the state, and above all, to keep bitter religious controversy out of public life by denying to every denomination any advantage from getting control of public policy or the public purse.

Justice Rutledge, declared in the Everson case:

> Not simply an established church, but any law respecting an establishment of religion is forbidden * * *. It was to create a complete and permanent separation of the spheres of religious activity and civil authority by comprehensively forbidding every form of public aid or support for religion.

Justice Black, writing the majority opinion in *McCollum* v. *Board of Education*, 333 U.S. 203, said:

> For the first amendment rests upon the premise that both religion and Government can best work to achieve their lofty aims if each is left free from the other within its respective sphere. Or, as we said in the Everson case, the first amendment has erected a wall between church and state which must be kept high and impregnable.

Justice Frankfurther asserted this, in the McCollum case:

> The great American principle of eternal separation—Elihu Root's phrase bears repetition—is one of the vital reliances of our constitutional system for assuring unities among our people stronger than our diversities. It is the Court's duty to enforce this principle in its full integrity.
>
> We renew our conviction that "we have staked the very existence of our country on the faith that complete separation between the state and religion is best for the State and best for religion.

Justice Douglas said in *Zorach* v. *Clauson*, 343 U.S. 306:

> There cannot be the slightest doubt that the first amendment reflects the philosophy that church and state should be separated. And so far as interference with the free exercise of religion and an establishment of religion are concerned, the separation must be complete and unequivocal. The first amendment within the scope of its coverage permits no exception; the prohibition is absolute.

So much for the statements of Justices of the Supreme Court of the United States in respect to the objective of the establishment clause of the first amendment. The greatest declaration as to the overall meaning of the provisions of the first amendment denying to Congress the power to make any laws respecting an establishment of religion, or prohibiting the free exercise thereof, is that contained in the majority opinion written by Justice Black in the Everson case. This is what he said:

> The establishment of religion clause of the first amendment means at least this: Neither a State nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a State nor the Federal Government can, openly, or secretly, participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect a wall of separation between church and state.

It was not until 1940 that the Supreme Court of the United States held, in the case of *Cantwell* v. *Connecticut*, 310 U.S. 296, that the 14th amendment made the 1st amendment applicable to the States.

On June 25, 1962, the Supreme Court handed down the first of the so-called school prayer cases, *Engel* v. *Vitale*, 370 U.S. 421.

On June 17, 1963, the Supreme Court handed down the second of the so-called school prayer cases, *Abington School District* v. *Schempp*, 374 U.S. 203.

When the press reported that the Supreme Court had handed down these decisions, a great deal of consternation was aroused throughout the country with respect to the nature and the scope of the decisions. I believe that this consternation was aroused in large measure by the supposed logic of the concurring opinion of Mr. Justice Douglas, in the Engel case.

I will have to confess that I was one of those persons who was much disturbed by the opinions and particularly by the supposed logic of the concurring opinion of Justice Douglas. I felt that this was an area in our national life in which the Supreme Court well might have given some weight to the concept embraced in the very homey adage, "Let sleeping dogs lie."

Since neither the plaintiffs in these cases nor their children were required to participate in the exercises which gave rise to the cases, I felt originally that the Supreme Court might well have avoided entertaining jurisdiction of these cases on the theory that the plaintiffs and the persons in whose behalf the cases were instituted did not have standing entitling them to sue.

I also felt that since the Court had seen fit to exercise jurisdiction in these cases, it should have adopted the practical interpretation placed upon the first

amendment in the various areas of our country which are dominated by one or another of various religious groups; and that was that the mere recitation of prayers or the reading of holy writings by State authority in the public schools was not outlawed by the establishment-of-religion clause of the first amendment if participation in such prayers and reading were voluntary, and if they were nonsectarian, and no effort was made to proselyte any student toward any particular religious belief.

Since that time I have read and reread the decisions in the Engel and Schempp cases on many occasions. I have also found much consolation insofar as the supposed logic in the concurring opinion of Justice Douglas in the Engel case is concerned in the aphorism of the great jurist, Oliver Wendell Holmes, Jr., who told us that the life of the law has been experience and not logic.

As a result of reading and rereading the majority opinions in these cases and pondering Justice Holmes' aphorism I have altered my views in respect to the decisions.

I have scrutinized with great care both of the majority opinions which represent the decisions of the Court, and I am unable to find anything in either one of the majority opinions which holds that the establishment-of-religion clause of the first amendment prohibits voluntary prayers or voluntary study of holy writings.

I realize that these majority opinions are not readily available to all Americans, and for that reason, Mr. President, I ask unanimous consent that the majority opinion in the Engel case, which was written by Justice Black, and the majority opinion in the Schempp case, which was written by Justice Clark, be printed at this point in the RECORD as a part of my remarks.

There being no objection, the opinions were ordered to be printed in the RECORD, as follows:

SUPREME COURT OF THE UNITED STATES—STEVEN I. ENGEL ET AL., PETITIONERS, *v.* WILLIAM J. VITALE, JR., ET AL.—No. 468.—OCTOBER TERM, 1961

(On Writ of Certiorari to the Court of Appeals of New York)

[June 25, 1962]

Mr. JUSTICE BLACK delivered the opinion of the Court.

The respondent Board of Education of Union Free School District No. 9, New Hyde Park, New York, acting in its official capacity under state law, directed the School District's principal to cause the following prayer to be said aloud by each class in the presence of a teacher at the beginning of each school day:

"Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country."

This daily procedure was adopted on the recommendation of the State Board of Regents, a governmental agency created by the State Constitution to which the New York Legislature has granted broad supervisory, executive, and legislative powers over the State's public school system.[1] These state officials composed the prayer which they recommended and published as a part of their "Statement on Moral and Spiritual Training in the Schools," saying: "We believe that this Statement will be subscribed to by all men and women of good will, and we call upon all of them to aid in giving life to our program."

Shortly after the practice of reciting the Regents' prayer was adopted by the School District, the parents of ten pupils brought this action in a New York State Court insisting that use of this official prayer in the public schools was contrary to the beliefs, religions, or religious practices of both themselves and their children. Among other things, these parents challenged the constitutionality of both the state law authorizing the School District to direct the use of prayer in public schools and the School District's regulation ordering the recitation of this particular prayer on the ground that these actions of official governmental agencies violate that part of the First Amendment of the Federal Constitution which commands that "Congress shall make no law respecting an establishment of religion"—a command which was "made applicable to the State of New York by the Fourteenth Amendment of the said Constitution." The New York Court of Appeals, over the dissents of Judges Dye and Fuld, sustained an order of the lower state courts which had upheld the power of New York to use the Regents' prayer as a part of the daily procedures of its public schools so long as the schools did not compel any pupil to join in the prayer over his or his parents' objection.[2] We granted certiorari to review this important decision involving rights protected by the First and Fourteenth Amendments.[3]

We think that by using its public school system to encourage recitation of the Regents' prayer, the State of New York has adopted a practice wholly inconsistent with the Establishment Clause. There can, of course, be no doubt that New York's program of daily classroom invocation of God's blessings as prescribed in the Regents' prayer is a religious activity. It is a solemn avowal of divine faith and supplication for the blessings of the Almighty. The nature of such a prayer has always been religious, none of the respondents has denied this and the trial court expressly so found:

"The religious nature of prayers was recognized by Jefferson and has been concurred in by theological writers, the United States Supreme Court and State courts and administrative officials, including New York's Commissioner of Education. A committee of the New York Legislature has agreed.

"The Board of Regents as *amicus curiae*, the respondents and intervenors all concede the religious nature of prayer, but seek to distinguish this prayer because it is based on our spiritual heritage. . . ."[4]

The petitioners contend among other things that the state laws requiring or permitting use of the Regents' prayer must be struck down as a violation of the Establishment Clause because that prayer was composed by governmental officials as a part of a governmental program to further religious beliefs. For this reason, petitioners argue the State's use of the Regents' prayer in its public school system breaches the constitutional wall of separation between Church and State. We agree with that contention since we think that the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government.

It is a matter of history that this very practice of establishing governmentally composed prayers for religious services was one of the reasons which caused many of our early colonists to leave England and seek religious freedom in America. The Book of Common Prayer, which was created under governmental direction and which was approved by Acts of Parliament in 1548 and 1549,[5] set out in minute detail the accepted form and content of prayer and other religious ceremonies to be used in the established, tax-supported Church of England.[6] The controversies over the Book and what should be its content repeatedly threatened to disrupt the peace of that country as the accepted forms of prayer in the established church changed with the views of the particular ruler that happened to be in control at the time.[7] Powerful groups representing

[1] See New York Constitution, Art V, § 4; New York Education Law, §§ 101, 120 *et seq.*, 202, 214–219, 224, 245 *et seq.*, 704, and 801 *et seq.*

[2] 10 N.Y. 2d 174, 176 N.E. 2d 579. The trial court's opinion which is reported at 18 Misc. 2d 659, N.Y.S. 2d 453, had made it clear that the Board of Education must set up some sort of procedures to protect those who objected to reciting the prayer: "This is not to say that the rights accorded petitioners and their children under the 'free exercise' clause do not mandate safeguards against such embarrassments and pressures. It is enough on this score, however, that regulations, such as were adopted by New York City's Board of Education in connection with its released time program, be adopted, making clear that neither teachers nor any other school authority may comment on participation or nonparticipation in the exercise nor suggest or require that any posture or language be used or dress be worn or be not used or not worn. Nonparticipation may take the form either of remaining silent during the exercise, or if the parent or child so desires, of being excused entirely from the exercise. Such regulations must also make provision for those nonparticipants who are to be excused from the prayer exercise. The exact provision to be made is a matter for decision by the board, rather than the court, within the framework of constitutional requirements. Within that framework would fall a provision that prayer participants proceed to a common assembly while nonparticipants attend other rooms, or that nonparticipants be permitted to arrive at school a few minutes late or to attend separate opening exercises, or any other method which treats with equality both participants and nonparticipants." 18 Misc. 2d, at 696, 191 N.Y.S. 2d, at 492–493. See also the opinion of the Appellate Division affirming that of the trial court, reported at 11 App. Div. 2d 340, 206 N.Y.S. 2d 183.

[3] 368 U.S. 924.

[4] 18 Misc. 2d, at 671–672, 191 N.Y. S. 2d, at 468–469.

[5] 2 & 3 Edward VI, c. 1, entitled "An Act for Uniformity of Service and Administration of the Sacraments throughout the Realm"; 3 & 4 Edward VI, c. 10, entitled "An Act for the abolishing and putting away of divers Books and Images."

[6] The provisions of the various versions of the Book of Common Prayer are set out in broad outline in the Encyclopedia Britannica, Vol. 18 (1957 ed.), pp. 420–423. For a more complete description, see Pullan, The History of the Book of Common Prayer (1900).

[7] The first major revision of the Book of Common Prayer was made in 1552 during the reign of Edward VI. 5 & 6 Edward VI, c. 1. In 1553, Edward VI died and was succeeded by Mary who abolished the Book of Common Prayer entirely. 1 Mary, c. 2. But upon the accession of Elizabeth in 1558, the Book was restored with important alterations from the form it had been given by Edward VI. 1 Elizabeth, c. 2. The resentment to this amended form of the Book was kept firmly under control during the reign of Elizabeth but, upon her death in 1603, a petition signed

some of the varying religious views of the people struggled among themselves to impress their particular views upon the Government and obtain amendments of the Book more suitable to their respective notions of how religious services should be conducted in order that the official religious establishment would advance their particular religious beliefs.[8] Other groups, lacking the necessary political power to influence the Government on the matter, decided to leave England and its established church and seek freedom in America from England's governmentally ordained and supported religion.

It is an unfortunate fact of history that when some of the very groups which had most strenuously opposed the established Church of England found themselves sufficently in control of colonial governments in this country to write their own prayers into law, they passed laws making their own religion the official religion of their respective colonies.[9] Indeed, as late as the time of the Revolutionary War, there were established churches in at least eight of the thirteen former colonies and established religions in at least four of the other five.[10] But the successful Revolution against English political domination was shortly followed by intense opposition to the practice of establishing religion by law. This opposition crystallized rapidly into an effective political force in Virginia where the minority religious groups such as Presbyterians, Lutherans, Quakers and Baptists had gained such strength that the adherents to the established Episcopal Church were actually a minority themselves. In 1785–1786, those opposed to the established Church, led by James Madison and Thomas Jefferson, who, though themselves not members of any of these dissenting religious groups, opposed all religious establishments by law on grounds of principle, obtained the enactment of the famous "Virginia Bill for Religious Liberty" by which all religious groups were placed on an equal footing so far as the State was concerned.[11] Similar though less far-reaching legislation was being considered and passed in other States.[12]

By the time of the adoption of the Constitution, our history shows that there was a widespread awareness among many Americans of the dangers of a union of Church and State. These people knew, some of them from bitter personal experience, that one of the greatest dangers to the freedom of the individual to worship in his own way lay in the Government's placing its official stamp of approval upon one particular kind of prayer or one particular form of religious services. They knew the anguish, hardship and bitter strife that could come when zealous religious groups struggled with one another to obtain the Government's stamp of approval from each King, Queen, or Protector that came to temporary power. The Constitution was intended to avert a part of this danger by leaving the government of this country in the hands of the people rather than in the hands of any monarch. But this safeguard was not enough. Our Founders were no more willing to let the content of their prayers and their privilege of praying whenever they pleased be influenced by the ballot box than they were to let these vital matters of personal conscience depend upon the succession of monarchs. The First Amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control, support or influence the kinds of prayer the American people can say—that the people's religions must not be subjected to the pressures of government for change each time a new political administration is elected to office. Under that Amendment's prohibition against governmental establishment of religion, as reinforced by the provisions of the Fourteenth Amendment, government in this country, be it state or federal, is without power to prescribe by law any particular form of prayer which is to be used as an official prayer in carrying on any program of governmentally sponsored religious activity.

There can be no doubt that New York's state prayer program officially establishes the religious beliefs embodied in the Regents' prayer. The respondents' argument to the contrary which is largely based upon the contention that the Regents' prayer is "nondenominational" and the fact that the program, as modified and approved by state courts, does not require all pupils to recite the prayer but permits those who wish to do so to remain silent or be excused from the room, ignores the essential nature of the program's constitutional defects. Neither the fact the prayer may be denominationally neutral, nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitations of the Establishment Clause, as it might from the Free Exercise Clause, of the First Amendment, both of which are operative against the States by virtue of the Fourteenth Amendment. Although these two clauses may in certain instances overlap, they forbid two quite different kinds of governmental encroachment upon religious freedom. The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion and is violated by the enactment of laws which establish an official religion whether those laws operate directly to coerce nonobserving individuals or not. This is not to say, of course, that laws officially prescribing a particular form of religious worship do not involve coercion of such individuals. When the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain. But the purposes underlying the Establishment Clause go much further than that. Its first and most immediate purpose rested on the belief that a union of government and religion tends to destroy government and degrade religion. The history of governmentally established religion, both in England and in this country, showed that whenever government had allied itself with one particular form of religion, the inevitable result had been that it had incurred the hatred, disrespect and even contempt of those who held contrary beliefs.[13] That same history showed that many people had lost their respect for any religion that had relied upon the support of government to spread its faith.[14] The Establishment Clause

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by more than 1,000 Puritan ministers was presented to King James I asking for further alterations in the Book. Some alterations were made and the Book retained substantially this form until it was completely suppressed again in 1645 as a result of the successful Puritan Revolution. Shortly after the restoration in 1660 of Charles II, the Book was again reintroduced, 13 & 14 Charles II, c. 4, and again with alterations. Rather than accept this form of the Book some 2,000 Puritan ministers vacated their benefices. See generally Pullan, The History of the Book of Common Prayer (1900), pp. vii–xvi; Encyclopedia Britannica (1957 ed.), Vol. 18, pp. 421–422.

[8] For example, the Puritans twice attempted to modify the Book of Common Prayer and once attempted to destroy it. The story of their struggle to modify the Book in the reign of Charles I is vividly summarized in Pullan, History of the Book of Common Prayer, at p. xiii: "The King actively supported those members of the Church of England who were anxious to vindicate its Catholic character and maintain the ceremonial which Elizabeth had approved. Laud, Archbishop of Canterbury, was the leader of this school. Equally resolute in his opposition to the distinctive tenets of Rome and of Geneva, he enjoyed the hatred of both Jesuit and Calvinist. He helped the Scottish bishops, who had made large concessions to the uncouth habits of Presbyterian worship, to draw up a Book of Common Prayer for Scotland. It contained a Communion Office resembling that of the book of 1549. It came into use in 1637, and met with a bitter and barbarous opposition. The vigour of the Scottish Protestants strengthened the hands of their English sympathisers. Laud and Charles were executed, Episcopacy was abolished, the use of the Book of Common Prayer was prohibited."

[9] For a description of some of the laws enacted by early theocratic governments in New England, see Parrington, Main Currents in American Thought (1930), Vol. 1, pp. 5–50; Whipple, Our Ancient Liberties (1927), pp. 63–78; Wertenbaker, The Puritan Oligarchy (1947).

[10] The Church of England was the established church of at least five colonies: Maryland, Virginia, North Carolina, South Carolina and Georgia. There seems to be some controversy as to whether that church was officially established in New York and New Jersey but there is no doubt that it received substantial support from those states. See Cobb, The Rise of Religious Liberty in America (1902), pp. 338, 408. In Massachusetts, New Hampshire and Connecticut, the Congregationalist Church was officially established. In Pennsylvania and Delaware, all Christian sects were treated equally in most situations but Catholics were discriminated against in some respects. See generally Cobb, The Rise of Religious Liberty in America (1902). In Rhode Island all Protestants enjoyed equal privileges but it is not clear whether Catholics were allowed to vote. Compare Fiske, The Critical Period in American History (1899), p. 76 with Cobb, The Rise of Religious Liberty in America (1902), pp. 437–438.

[11] 12 Hening, Statutes of Virginia (1823), 84, entitled "An Act for establishing religious freedom." The story of the events surrounding the enactment of this law was reviewed in *Everson* v. *Board of Education*, 330 U.S. 1, both by the Court, at pp. 11–13, and in the dissenting opinion of Mr. Justice Rutledge, at pp. 33–42. See also Fiske, The Critical Period in American History (1899), pp. 78–82; James, The Struggle for Religious Liberty in Virginia (1900); Thom, The Struggle for Religious Freedom in Virginia: The Baptists (1900); Cobb, The Rise of Religious Liberty in America (1902), pp. 74–115, 482–499.

[12] See Cobb, The Rise of Religious Liberty in America (1902), pp. 482–509.

[13] [A]ttempts to enforce by legal sanctions, acts obnoxious to so great a proportion of Citizens, tend to enervate the laws in general, and to slacken the bands of Society. If it be difficult to execute any law which is not generally deemed necessary or salutary, what must be the case where it is deemed invalid and dangerous? and what may be the effect of so striking an example of impotency in the Government, on its general authority." Memorial and Remonstrance against Religious Assessments, II Writings of Madison 183, 190.

[14] "It is moreover to weaken in those who profess this Religion a pious confidence in its innate excellence, and the patronage of its Author; and to foster in those who still reject it, a suspicion that its friends are too conscious of its fallacies, to trust it to its own merits. . . . [E]xperience witnesseth that ecclesiastical establishments, instead of maintaining the purity and efficacy of Reli-

thus stands as an expression of principle on the part of the Founders of our Constitution that religion is too personal, too sacred, too holy, to permit its "unhallowed perversion" by a civil magistrate.[15] Another purpose of the Establishment Clause rested upon an awareness of the historical fact that governmentally established religions and religious persecutions go hand in hand.[16] The Founders knew that only a few years after the Book of Common Prayer became the only accepted form of religious services in the established Church of England, an Act of Uniformity was passed to compel all Englishmen to attend those services and to make it a criminal offense to conduct or attend religious gatherings of any other kind [17]—a law which was consistently flouted by dissenting religious groups in England and which contributed to widespread persecutions of people like John Bunyan who persisted in holding "unlawful [religious] meetings . . . to the great disturbance and distraction of the good subjects of this kingdom. . . ." [18] And they knew that similar persecutions had received the sanction of law in several of the colonies in this country soon after the establishment of official religions in those colonies.[19] It was in large part to get completely away from this sort of systematic religious persecution that the Founders brought into being our Nation, our Constitution, and our Bill of Rights with its prohibition against any governmental establishment of religion. The New York laws officially prescribing the Regents' prayer are inconsistent with both the purposes of the Establishment Clause and with the Establishment Clause itself.

It has been argued that to apply the Constitution in such a way as to prohibit state laws respecting an establishment of religious services in public schools is to indicate a hostility toward religion or toward prayer. Nothing, of course, could be more wrong. The history of man is inseparable from the history of religion. And perhaps it is not too much to say that since the beginning of that history many people have devoutly believed that "More things are wrought by prayer than this world dreams of." It was doubtless largely due to men who believed this that there grew up a sentiment that caused men to leave the cross-current of officially established state religions and religious persecution in Europe and come to this country filled with the hope that they could find a place in which they could pray when they pleased to the God of their faith in the language they chose.[20] And there were men of this same faith in the power of prayer who led the fight for adoption of our Constitution and also for our Bill of Rights with the very guarantees of religious freedom that forbid the sort of governmental activity which New York has attempted here. These men knew that the First Amendment, which tried to put an end to governmental control of religion and of prayer, was not written to destroy either. They knew rather that it was written to quiet well-justified fears which nearly all of them felt arising out of an awareness that governments of the past had shackled men's tongues to make them speak only the religious thoughts that government wanted them to speak and to pray only to the God that government wanted them to pray to. It is neither sacrilegious nor antireligious to say that each separate government in this country should stay out of the business of writing or sanctioning official prayers and leave that purely religious function to the people themselves and to those the people choose to look to for religious guidance.[21]

It is true that New York's establishment of its Regents' prayer as an officially approved religious doctrine of that State does not amount to a total establishment of one particular religious sect to the exclusion of all others—that, indeed, the governmental endorsement of that prayer seems relatively insignificant when compared to the governmental encroachments upon religion which were commonplace 200 years ago. To those who may subscribe to the view that because the Regents' official prayer is so brief and general there can be no danger to religious freedom in its governmental establishment, however, it may be appropriate to say in the words of James Madison, the author of the First Amendment:

"[I]t is proper to take alarm at the first experiment on our liberties. . . . Who does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish with the same ease any particular sect of Christians, in exclusion of all other Sects? That the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?" [22]

The judgment of the Court of Appeals of New York is reversed and the cause remanded for further proceedings not inconsistent with this opinion.

Reversed and remanded.

Mr. JUSTICE FRANKFURTER took no part in the decision of this case.

Mr. JUSTICE WHITE took no part in the consideration or decision of this case.

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gion, have had a contrary operation. During almost fifteen centuries, has the legal establishment of Christianity been on trial. What have been its fruits? More or less in all places, pride and indolence in the Clergy; ignorance and servility in the laity; in both, superstition, bigotry and persecution. Enquire of the Teachers of Christianity for the ages in which it appeared in its greatest lustre; those of every sect, point to the ages prior to its incorporation with Civil policy." *Id.*, at 187.

[15] Memorial and Remonstrance against Religious Assessments, II Writings of Madison, at 187.

[16] "[T]he proposed establishment is a departure from that generous policy, which, offering an asylum to the persecuted and oppressed of every Nation and Religion, promised a lustre to our country, and an accession to the number of its citizens. What a melancholy mark is the Bill of sudden degeneracy? Instead of holding forth an asylum to the persecuted, it is itself a signal of persecution. . . . Distant as it may be, in its present form, from the Inquisition it differs from it only in degree. The one is the first step, the other the last in the career of intolerance. The magnanimous suffered under this cruel scourge in foreign Regions, must view the Bill as a Beacon on our Coast, warning him to seek some other haven, where liberty and philanthropy in their due extent may offer a more certain repose from his troubles." *Id.*, at 188.

[17] 5 & 6 Edward VI, c. 1, entitled "An Act for the Uniformity of Service and Administration of Sacraments throughout the Realm. This Act was repealed during the reign of Mary but revived upon the accession of Elizabeth. See note 7, *supra*. The reasons which led to the enactment of this statute were set out in its preamble: "Where there hath been a very godly Order set forth by the Authority of Parliament, for Common Prayer and Administration of Sacraments to be used in the Mother Tongue within the Church of *England*, agreeable to the Word of God and the Primitive Church, very comfortable to all good People desiring to live in Christian Conversation, and most profitable to the Estate of this Realm, upon the which the Mercy, Favour and Blessing of Almighty God is in no wise so readily and plenteously poured as by Common Prayers, due using of the Sacraments, and often preaching of the Gospel, with the Devotion of the Hearers: (1) And yet this notwithstanding, a great Number of People in divers Parts of this Realm, following their own Sensuality, and living either without Knowledge or due Fear of God, do wilfully and damnably before Almighty God abstain and refuse to come to their Parish Churches and other Places where Common Prayer, Administration of the Sacraments, and Preaching of the Word of God, is used upon *Sundays* and other Days ordained to be Holydays."

[18] Bunyan's own account of his trial is set forth in A Relation of the Imprisonment of Mr. John Bunyan, reprinted in Grace Abounding and The Pilgrim's Progress (Brown ed. 1907), at 103–132.

[19] For a vivid account of some of these persecutions, see Wertenbaker, The Puritan Oligarchy (1947).

[20] Perhaps the best example of the sort of men who came to this country for precisely that reason is Roger Williams, the founder of Rhode Island, who has been described as "the truest Christian amongst many who sincerely desired to be Christian." Parrington, Main Currents of American Thought (1930), Vol. 1, at p. 74. Williams, who was one of the earliest exponents of the doctrine of separation of church and state, believed that separation was necessary in order to protect the church from the danger of destruction which he thought inevitably flowed from control by even the best-intentioned civil authorities: "The unknowing zeale of *Constantine* and other Emperours, did more hurt to *Christ Jesus* his Crowne and Kingdome, then the raging fury of the most bloody *Neroes*. In the *persecutions* of the later, *Christians* were sweet and fragrant, like spice pounded and beaten in morters: But those *good* Emperours, persecuting some erroneous persons, *Arrius, &c.* and advancing the professour of some Truths of Christ (for there was no small number of *Truths* lost in those times) and maintaining their *Religion* by the materiall Sword, I say by this meanes *Christianity* was *ecclipsed*, and the Professors of it fell asleep. . . ." Williams, The Bloudy Tenent, of Persecution, for cause of Conscience, discussed, in A Conference betweene Truth and Peace (London, 1644), reprinted in Naragansett Club Publications, Vol. III, p. 184. To Williams, it was no part of the business or competence of a civil magistrate to interfere in religious matters: "[W]hat imprudence and *indiscretion* is it in the most common affaires of Life, to conceive that *Emperours, Kings* and *Rulers* of the earth must not only be qualified with *politicall* and *state abilities* to *make* and *execute* such *Civill Lawes* which may concerne the common *rights, peace* and *safety* (which is worke and businesse, load and burthen enough for the ablest shoulders in the Commonweal) but also furnished with such *Spirituall* and heavenly *abilities* to governe the *Spirituall* and *Christian Commonweale*. . . ." *Id.*, at 366. See also *id.*, at 136–137.

[21] There is of course nothing in the decision reached here that is inconsistent with the fact that school children and others are officially encouraged to express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life of belief in God. Such patriotic or ceremonial occasions bear no true resemblance to the unquestioned religious exercise that the State of New York has sponsored in this instance.

[22] Memorial and Remonstrance against Religious Assessments, II Writings of Madison 183, at 185–186.

SUPREME COURT OF THE UNITED STATES—NOS. 142 AND 119—OCTOBER TERM, 1962

SCHOOL DISTRICT OF ABINGTON TOWNSHIP, PENNSYLVANIA, ET AL., APPELLANTS, 142 *v.* EDWARD LEWIS SCHEMPP ET AL.

(On Appeal From the United States District Court for the Eastern District of Pennsylvania)

WILLIAM J. MURRAY III, ETC., ET AL., PETITIONERS, 119 *v.* JOHN N. CURLETT, PRESIDENT, ET AL., INDIVIDUALLY, AND CONSTITUTING THE BOARD OF SCHOOL COMMISSIONERS OF BALTIMORE CITY

(On Writ of Certiorari to the Court of Appeals of Maryland)

[June 17, 1963]

MR. JUSTICE CLARK delivered the opinion of the Court.

Once again we are called upon to consider the scope of the provision of the First Amendment to the United States Constitution which declares that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. . . ." These companion cases present the issues in the context of state action requiring that schools begin each day with readings from the Bible. While raising the basic questions under slightly different factual situations, the cases permit of joint treatment. In light of the history of the First Amendment and of our cases interpreting and applying its requirements, we hold that the practices at issue and the laws requiring them are unconstitutional under the Establishment Clause, as applied to the states through the Fourteenth Amendment.

I

The Facts in Each Case: No. 142. The Commonwealth of Pennsylvania by law, 24 Pa. Stat. § 15–1516, as amended, Pub. Law 1928 (Supp. 1960) Dec. 17, 1959, requires that "At least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day. Any child shall be excused from such Bible reading, or attending such Bible reading, upon the written request of his parents or guardian." The Schempp family, husband and wife and two of their three children, brought suit to enjoin enforcement of the statute, contending that their rights under the Fourteenth Amendment to the Constitution of the United States are, have been, and will continue to be violated unless this statute be declared unconstitutional as violative of these provisions of the First Amendment. They sought to enjoin the appellant school district, wherein the Schempp children attend school, and its officers and the Superintendent of Public Instruction of the Commonwealth from continuing to conduct such readings and recitation of the Lord's Prayer in the public schools of the district pursuant to the statute. A three-judge statutory District Court for the Eastern District of Pennsylvania held that the statute is violative of the Establishment Clause of the First Amendment as applied to the States by the Due Process Clause of the Fourteenth Amendment and directed that appropriate injunctive relief issue. 201 F. Supp. 815.[1]

On appeal by the District, its officials and the Superintendent, under 28 U.S.C. § 1253, we noted probable jurisdiction. 371 U.S. 807.

The appellees Edward Lewis Schempp, his wife Sidney, and their children, Roger and Donna, are of the Unitarian faith and are members of the Unitarian Church in Germantown, Philadelphia, Pennsylvania, where they, as well as another son, Ellory, regularly attend religious services. The latter was originally a party but having graduated from the school system *pendente lite* was voluntarily dismissed from the action. The other children attend the Abington Senior High School, which is a public school operated by appellant district.

On each school day at the Abington Senior High School between 8:15 and 8:30 a.m., while the pupils are attending their home rooms or advisory sections, opening exercises are conducted pursuant to the statute. The exercises are broadcast into each room in the school building through an intercommunications system and are conducted under the supervision of a teacher by students attending the school's radio and television workshop. Selected students from this course gather each morning in the school's workshop studio for the exercises, which include readings by one of the students of 10 verses of the Holy Bible, broadcast to each room in the building. This is followed by the recitation of the Lord's Prayer, likewise over the intercommunications system, but also by the students in the various classrooms, who are asked to stand and join in repeating the prayer in unison. The exercises are closed with the flag salute and such pertinent announcements as are of interest to the students. Participation in the opening exercises, as directed by the statute, is voluntary. The student reading the verses fror the Bible may select the passages and read from any version he chooses, although the only copies furnished by the school are the King James version, copies of which were circulated to each teacher by the school district. During the period in which the exercises have been conducted the King James, the Douay and the Revised Standard versions of the Bible have been used, as well as the Jewish Holy Scriptures. There are no prefatory statements, no questions asked or solicited, no comments or explanations made and no interpretations given at or during the exercises. The students and parents are advised that the student may absent himself from the classroom or, should he elect to remain, not participate in the exercises.

It appears from the record that in schools not having an intercommunications system the Bible reading and the recitation of the Lord's Prayer were conducted by the homeroom teacher,[2] who chose the text of the verses and read them herself or had students read them in rotation or by volunteers. This was followed by a standing recitation of the Lord's Prayer, together with the Pledge of Allegiance to the flag by the class in unison and a closing announcement of routine school items of interest.

At the first trial Edward Schempp and the children testified as to specific religious doctrines purveyed by a literal reading of the Bible 'which were contrary to the religious beliefs which they held and to their familial teaching." 177 F. Supp. 398, 400. The children testified that all of the doctrines to which they referred were read to them at various times as part of the exercises. Edward Schempp testified at the second trial that he had considered having Roger and Donna excused from attendance at the exercises but decided against it for several reasons, including his belief that the children's relationships with their teachers and classmates would be adversely affected.[3]

Expert testimony was introduced by both appellants and appellees at the first trial, which testimony was summarized by the trial court as follows:

"Dr. Solomon Grayzel testified that there were marked differences between the Jewish Holy Scriptures and the Christian Holy Bible, the most obvious of which was the absence of the New Testament in the Jewish Holy Scriptures. Dr. Grayzel testified that portions of the New Testament were offensive to Jewish tradition and that, from the standpoint of Jewish faith, the concept of Jesus Christ as the Son of God was 'practically blasphemous.' He cited instances in the New Testament which, assertedly, were not only sectarian in nature but tended to bring the Jews into ridicule or scorn. Dr. Grayzel gave as his expert opinion that such material from the New Testament could be explained to Jewish children in such a way as to do no harm to them. But if portions of the New Testament were read without explanation, they could be, and in his specific experience with children Dr. Grayzel observed, had been, psychologically harmful to the child and had caused a divisive force within the social media of the school.

"Dr. Grayzel also testified that there was significant difference in attitude with regard to the respective Book of the Jewish and Christian Religions in that Judaism attaches no special significance to the reading of the Bible *per se* and that the Jewish Holy Scriptures are source materials to be studied. But Dr. Grayzel did state that many portions of of New as well as of the Old Testament contained passages of great literary and moral value.

"Dr. Luther A. Weigle, an expert witness for the defense, testified in some detail as to the reasons for and the methods employed in developing the King James and the Revised Standard Versions of the Bible. On direct examination, Dr. Weigle stated that the Bible was non-sectarian. He later stated that the phrase 'non-sectarian' meant to him nonsectarian within the Christian faiths. Dr. Weigle stated that his definition of the Holy Bible would include the Jewish

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[1] The action was brought in 1958, prior to the 1959 amendment of § 15–1516 authorizing a child's nonattendance at the exercises upon parental request. The three-judge court held the statute and the practices complained of unconstitutional under both the Establishment Clause and the Free Exercise Clause. 177 F. Supp. 398. Pending appeal to this Court by the school district, the statute was so amended, and we vacated the judgment and remanded for further proceedings. 364 U.S. 298. The same three-judge court granted appellees' motion to amend the pleadings, 195 F. Supp. 518, held a hearing on the amended pleadings and rendered the judgment, 201 F. Supp. 815, from which appeal is now taken.

[2] The statute as amended imposes no penalty upon a teacher refusing to obey its mandate. However, it remains to be seen whether one refusing could have his contract of employment terminated for "wilful violation of the school laws." 24 Pa. Stat. (Supp. 1960) § 11–1122.

[3] The trial court summarized his testimony as follows:

"Edward Schempp, the children's father, testified that after careful consideration he had decided that he should not have Roger or Donna excused from attendance at these morning ceremonies. Among his reasons were the following. He said that he thought his children would be 'labeled as "odd balls"' before their teachers and classmates every school day; that children, like Roger's and Donna's classmates, were liable 'to lump all particular religious difference[s] or religious objections [together] as "atheism"' and that today the word 'atheism' is often connected with 'atheistic communism,' and has 'very bad' connotations, such as 'un-American' or 'anti-Red,' with overtones of possible immorality. Mr. Schempp pointed out that due to the events of the morning exercises following in rapid succession, the Bible reading, the Lord's Prayer, the Flag Salute, and the announcements, excusing his children from the Bible reading would mean that probably they would miss hearing the announcements so important to children. He testified also that if Roger and Donna were excused from Bible reading they would have to stand in the hall outside their 'homeroom' and that this carried with it the imputation of punishment for bad conduct." 201 F. Supp., at 818.

Holy Scriptures, but also stated that the 'Holy Bible' would not be complete without the New Testament. He stated that the New Testament 'conveyed the message of Christians.' In his opinion, reading of the Holy Scriptures to the exclusion of the New Testament would be a sectarian practice. Dr. Weigle stated that the Bible was of great moral, historical and literary value. This is conceded by all parties and is also the view of the court." 177 F. Supp. 398, 401–402.

The trial court, in striking down the practices and the statute requiring them, made specific findings of fact that the children's attendance at Abington Senior High School is compulsory and that the practice of reading 10 verses from the Bible is also compelled by law. It also found that:

"The reading of the verses, even without comment, possesses a devotional and religious character and constitutes in effect a religious observance. The devotional and religious nature of the morning exercises is made all the more apparent by the fact that the Bible reading is followed immediately by a recital in unison by the pupils of the Lord's Prayer. The fact that some pupils, or theoretically all pupils, might be excused from attendance at the exercises does not mitigate the obligatory nature of the ceremony for . . . Section 1516 . . . unequivocally requires the exercises to be held every school day in every school in the Commonwealth. The exercises are held in the school buildings and perforce are conducted by and under the authority of the local school authorities and during school sessions. Since the statute requires the reading of the 'Holy Bible,' a Christian document, the practice . . . prefers the Christian religion. The record demonstrates that it was the intention of . . . the Commonwealth . . . to introduce a religious ceremony into the public schools of the Commonwealth." 201 F. Supp., at 819.

No. 119. In 1905 the Board of School Commissioners of Baltimore City adopted a rule pursuant to Art. 77, § 202 of the Annotated Code of Maryland. The rule provided for the holding of opening exercises in the schools of the city consisting primarily of the "reading, without comment, of a chapter in the Holy Bible and/or the use of the Lord's Prayer." The petitioners, Mrs. Madalyn Murray and her son, William J. Murray, III, are both professed atheists. Following unsuccessful attempts to have the respondent school board rescind the rule this suit was filed for mandamus to compel its rescission and cancellation. It was alleged that William was a student in a public school of the city and Mrs. Murray, his mother, was a taxpayer therein; that it was the practice under the rule to have a reading on each school morning from the King James version of the Bible; that at petitioners' insistence the rule was amended [4] to permit children to be excused from the exercise on request of the parent and that William had been excused pursuant thereto; that nevertheless the rule as amended was in violation of the petitioners' rights "to freedom of religion under the First and Fourteenth Amendments" and in violation of "the principle of separation between church and state, contained therein. . . ." The petition particularized the petitioners' atheistic beliefs and stated that the rule, as practiced, violated their rights "in that it threatens their religious liberty by placing a premium on belief as against nonbelief and subjects their freedom of conscience to the rule of the majority; it pronounces belief in God as the source of all moral and spiritual values, equating these values with religious values, and thereby renders sinister, alien and suspect the beliefs and ideals of . . . Petitioners, promoting doubt and question of their morality, good citizenship and good faith."

The respondents demurred and the trial court, recognizing that the demurrer admitted all facts well pleaded, sustained it without leave to amend. The Maryland Court of Appeals affirmed, the majority of four justices holding the exercise not in violation of the First and Fourteenth Amendments, with three justices dissenting. 228 Md. 239, 179 A. 2d 698. We granted certiorari. 371 U.S. 809.

II

It is true that religion has been closely identified with our history and government. As we said in *Engel* v. *Vitale*, 370 U.S. 421, 434 (1962), "The history of man is inseparable from the history of religion. And . . . since the beginning of that history many people have devoutly believed that 'More things are wrought by prayer than this world dreams of.'" In *Zorach* v. *Clauson*, 343 U.S. 306, 313 (1952), we gave specific recognition to the proposition that "[w]e are a religious people whose institutions presuppose a Supreme Being." The fact that the Founding Fathers believed devotedly that there was a God and that the unalienable rights of man were rooted in Him is clearly evidenced in their writings, from the Mayflower Compact to the Constitution itself. This background is evidenced today in our public life through the continuance in our oaths of office from the Presidency to the Alderman of the final supplication, "So help me God." Likewise each House of the Congress provides through its Chaplain an opening prayer, and the sessions of this Court are declared open by the crier in a short ceremony, the final phrase of which invokes the grace of God. Again, there are such manifestations in our military forces, where those of our citizens who are under the restrictions of military service wish to engage in voluntary worship. Indeed, only last year an official survey of the country indicated that 64% of our people have church membership, Bureau of Census, U.S. Department of Commerce, Statistical Abstract of the United States, 48 (83d ed. 1962), while less than 3% profess no religion whatever, *Id.*, at p. 46. It can be truly said, therefore, that today, as in the beginning, our national life reflects a religious people who, in the words of Madison, are "earnestly praying, as . . . in duty bound, that the Supreme Lawgiver of the Universe . . . guide them into every measure which may be worthy of his . . . blessing . . . ." Memorial and Remonstrance Against Religion Assestments, quoted in *Everson* v. *Board of Education*, 330 U.S. 1, 71–72 (1947) (Appendix to dissenting opinion of Rutledge, J.).

This is not to say, however, that religion has been so identified with our history and government that religious freedom is not likewise as strongly imbedded in our public and private life. Nothing but the most telling of personal experiences in religious persecution suffered by our forebears, see *Everson* v. *Board of Education*, *supra*, at 8–11, could have planted our belief in liberty of religious opinion any more deeply in our heritage. It is true that this liberty frequently was not realized by the colonists, but this is readily accountable to their close ties to the Mother Country.[5] However, the views of Madison and Jefferson, preceded by Roger Williams,[6] came to be incorporated not only in the Federal Constitution but likewise in those of most of our States. This freedom to worship was indispensable in a country whose people came from the four quarters of the earth and brought with them a diversity of religious opinion. Today authorities list 83 separate religious bodies, each with memberships exceeding 50,000, existing among our people, as well as innumerable smaller groups. Bureau of Census, *op. cit.*, *supra*, at 46–47.

III

Almost a hundred years ago in *Minor* v. *Board of Education of Cincinnati*,[7] Judge Alphonzo Taft, father of the revered Chief Justice, in an unpublished opinion stated the ideal of our people as to religious freedom as one of "absolute equality before the law of all religious opinions and sects . . . ."

. . . . . .

"The government is neutral, and, while protecting all, it prefers none, and it disparages none."

Before examining this "neutral" position in which the Establishment and Free Exercise Clauses of the First Amendment place our government it is well that we discuss the reach of the Amendment under the cases of this Court.

First, this Court has decisively settled that the First Amendment's mandate that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof" has been made wholly applicable to the states by the Fourteenth Amendment. Twenty-three years ago in *Cantwell* v. *Connecticut*, 310 U.S. 296, 303 (1940), this Court, through Mr. Justice Roberts, said:

"The fundamental concept of liberty embodied in that [Fourteenth] Amendment embraces the liberties guaranteed by the First Amendment. The First Amendment declares that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. The Fourteenth Amendment has rendered the legislatures of the states as incompetent as Congress to enact such laws. . . ." [8]

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[4] The rule as amended provides as follows:

"Opening Exercise. Each school, either collectively or in classes, shall be opened by the reading, without comment, of a chapter in the Holy Bible and/or the use of the Lord's Prayer. The Douay version may be used by those pupils who prefer it. Appropriate patriotic exercises should be held as a part of the general opening exercise of the school or class. Any child shall be excused from participating in the opening exercises or from attending the opening exercises upon written request of his parent or guardian."

[5] There were established churches in at least eight of the original colonies, and various degrees of religious support in others as late as the Revolutionary War. See *Engel* v. *Vitale*, *supra*, at 428, n. 10.

[6] "There goes many a ship to sea, with many hundred souls in one ship, whose weal and woe is common, and is a true picture of a commonwealth, or human combination, or society. It hath fallen out sometimes, that both Papists and Protestants, Jews and Turks, may be embarked in one ship; upon which supposal, I affirm that all the liberty of conscience I ever pleaded for, turns upon these two hinges, that none of the Papists, Protestants, Jews, or Turks be forced to come to the ship's prayers or worship, nor compelled from their own particular prayers or worship, if they practice any."

[7] Superior Court of Cincinnati, February 1870. The opinion is not reported but is published under the title, The Bible in the Common Schools (Cincinnati: Robert Clarke & Co. 1870). Judge Taft's views, expressed in dissent, prevailed on appeal. See *Board of Education of Cincinnati* v. *Minor*, 23 Ohio St. 211, 253 (1872), in which the Ohio Supreme Court held that:

"The great bulk of human affairs and human interests is left by any free government to individual enterprise and individual action. Religion is eminently one of these interests, lying outside the true and legitimate province of government."

[8] Application to the States of other clauses of the First Amendment obtained even before *Cantwell*. Almost 40 years ago in the opinion of the Court in *Gitlow* v. *New York*, 268 U.S. 652, 666 (1925), Mr. Justice Sanford said: "For present purposes we may

In a series of cases since *Cantwell* the Court has repeatedly reaffirmed that doctrine, and we do so now. *Murdock* v. *Pennsylvania*, 319 U.S. 105, 108 (1943); *Everson* v. *Board of Education, supra; Illinois ex rel. McCollum* v. *Board of Education*, 333 U.S. 203, 210–211 (1948); *Zorach* v. *Clauson, supra; McGowan* v. *Maryland*, 366 U.S. 420 (1961); *Torcaso* v. *Watkins*, 367 U.S. 488 (1961); and *Engel* v. *Vitale, supra*.

Second, this Court has rejected unequivocally the contention that the establishment clause forbids only governmental preference of one religion over another. Almost 20 years ago in *Everson, supra*, at 15, the Court said that "[n]either a state nor the Federal government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another." And Mr. Justice Jackson, dissenting, agreed:

"There is no answer to the proposition . . . that the effect of the religious freedom Amendment to our Constitution was to take every form of propagation of religion out of the realm of things which could directly or indirectly be made public business and thereby be supported in whole or in part at taxpayers' expense . . . . This freedom was first in the Bill of Rights because it was first in the forefathers' minds; it was set forth in absolute terms, and its strength is its rigidity." *Id.*, at 26.

Further, Mr. Justice Rutledge, joined by Justices Frankfurter, Jackson and Burton, declared:

"The [First] Amendment's purpose was not to strike merely at the official establishment of a single sect, creed or religion, outlawing only a formal relation such as had prevailed in England and some of the Colonies. Necessarily it was to uproot all such relationships. But the object was broader than separating church and state in this narrow sense. It was to create a complete and permanent separation of the spheres of religious activity and civil authority by comprehensively forbidding every form of public aid or support for religion." *Id.*, at 31–32.

The same conclusion has been firmly maintained ever since that time, see *Illinois ex rel. McCollum, supra*, at pp. 210–211; *McGowan* v. *Maryland, supra*, at 442–443; *Torcaso* v. *Watkins, supra*, at 492–493, 495, and we reaffirm it now.

While none of the parties to either of these cases has questioned these basic conclusions of the Court, both of which have been long established, recognized and consistently reaffirmed, others continue to question their history, logic and efficacy. Such contentions, in the light of the consistent interpretation in cases of this Court, seem entirely untenable and of value only as academic exercises.

IV

The interrelationship of the Establishment and the Free Exercise Clauses was first touched upon by Mr. Justice Roberts for the Court in *Cantwell* v. *Connecticut, supra*, at 303, where it was said that their "inhibition of legislation" had "a double aspect. On the one hand, it forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship. Freedom of conscience and freedom to adhere to such religious organization or form of worship as the individual may choose cannot be restricted by law. On the other hand, it safeguards the free exercise of the chosen form of religion. Thus the Amendment embraces two concepts—freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be."

A half dozen years later in *Everson* v. *Board of Education, supra*, at 14–15, this Court, through Mr. JUSTICE BLACK, stated that the "scope of the First Amendment . . . was designed forever to suppress" the establishment of religion or the prohibition of the free exercise thereof. In short, the Court held that the Amendment "requires the state to be a neutral in its relations with groups of religious believers and non-believers; it does not require the state to be their adversary. State power is no more to be used so as to handicap religions than it is to favor them." *Id.*, at 18.

And Mr. Justice Jackson, in dissent, declared that public schools are organized "on the premise that secular education can be isolated from all religious teaching so that the school can inculcate all needed temporal knowledge and also maintain a strict and lofty neutrality as to religion. The assumption is that after the individual has been instructed in worldly wisdom he will be better fitted to choose his religion." *Id.*, at 23–24.

Moreover, all of the four dissenters, speaking through Mr. Justice Rutledge, agreed that

"Our constitutional policy . . . . [D]oes not deny the value or necessity for religious training, teaching or observance. Rather it secures their free exercise. But to that end it does deny that the state can undertake or sustain them in any form or degree. For this reason the sphere of religious activity, as distinguished from the secular intellectual liberties, has been given the two-fold protection and, as the state cannot forbid, neither can it perform or aid in performing the religious function. The dual prohibition makes that function altogether private." *Id.*, at 52.

Only one year later the Court was asked to reconsider and repudiate the doctrine of these cases in *McCollum* v. *Board of Education*. It was argued that "historically the First Amendment was intended to forbid only government preference of one religion over another . . . . In addition they ask that we distinguish or overrule our holding in the *Everson* case that the Fourteenth Amendment made the 'establishment of religion' clause of the First Amendment applicable as a prohibition against the States." 333 U.S. at 211. The Court, with Mr. Justice Reed alone dissenting, was unable to "accept either of these contentions." *Ibid.* Mr. Justice Frankfurter, joined by Justices Jackson, Rutledge and Burton, wrote a very comprehensive and scholarly concurrence in which he said that "[s]eparation is a requirement to abstain from fusing functions of government and of religious sects, not merely to treat them all equally." *Id.*, at 227. Continuing, he stated that:

"The Constitution . . . prohibited the government common to all from becoming embroiled, however innocently, in the destructive religious conflicts of which the history of even this country records some dark pages." *Id.*, at 228.

In 1952 in *Zorach* v. *Clauson, supra*, Mr. Justice Douglas for the Court reiterated:

"There cannot be the slightest doubt that the First Amendment reflects the philosophy that Church and State should be separated. And so far as interference with the 'free exercise' of religion and an 'establishment' of religion are concerned, the separation must be complete and unequivocal. The First Amendment within the scope of its coverage permits no exception; the prohibition is absolute. The First Amendment, however, does not say that in every and all respects there shall be a separation of Church and State. Rather, it studiously defines the manner, the specific ways, in which there shall be no concert or union or dependency one on the other. That is the common sense of the matter." 343 U.S., at 312.

And then in 1961 in *McGowan* v. *Maryland* and in *Torcaso* v. *Watkins* each of these cases was discussed and approved. Chief Justice Warren in *McGowan*, for a unanimous Court on this point, said:

"But, the First Amendment, in its final form, did not simply bar a congressional enactment *establishing a church*; it forbade all laws *respecting an establishment of religion*. Thus this Court has given the Amendment a 'broad interpretation . . . in the light of its history and the evils it was designed forever to suppress. . . .'" 366 U.S., at 441–442.

And Mr. Justice Black for the Court in *Torcaso*, without dissent but with Justices Frankfurter and Harlan concurring in the result, used this language:

"We repeat and again reaffirm that neither a State nor the Federal Government can constitutionally force a person 'to profess a belief or disbelief in any religion.' Neither can constitutionally pass laws or impose requirements which aid all religions as against non-believers, and neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs." 367 U.S., at 495.

Finally, in *Engel* v. *Vitale*, only last year, these principles were so universally recognized that the Court without the citation of a single case and over the sole dissent of Mr. Justice Stewart reaffirmed them. The Court found the 22-word prayer used in "New York's program of daily classroom invocation of God's blessings as prescribed in the Regents' prayer . . . [to be] a religious activity." 370 U.S., at 424. It held that "it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by the government." *Id.*, at 425. In discussing the reach of the Establishment and Free Exercise Clauses of the First Amendment the Court said:

"Although these two clauses may in certain instances overlap, they forbid two quite different kinds of governmental encroachment upon religious freedom. The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion and is violated by the enactment of laws which establish an official religion whether those laws operate directly to coerce non-observing individuals or not. This is not to say, of course, that laws officially prescribing a particular form of religious worship do not involve coercion of such individuals. When the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain." *Id.*, at 430–431.

And in further elaboration the Court found that the "first and most immediate purpose [of the Establishment Clause] rested on a belief that a union of government and religion tends to destroy government and to degrade religion." *Id.*, at 431. When government, the Court said, allies itself with one particular form of religion, the inevitable result is that it incurs "the hatred, disrespect and even contempt of those who held contrary beliefs." *Ibid.*

V

The wholesome "neutrality" of which this Court's cases speak thus stems from a recognition of the teachings of history that powerful sects or groups might bring about a fusion of governmental and religious functions or a concert or dependency of one upon the other to the end that official support of the State or Federal Government would be placed behind the tenets of one or of all orthodoxies. This the Establishment Clause prohibits. And a further reason for neutrality is found in the Free Exercise Clause, which recognizes the value of religious train-

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and do assume that freedom of speech and of the press—which are protected by the First Amendment from abridgement by Congress—are among the fundamental personal rights and 'liberties' protected by the Due Process Clause of the Fourteenth Amendment from impairment by the States."

ing, teaching and observance and, more particularly, the right of every person to freely choose his own course with reference thereto, free of any compulsion from the state. This the Free Exercise Clause guarantees. Thus, as we have seen, the two clauses may overlap. As we have indicated, the Establishment Clause has been directly considered by this Court eight times in the past score of years and, with only one Justice dissenting on the point, it has consistently held that the clause withdrew all legislative power respecting religious belief or the expression thereof. The test may be stated as follows: what are the purpose and the primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution. That is to say that to withstand the strictures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion. *Everson* v. *Board of Education, supra; McGowan* v. *Maryland, supra,* at 442. The Free Exercise Clause, likewise considered many times here, withdraws from legislative power, state and federal, the exertion of any restraint on the free exercise of religion. Its purpose is to secure religious liberty in the individual by prohibiting any invasions thereof by civil authority. Hence it is necessary in a free exercise case for one to show the coercive effect of the enactment as it operates against him in the practice of his religion. The distinction between the two clauses is apparent—a violation of the Free Exercise Clause is predicated on coercion while the Establishment Clause violation need not be so attended.

Applying the Establishment Clause principles to the cases at bar we find that the States are requiring the selection and reading at the opening of the school day of verses from the Holy Bible and the recitation of the Lord's Prayer by the students in unison. These exercises are prescribed as part of the curricular activities of students who are required by law to attend school. They are held in the school buildings under the supervision and with the participation of teachers employed in those schools. None of these factors, other than compulsory school attendance, was present in the program upheld in *Zorach* v. *Clauson*. The trial court in No. 142 has found that such an opening exercise is a religious ceremony and was intended by the State to be so. We agree with the trial court's finding as to the religious character of the exercises. Given that finding the exercises and the law requiring them are in violation of the Establishment Clause.

There is no such specific finding as to the religious character of the exercises in No. 119, and the State contends (as does the State in No. 142) that the program is an effort to extend its benefits to all public school children without regard to their religious belief. Included within its secular purposes, it says, are the promotion of moral values, the contradiction to the materialistic trends of our times, the perpetuation of our institutions and the teaching of literature. The case came up on demurrer, of course, to a petition which alleged that the uniform practice under the rule had been to read from the King James version of the Bible and that the exercise was sectarian. The short answer, therefore, is that the religious character of the exercise was admitted by the State. But even if its purpose is not strictly religious, it is sought to be accomplished through readings, without comment, from the Bible. Surely the place of the Bible as an instrument of religion cannot be gainsaid, and the State's recognition of the pervading religious character of the ceremony is evident from the rule's specific permission of the alternative use of the Catholic Douay version as well as the recent amendment permitting nonattendance at the exercises. None of these factors is consistent with the contention that the Bible is here used either as an instrument for nonreligious moral inspiration or as a reference for the teaching of secular subjects.

The conclusion follows that in both cases the laws require religious exercises and such exercises are being conducted in direct violation of the rights of the appellees and petitioners.[9] Nor are these required exercises mitigated by the fact that individual students may absent themselves upon parental request, for that fact furnishes no defense to a claim of unconstitutionality under the Establishment Clause. See *Engel* v. *Vitale, supra,* at 430. Further, it is no defense to urge that the religious practices here may be relatively minor encroachments on the First Amendment. The breach of neutrality that is today a trickling stream may all too soon become a raging torrent and, in the words of Madison, "it is proper to take alarm at the first experiment on our liberties." Memorial and Remonstrance Against Religious Assessments, quoted in *Everson, supra,* at 65.

It is insisted that unless these religious exercises are permitted a "religion of secularism" is established in the schools. We agree of course that the State may not establish a "religion of secularism" in the sense of affirmatively opposing or showing hostility to religion, thus "preferring those who believe in no religion over those who do believe." *Zorach* v. *Clauson, supra,* at 314. We do not agree, however, that this decision in any sense has that effect. In addition, it might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or religion, when presented objectively as part of a secular program of education, may not be effected consistent with the First Amendment. But the exercises here do not fall into those categories. They are religious exercises, required by the States in violation of the command of the First Amendment that the Government maintain strict neutrality, neither aiding nor opposing religion.

Finally, we cannot accept that the concept of neutrality, which does not permit a State to require a religious exercise even with the consent of the majority of those affected, collides with the majority's right to free exercise of religion.[10] While the Free Exercise Clause clearly prohibits the use of state action to deny the rights of free exercise to *anyone*, it has never meant that a majority could use the machinery of the State to practice its beliefs. Such a contention was effectively answered by Mr. Justice Jackson for the Court in *West Virginia Board of Education* v. *Barnette*, 319 U.S. 624, 638 (1943):

"The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to . . . freedom of worship . . . and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections."

The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the State is firmly committed to a position of neutrality. Though the application of that rule requires interpretation of a delicate sort, the rule itself is clearly and concisely stated in the words of the First Amendment. Applying that rule to the facts of these cases, we affirm the judgment in No. 142. In No. 119, the judgment is reversed and the cause remanded to the Maryland Court of Appeals for further proceedings consistent with this opinion.

It is so ordered.

Mr. ERVIN. Mr. President, I take much consolation from the fact that my considered interpretation of the majority opinion in the Engle case, and the majority opinion in the Schempp case are shared by others.

One of the ablest constitutional lawyers in the United States is Phillip B. Kurland, who is professor of law at the Law School of the University of Chicago. I have followed the legal writings of Professor Kurland for some years, and I have found them to be sound, and I have such a high respect for them that I repose great confidence in any opinion which he expresses in respect to any constitutional question.

Professor Kurland has this to say about the majority decisions in these two cases:

> This, and only this, is certainly to be derived from the Engel and Schempp cases. The States may not prescribe the conduct of religious ceremonies in their public schools.

The correctness of my interpretation of the Engel case, and the correctness of the interpretation placed upon it by Professor Kurland is made manifest by reading these words in the majority opinion:

> We agree with that contention since we think that the total prohibition against laws respecting the establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by the government.

When all is said, that is what was held by the majority and all that was held by the majority in the Engel case.

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[9] It goes without saying that the laws and practices involved here can be challenged only by persons having standing to complain. But the requirements for standing to challenge state action under the Establishment Clause, unlike those relating to the Free Exercise Clause, do not include proof that particular religious freedoms are infringed. *McGowan* v. *Maryland, supra,* at 429–430. The parties here are school children and their parents, who are directly affected by the laws and practices against which their complaints are directed. These interests surely suffice to give the parties standing to complain. See *Engle* v. *Vitale, supra.* Cf. *McCollum* v. *Board of Education, supra; Everson* v. *Board of Education, supra.* Compare *Doremus* v. *Board of Education,* 342 U.S. 429 (1952), which involved the same substantive issues presented here. The appeal was there dismissed upon the graduation of the school child involved and because of the appellants' failure to establish standing as taxpayers.

[10] We are not of course presented with and therefore do not pass upon a situation such as military service, where the Government regulates the temporal and geographic environment of individuals to a point that, unless it permits voluntary religious services to be conducted with the use of government facilities, military personnel would be unable to engage in the practice of their faiths.

A like observation may be made in reference to the Schempp case. All that was held in this case by a majority of the Court was that the State could not require the recitation of prayers and the reading of a religious book as a part of a religious exercise carried on under the auspices of the State itself.

Mr. President, when I was privileged to be an associate justice of the supreme court of North Carolina, I worked very closely with the clerk of that court, Adrian Newton, who is an excellent lawyer as well as a devoutly religious man.

When I was a young lawyer practicing law in my hometown of Morganton, N.C., I came to know a young Baptist minister, W. Perry Crouch, who was the minister of a local church known as the Calvary Baptist Church. He has since risen to high rank among the ministers of my State. Adrian Newton and Perry Crouch joined a learned citizen of North Carolina, Dr. E. W. Price, in a statement concerning the Dirksen prayer amendment, which was inserted on page 644 of the hearings on the amendment.

They placed upon the Engel case and the Schempp case exactly the same interpretation which Professor Kurland and myself have placed upon them.

Here is what they said in part:

The court has declared that Government agencies should not impose, regulate, or organize religious exercise in the schools. With this decision, our Baptist people are in full agreement.

Mr. President, I ask unanimous consent to have the complete statement of Adrian Newton, Dr. Price, and Perry Crouch printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

CONCERNING THE DIRKSEN PRAYER AMENDMENT

This statement is signed by Mr. Adrian Newton, an attorney of Raleigh, North Carolina and chairman of the Committee on Public Affairs of the North Carolina Baptist State Convention; Dr. E. W. Price, President of the General Board of our Baptist State Convention; W. Perry Crouch, Executive Secretary-Treasurer of the North Carolina Baptist State Convention.

Our Baptist State Convention is composed of 3,443 churches, with a membership of approximately one million people. We work very closely with our people and know something of their convictions and beliefs. Apparently there is little or no interest, or concern, for the Dirksen Prayer Amendment. We do not believe the Supreme Court has ever acted on any case involving the "free exercise of religion" in the public schools. The court has declared that government agencies should not impose, regulate, or organize religious exercise in the schools. With this decision, our Baptist people are in full agreement.

We have checked with our state office of Public Education, and have been told that no changes have been made in regard to religious activities in the schools of North Carolina as a result of the Supreme Court's decision concerning prescribed prayer.

It is our firm conviction that the majority of our Baptist people in North Carolina believe that the first amendment offers full and ample protection for our religious liberty, and that any amendments will only weaken its structure and lead to false interpretations and questionable practices. This belief of our Baptist people in North Carolina is in agreement with our nearly eleven million Baptists from 50 other states, as indicated by resolutions passed by various Baptist State Conventions and twice passed by the Southern Baptist Convention in annual session; first in 1964 and second in 1966.

We do not believe it is within the power of any government agency to "allow" or "not to allow" prayer. The first amendment guarantees religious freedom. We strongly believe that we have all of the guarantee we need in the first amendment and the Bill of Rights. We reaffirm our faith in these documents, and in the great American Principle of Religious Freedom and Separation of Church and State.

ADRIAN NEWTON,
Attorney, Raleigh, North Carolina, Chairman Committee on Public Affairs, Baptist State Convention of North Carolina.
President General Board, North Carolina Baptist State Convention.
W. PERRY CROUCH,
Executive Secretary-Treasurer, North Carolina Baptist State Convention.

(At this point Mr. CANNON took the chair as Presiding Officer.)

Mr. ERVIN. Mr. President, I wish to cite at this point another interpretation placed upon these decisions by a very profound commentator on the passing scene—James J. Kilpatrick. In so doing, I refer to an article written by him entitled "Ramifications of Proposed 'Prayer Amendment'," published in the Washington Evening Star for August 7, 1966.

Mr. Kilpatrick had this to say:

The thing is, that given the facts in these particular cases, the court could not possibly have decided them any other way.

Mr. President, I ask unanimous consent to have the entire article written by Mr. Kilpatrick printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Star, Aug. 7, 1966]

RAMIFICATIONS OF PROPOSED "PRAYER AMENDMENT"

(By James J. Kilpatrick)

More than 130 years ago, John Randolph of Roanoke laid down a rule that many persons earnestly wish Senator DIRKSEN would take to heart today.

"A great cardinal principle that should govern all wise statesmen," said Randolph, "is never without the strongest necessity to disturb a thing at rest."

For the past several days, a Senate subcommittee has been holding hearings on DIRKSEN's proposed "prayer amendment" to the Constitution. The Senator has promised that regardless of the sub-committee's action, willy-nilly he will compel a vote on the floor. In violation of the Randolph precept, he is thus disturbing an issue that has been at rest for the past three years. There is no necessity for disturbing it; and nothing good will come of the fight.

The amendment sponsored by DIRKSEN (and 48 others) is intended to nullify two opinions of the U.S. Supreme Court prohibiting the States from providing for religious exercises in public schools. The first of these, rendered on June 25, 1962, knocked out the non-denominational "regents' prayer" that had been authorized for use in the schools of New York. The second, handed down a year later, killed the Bible reading statutes of Pennsylvania and Maryland. The court found it immaterial that participation in these exercises was theoretically voluntary. The practices were "wholly inconsistent" with the First Amendment, which prohibits the Federal government—and by extension, the States—from providing any establishment of religion, voluntary or otherwise.

The Dirksen resolution would prohibit public officials from prescribing "the form or content of any prayer," but it would leave State and local administrators free to "provide for or permit the voluntary participation by students or others in prayer."

To call up this proposal for floor debate will serve only to precipitate the very clash of unreason and emotion that the high court nervously foresaw in its two judgments. As Mr. Justice Brennan remarked in a concurring opinion, few constitutional issues are "more intricate or more demanding than that of the relationship between religion and the public schools." Fixing the permissible line between government and religion, Mr. Justice Goldberg added, "is a most difficult and sensitive task, calling for the careful exercise of both judicial and public judgment and restraint."

All this will go by the boards once the moment approaches when the clerk calls the roll. In the eyes of several million devout church-goers, it will be as if God were running for office in an August primary; you are for Him or against Him, and the Senator who publicly opposes the Dirksen amendment will be risking the kind of fundamentalist, Bible-quoting mail that makes a politician turn positively pale.

If the amendment should win a two-thirds majority in the Senate, a tremendous head of steam would be generated for immediate action in the House. If the resolution emerged from the House Judiciary Committee, a divisive floor fight would be precipitated there. Multiply these congressional conflicts by the debates of 50 state legislatures, and one winds up in a religious civil war that neither side could win.

But both freedom and religion would lose. The thing is, that given the facts in these particular cases, the court could not possibly have decided them any other way. In each of the three jurisdictions, the state actually was involving itself affirmatively in providing for a religious exercise. The involvement was limited: a 22-word prayer in New York, 10 Bible verses daily in Pennsylvania, a chapter from Scripture in Maryland. Yet if the involvement was small, the principle was large; for the power to decree the "voluntary" recital of an innocuous prayer is the power to decree the "voluntary" recital of prayers that are not so innocuous. It is a road that must lead to a weakening of free government, as school officials are subjected to the passions of competing religionists; and it is a road that must lead equally to a weakening of the church, as it becomes more and more dependent upon assistance from the state.

The high court acted with great wisdom in blocking the road at the first opportunity. In seeking to remove the barrier, Senator DIRKSEN and his well-intentioned colleagues are inviting new and wider controversy, for "school prayer" is only the beginning. What of tax exemption for churches? What of the words "under God" in the pledge of allegiance? What of the employment of legislative chaplains? What of the very motto on our coins? Do any of these serve either to advance or to inhibit religion? If so, then "the enactment exceeds the scope of legislative power as circumscribed by the Constitution."

The Dirksen amendment settles none of these peripheral questions—questions which the court itself sought to dampen with judicial rhetoric. They are controversies that surely will be aggravated if this amendment is pressed. There are times when Senators, even Senators as distinguished as DIRKSEN, should follow the rule of Randolph and leave well enough alone. This is one of them.

Mr. ERVIN. Mr. President, unfortunately, the exact holdings of the Supreme Court in the Engel and Schempp cases have not been widely understood in this country.

Some have said that the opinions are destructive of religious life in this country, and that the opinions prevent schoolchildren from engaging in voluntary prayers and voluntary readings from holy books. Others say that unless we have religious exercise required by the States in the public schools, we will have a religion of secularism.

I quote on this point from observations made by Supreme Court Justice Clark in the majority opinion in the Schempp case:

It is insisted that unless these religious exercises are permitted a "religion of secularism" is established in the schools. We agree of course that the State may not establish a "religion of secularism" in the sense of affirmatively opposing or showing hostility to religion, thus "preferring those who believe in no religion over those who do believe." *Zorach* v. *Clauson, supra,* at 314. We do not agree, however, that this decision in any sense has that effect. In addition, it might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistent with the First Amendment. But the exercises here do not fall into those categories. They are religious exercises, required by the States in violation of the command of the First Amendment that the Government maintain strict neutrality, neither aiding nor opposing religion.

The question of the relationship between the public schools and religion under the first amendment was considered by the Supreme Court in a case which antedated the Engel and Schempp decisions by more than a decade.

I refer to the case of *Zorach* v. *Clauson,* 343 United States 306. The holding in that case is accurately reflected in the headnotes, which I read:

Under § 3210 of the New York Education Law and the regulations thereunder, New York City permits its public schools to release students during schools hours, on written requests of their parents, so that they may leave the school buildings and grounds and go to religious centers for religious instruction or devotional exercises. The same section makes school attendance compulsory; students not released stay in the classrooms; and the churches report to the schools the names of children released from public schools who fail to report for religious instruction. The program involves neither religious instruction in public schools nor the expenditure of public funds. Held: This program does not violate the First Amendment, made applicable to the States by the Fourteenth Amendment . . .

By this system, New York has neither prohibited the "free exercise" of religion nor made a law "respecting an establishment of religion" within the meaning of the First Amendment.

Mr. President, I ask unanimous consent that the majority opinion of the Zorach case be printed at this point in the body of the RECORD.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

SYLLABUS

ZORACH ET AL. *v.* CLAUSON ET AL., CONSTITUTING THE BOARD OF EDUCATION OF THE CITY OF NEW YORK, ET AL.—APPEAL FROM THE COURT OF APPEALS OF NEW YORK—No. 431

(Argued Jan. 31–Feb. 1, 1952 decided Apr. 28, 1952)

Under § 3210 of the New York Education Law and the regulations thereunder, New York City permits its public schools to release students during school hours, on written requests of their parents, so that they may leave the school buildings and grounds and go to religious centers for religious instruction or devotional exercises. The same section makes school attendance compulsory; students not released stay in the classrooms; and the churches report to the schools the names of children released from public schools who fail to report for religious instruction. The program involves neither religious instruction in public schools nor the expenditure of public funds. *Held:* This program does not violate the First Amendment, made applicable to the States by the Fourteenth Amendment. *McCollum* v. *Board of Education,* 333 U.S. 203, distinguished. Pp. 308–315.

(a) By this system, New York has neither prohibited the "free exercise" of religion nor made a law "respecting an establishment of religion" within the meaning of the First Amendment. Pp. 310–315.

(b) There is no evidence in the record in this case to support a conclusion that the system involves the use of coercion to get public school students into religious classrooms. Pp. 311–312. 303 N.Y. 161, 100 N.E. 2d 463, affirmed.

The New York Court of Appeals sustained N.Y. Education Law § 3210 and the regulations thereunder permitting absence of students from the public schools for religious observance and education, against the claim that the program thereunder violated the Federal Constitution. 303 N.Y. 161, 100 N.E. 2d 463. On appeal to this Court, *affirmed,* p. 315.

COUNSEL FOR PARTIES

Kenneth W. Greenawalt argued the cause for appellants. With him on the brief were *Leo Pfeffer* and *Edwin J. Lukas.*

Wendell P. Brown, Solicitor General, argued the cause for the Commissioner of Education of the State of New York, appellee. With him on the brief were *Nathaniel L. Goldstein,* Attorney General, and *Ruth Kessler Toch* and *John P. Powers,* Assistant Attorneys General.

Michael A. Castaldi argued the cause for the Board of Education of the City of New York, appellee. With him on the brief were *Denis M. Hurley, Seymour B. Quel, Daniel T. Scannell* and *Arthur H. Kahn.*

Charles H. Tuttle argued the cause for the Greater New York Coordinating Committee on Released Time of Jews, Protestants and Roman Catholics, appellee. With him on the brief was *Porter R. Chandler.*

Briefs of *amici curiae* supporting appellees were filed on behalf of the States of California, by *Edmund G. Brown,* Attorney General, *William V. O'Connor,* Chief Deputy Attorney General, and *Howard S. Goldin,* Deputy Attorney General; Indiana, by *J. Emmett McManamon,* Attorney General; Kentucky, by *J. D. Buckman, Jr.,* Attorney General and *M. B. Holifield,* Assistant Attorney General; Maine, by *Alexander A. LaFleur,* Attorney General; Massachusetts, by *Francis E. Kelly,* Attorney General, *Charles H. Walters,* Assistant Attorney General, and *William F. Marcella;* Oregon, By *George Neuner,* Attorney General, *Robert F. Maguire* and *William E. Dougherty;* Pennsylvania, by *Robert E. Woodside,* Attorney General, and *Harry F. Stambaugh;* and West Virginia, by *William C. Marland,* Attorney General, and *Thomas J. Gillooly, T. D. Kauffelt* and *Eston B. Stephenson,* Assistant Attorneys General.

OPINION OF THE COURT

Mr. JUSTICE DOUGLAS delivered the opinion of the Court.

New York City has a program which permits its public schools to release students during the school day so that they may leave the school buildings and school grounds and go to religious centers for religious instruction or devotional exercises. A student is released on written request of his parents. Those not released stay in the classrooms. The churches make weekly reports to the schools, sending a list of children who have been released from public school but who have not reported for religious instruction.[1]

This "released time" program involves neither religious instruction in public school classrooms nor the expenditure of public funds. All costs, including the application blanks, are paid by the religious organizations. The case is therefore unlike *McCollum* v. *Board of Education,* 333 U.S. 203, which involved a "released time" program from Illinois. In that case the classrooms were turned over to religious instructors. We accordingly held that the program violated the First Amendment[2] which (by reason of the Fourteenth Amendment)[3] prohibits the states from establishing religion or prohibiting its free exercise.

Appellants, who are taxpayers and residents of New York City and whose children

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[1] The New York City released time program is embodied in the following provisions:

(a) N.Y. Education Law, § 3210, subdiv. 1(b), which provides that "Absence for religious observance and education shall be permitted under rules that the commissioner shall establish."

(b) Regulations of the Commissioner of Education of the State of New York, Art. 17 § 154 (1 N.Y. Official Code Comp. 683), which provide for absence during school hours for religious observance and education outside the school grounds [par. 1], where conducted by or under the control of a duly constituted religious body [par. 2]. Students must obtain written requests from their parents or guardians to be excused for such training [par. 1], and must register for the training and have a copy of their registration filed with the public school authorities [par. 3]. Weekly reports of their attendance at such religious schools must be filed with their principal or teacher [par. 4]. Only one hour a week is to be allowed for such training, at the end of a class session [par. 5], and where more than one religious school is conducted, the hour of release shall be the same for all religious schools [par. 6].

(c) Regulations of the Board of Education of the City of New York, which provide similar rules supplementing the State Commissioner's regulations, with the following significant amplifications: No announcement of any kind will be made in the public schools relative to the program [rule 1]. The religious organizations and parents will assume full responsibility for attendance at the religious schools and will explain any failures to attend on the weekly attendance reports [rule 3]. Students who are released will be dismissed from school in the usual way [rule 5]. There shall be no comment by any principal or teacher on attendance or nonattendance of any pupil upon religious instruction [rule 6].

[2] The First Amendment reads in relevant part, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

[3] See *Stromberg* v. *California,* 283 U.S. 359; *Cantwell* v. *Connecticut,* 310 U.S. 296; *Murdock* v. *Pennsylvania,* 319 U.S. 105.

attend its public schools,[4] challenge the present law, contending it is in essence not different from the one involved in the *McCollum* case. Their argument, stated elaborately in various ways, reduces itself to this: the weight and influence of the school is put behind a program for religious instruction; public school teachers police it, keeping tab on students who are released; the classroom activities come to a halt while the students who are released for religious instruction are on leave; the school is a crutch on which the churches are leaning for support in their religious training; without the cooperation of the schools this "released time" program, like the one in the *McCollum* case, would be futile and ineffective. The New York Court of Appeals sustained the law against this claim of unconstitutionality. 303 N.Y. 161, 100 N.E. 2d 463. The case is here on appeal. 28 U.S.C. § 1257(2).

The briefs and arguments are replete with data bearing on the merits of this type of "released time" program. Views *pro* and *con* are expressed, based on practical experience with these programs and with their implications.[5] We do not stop to summarize these materials nor to burden the opinion with an analysis of them. For they involve considerations not germane to the narrow constitutional issue presented. They largely concern the wisdom of the system, its efficiency from an educational point of view, and the political considerations which have motivated its adoption or rejection in some communities. Those matters are of no concern here, since our problem reduces itself to whether New York by this system has either prohibited the "free exercise" of religion or has made a law "respecting an establishment of religion" within the meaning of the First Amendment.

It takes obtuse reasoning to inject any issue of the "free exercise" of religion into the present case. No one is forced to go to the religious classroom and no religious exercise or instruction is brought to the classrooms of the public schools. A student need not take religious instruction. He is left to his own desires as to the manner or time of his religious devotions, if any.

There is a suggestion that the system involves the use of coercion to get public school students into religious classrooms. There is no evidence in the record before us that supports that conclusion.[6] The present record indeed tells us that the school authorities are neutral in this regard and do no more than release students whose parents so request. If in fact coercion were used, if it were established that any one or more teachers were using their office to persuade or force students to take the religious instruction, a wholly different case would be presented.[7] Hence we put aside that claim of coercion both as respects the "free exercise" of religion and "an establishment of religion" within the meaning of the First Amendment.

Moreover, apart from that claim of coercion, we do not see how New York by this type of "released time" program has made a law respecting an establishment of religion within the meaning of the First Amendment. There is much talk of the separation of Church and State in the history of the Bill of Rights and in the decisions clustering around the First Amendment. See *Everson* v. *Board of Education*, 330 U.S. 1; *McCollum* v. *Board of Education, supra*. There cannot be the slightest doubt that the First Amendment reflects the philosophy that Church and State should be separated. And so far as interference with the "free exercise" of religion and an "establishment" of religion are concerned, the separation must be complete and unequivocal. The First Amendment within the scope of its coverage permits no exception; the prohibition is absolute. The First Amendment, however, does not say that in every and all respects there shall be a separation of Church and State. Rather, it studiously defines the manner, the specific ways, in which there shall be no concert or union or dependency one on the other. That is the common sense of the matter. Otherwise the state and religion would be aliens to each other—hostile, suspicious, and even unfriendly. Churches could not be required to pay even property taxes. Municipalities would not be permitted to render police or fire protection to religious groups. Policemen who helped parishioners into their places of worship would violate the Constitution. Prayers in our legislative halls; the appeals to the Almighty in the messages of the Chief Executive; the proclamations making Thanksgiving Day a holiday; "so help me God" in our courtroom oaths—these and all other references to the Almighty that run through our laws, our public rituals, our ceremonies would be flouting the First Amendment. A fastidious atheist or agnostic could even object to the supplication with which the Court opens each session: "God save the United States and this Honorable Court."

We would have to press the concept of separation of Church and State to these extremes to condemn the present law on constitutional grounds. The nullification of this law would have wide and profound effects. A Catholic student applies to his teacher for permission to leave the school during hours on a Holy Day of Obligation to attend a mass. A Jewish student asks his teacher for permission to be excused for Yom Kippur. A Protestant wants the afternoon off for a family baptismal ceremony. In each case the teacher requires parental consent in writing. In each case the teacher, in order to make sure the student is not a truant, goes further and requires a report from the priest, the rabbi, or the minister. The teacher in other words cooperates in a religious program to the extent of making it possible for her students to participate in it. Whether she does it occasionally for a few students, regularly for one, or pursuant to a systemized program designed to further the religious needs of all the students does not alter the character of the act.

We are a religious people whose institutions presuppose a Supreme Being. We guarantee the freedom to worship as one chooses. We make room for as wide a variety of beliefs and creeds as the spiritual needs of man deem necessary. We sponsor an attitude on the part of government that shows no partiality to any one group and that lets each flourish according to the zeal of its adherents and the appeal of its dogma. When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs. To hold that it may not would be to find in the Constitution a requirement that the government show a callous indifference to religious groups. That would be preferring those who believe in no religion over those who do believe. Government may not finance religious groups nor undertake religious instruction nor blend secular and sectarian education nor use secular institutions to force one or some religion on any person. But we find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence. The government must be neutral when it comes to competition between sects. It may not thrust any sect on any person. It may not make a religious observance compulsory. It may not coerce anyone to attend church, to serve a religious holiday, or to take religious instruction. But it can close its doors or suspend its operations as to those who want to repair to their religious sanctuary for worship or instruction. No more than that is undertaken here.

This program may be unwise and improvident from an educational or a community viewpoint. That appeal is made to us on a theory, previously advanced, that each case must be decided on the basis of "our own prepossessions." See *McCollum* v. *Board of Education, supra*, p. 238. Our individual preferences, however, are not the constitutional standard. The constitutional standard is the separation of Church and State. The problem, like many problems in constitutional law, is one of degree. See *McCollum* v. *Board of Education, supra*, p. 231.

In the *McCollum* case the classrooms were used for religious instruction and the force of the public school was used to promote

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[4] No problem of this Court's jurisdiction is posed in this case since, unlike the appellants in *Doremus* v. *Board of Education*, 342 U.S. 429, appellants here are parents of children currently attending schools subject to the released time program.

[5] See, *e. g.*, Beckes, Weekday Religious Education (National Conference of Christians and Jews, Human Relations Pamphlet No. 6); Butts, American Tradition in Religion and Education, pp. 188, 199; Moehlman, The Wall of Separation between Church and State, pp. 123, 155 ff.; Moehlman, The Church as Educator, pp. 103 ff.; Moral and Spiritual Values in the Public Schools (Educational Policies Commission, 1951); Newman, The Sectarian Invasion of Our Public Schools; Public School Time for Religious Education, 12 Jewish Education 130 (January, 1941); Religious Instruction on School Time, 7 Frontiers of Democracy 72 (1940); Released Time for Religious Education in New York City's Schools (Public Education Association, June 30, 1943); Released Time for Religious Education in New York City's Schools (Public Education Association, June 30, 1945); Released Time for Religious Education in New York City Schools (Public Education Association, 1949); 2 Stokes, Church and State in the United States, pp. 523–548; The Status of Religious Education In The Public Schools (National Education Association).

[6] Nor is there any indication that the public schools enforce attendance at religious schools by punishing absentees from the released time programs for truancy.

[7] Appellants contend that they should have been allowed to prove that the system is in fact administered in a coercive manner. The New York Court of Appeals declined to grant a trial on this issue, noting, *inter alia*, that appellants had not properly raised their claim in the manner required by state practice. 303 N.Y. 161, 174, 100 N. E. 2d 463, 469. This independent state ground for decision precludes appellants from raising the issue of maladministration in this proceeding. See *Louisville & Nashville R. Co.* v. *Woodford*, 234 U.S. 46, 51; *Atlantic Coast Line R. Co.* v. *Mims*, 242 U.S. 532 535; *American Surety Co.* v. *Baldwin*, 287 U.S. 156, 169.,

The only allegation in the complaint that bears on the issue is that the operation of the program "has resulted and inevitably results in the exercise of pressure and coercion upon parents and children to secure attendance by the children for religious instruction." But this charge does not even implicate the school authorities. The New York Court of Appeals was therefore generous in labeling it a "conclusory" allegation. 303 N.Y., at 174, 100 N. E. 2d, at 469. Since the allegation did not implicate the school authorities in the use of coercion, there is no basis for holding that the New York Court of Appeals under the guise of local practice defeated a federal right in the manner condemned by *Brown* v. *Western R. of Alabama*, 338 U.S. 294, and related cases.

that instruction. Here, as we have said, the public schools do no more than accommodate their schedules to a program of outside religious instruction. We follow the *McCollum* case.[8] But we cannot expand it to cover the present released time program unless separation of Church and State means that public institutions can make no adjustments of their schedules to accommodate the religious needs of the people. We cannot read into the Bill of Rights such a philosophy of hostility to religion.

Affirmed.

Mr. ERVIN. Mr. President, the Zorach case points out how the parents of schoolchildren can provide for religious instruction of their children in accordance with their religious beliefs without offending the provisions of the first amendment.

Since the school prayer cases, there has been a decision in the U.S. District Court for the Western District of Michigan, *Reed* v. *Van Hoven*, 237 Fed. Sup. 48, which points out another way in which schoolchildren can receive the benefits of religious instructions without offending the provisions of the first amendment.

For the sake of time, I shall read the analysis of this opinion, made by the publisher of the volume of the Federal supplement in which it appears. This analysis correctly reflects the ruling of the court. I read the analysis:

Parents of public school children brought suit against superintendent of schools and members of board of education to enjoin religious exercises in the public schools. The District Court, Fox, J., held that public school students who wish to say prayer or read scripture according to their choice in morning before school day begins and after school day ends, should be permitted to do so, provided that they meet in room other than regular home room, and complete their exercise at least five minutes before regularly scheduled class day or do not begin until at least five minutes after completion of regular school class day, and no bell should signify start of prayer exercise, and if prayer is to be said during lunch period, it should be a silent prayer during moments of silence set aside for private meditation at start of that period.

Mr. President, I ask unanimous consent that the opinion in the case of Reed against Van Hoven be printed at this point in the body of the RECORD.

[8] Three of us—THE CHIEF JUSTICE, MR. JUSTICE DOUGLAS and MR. JUSTICE BURTON—who join this opinion agreed that the "released time" program involved in the *McCollum* case was unconstitutional. It was our view at the time that the present type of "released time" program was not prejudged by the *McCollum* case, a conclusion emphasized by the reservation of the question in the separate opinion by MR. JUSTICE FRANKFURTER in which MR. JUSTICE BURTON joined. See 333 U.S., at 225 where it was said, "Of course, 'released time' as a generalized conception, undefined by differentiating particularities, is not an issue for Constitutional adjudication. Local programs differ from each other in many and crucial respects. . . . It is only when challenge is made to the share that the public schools have in the execution of a particular 'released time' program that close judicial scrutiny is demanded of the exact relation between the religious instruction and the public educational system in the specific situation before the Court."

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

CHARLES E. REED, JOYCE REED, VERDA GOUDZWAARD, RUTH DYKSTRA, LORRAINE DYKHOUSE, TINO J. CAVIGGIOLA, JOAN CAVIGGIOLA AND ROBERT L. HULSEBUS, PLAINTIFFS *v.* JACK VAN HOVEN, JACK E. KALEE, CORNELIUS DODD, GRANT W. SILER, PAUL R. STEIMLE, GLENN NYKERK, AND JENISON PUBLIC SCHOOL DISTRICT NO. 30, DEFENDANTS

(Civ. A. No. 4787—U.S. District Court, W. D. Michigan, S. D., Jan. 8, 1965)

Parents of public school children brought suit against superintendent of schools and members of board of education to enjoin religious exercises in the public schools. The District Court, Fox, J., held that public school students who wish to say prayer or read scriptures according to their choice in morning before school day begins and after school day ends, should be permitted to do so, provided that they meet in room other than regular home room, and complete their exercises at least five minutes before regularly scheduled class day or do not begin until at least five minutes after completion of regular school class day, and no bell should signify start of prayer exercise, and if prayer is to be said during lunch period, it should be a silent prayer during moments of silence set aside for private meditation at start of that period.

Injunction denied.

1. Constitutional Law⚷84

The First Amendment to the Federal Constitution insures to parents the security that children attending public elementary schools are not officially taught tenets of religion other than that of parents, and such insurance is protection to both majority and minority, and it is essential safeguard to protection and free exercise of religion. U.S.C.A. Const. Amend. 1.

2. Schools and School Districts⚷165

When time of public grade schools is given over to religious practices, there is interference with fundamental right of parents to see to education of their children, for continued observances, being repetitive, when joined with authority of local school, can easily constitute a teaching of particular practices and beliefs involved. U.S.C.A. Const. Amend. 1.

3. Constitutional Law⚷84

When religion is included in regular program in public schools in such way as to become connected with learning process, other than within framework of general, objective course on religion as religion, parents have every right to object on constitutional grounds, for espousal of particular religious doctrine is not function of public grade schools. U.S.C.A. Const. Amend. 1.

4. Constitutional Law⚷84

School authorities in public grade schools and those accommodated must not violate rights of free exercise of religion of those not in accord with practices of the accommodated. U.S.C.A. Const. Amend 1.

5. Constitutional Law⚷84

Every individual in society has right to free exercise of his religion according to dictates of his own conscience, and there is corresponding duty on public authority as well as other individuals to recognize and respect that right in such way that individual is free from coercion of any kind. U.S.C.A Const. Amend. 1.

6. Constitutional Law⚷84

There need be no coercion on minorities in order for there to be a violation of provision of Constitution that Congress shall make no law respecting establishment of religion, and it is only necessary that practice or enactment have net effect of placing official support of local or national government behind particular denomination or belief. U.S.C.A. Const. Amend. 1.

7. Constitutional Law⚷84

If state or federal government espouses particular philosophy or secularism, or secularism in general, there is violation of provision of Constitution that Congress shall make no law respecting establishment of religion. U.S.C.A. Const. Amend. 1.

8. Schools and School Districts⚷165

As between theistic and humanistic religions, public schools must carefully avoid any program of indoctrination in ultimate values. U.S.C.A. Const. Amend. 1.

9. Schools and School Districts⚷165

Public school students who wish to say prayer or read scriptures according to their choice in morning before school day begins and after school day ends, should be permitted to do so, provided that they meet in room other than regular home room, and complete their exercise at least five minutes before regularly scheduled class day or do not begin until at least five minutes after completion of regular school class day, and no bell should signify start of prayer exercise, and if prayer is to be said during lunch period, it should be a silent prayer during moments of silence set aside for private meditation at start of that period. U.S.C.A. Const. Amend. 1.

10. Schools and School Districts⚷165

During regular school day at public schools, there should be no reading from Bible, no Bible stories, and no assignment of themes on such topics as why student believes or disbelieves in religious devotions. U.S.C.A. Const. Amend. 1.

11. Schools and School Districts⚷164

Pledge of allegiance and patriotic songs or readings are permissible in public schools at any time, provided that they are voluntary. U.S.C.A. Const. Amend. 1.

12. Schools and School Districts⚷165

Role of teacher at preschool or postschool religious sessions is strictly that of one charged with responsibility of maintaining order, and no teacher shall be called on to select prayer which should be said, or to select readings which may be used, and students should determine what should be done. U.S.C.A. Const. Amend. 1.

Warner, Norcross & Judd, Grand Rapids, Mich., Harold S. Sawyer and Thomas J. McNamara, Grand Rapids, Mich., of counsel, for plaintiffs.

Varnum, Riddering, Wierengo & Christenson, Grand Rapids, Mich., Laurent K. Varnum, Grand Rapids, Mich., and Jon F. DeWitt, of counsel, for defendants.

Fox, District Judge.

Plaintiffs are parents of children currently enrolled in the public schools of the Jenison School District, Ottawa County, Michigan. Defendant Nykerk is the Superintendent of Schools for the Jenison Public Schools; the other defendants are members of the Board of Education of the Jenison Public Schools.

Plaintiffs instituted suit under the First and Fourteenth Amendments to the Constitution of the United States, claiming that certain practices in the Jenison Public Schools violate both the free exercise and establishment clauses of the First Amendment.

Subsequent to the filing of this suit, a new policy with respect to the religious practices was adopted and put into operation in the Jenison Public Schools. Defendants claimed that the controversy was ended by that policy, and moved for a summary judgment.

Plaintiffs have requested an injunction to prevent any exercises of a religious nature from being conducted.

At a hearing, this court denied the defendants' motion for a summary judgment, and did not grant plaintiffs' request for an injunction, suggesting to the parties a substitute policy which laid out the broad outlines

of a program allowing an accommodation to those children who wished to pray, provided such exercises were conducted and completed outside the hours of the regular school day.

After a short period of time, the plaintiffs again appeared before the court, objecting to the substitute policy as implemented by the school board.

The board, in attempting to apply the policy, was faced with a school bus problem in allowing the exercises to take place in the morning, before school began.

The buses serving the Jenison School District also serve the neighboring school districts, and therefore, the bus schedules were rigid, and children attending the Jenison Schools continued to arrive at the same time as they had before the attempt to carry out the court-suggested policy.

Consequently, in order to provide for a working accommodation, the School Board changed "the bell and beginning of school timing" as illustrated by the procedure inaugurated in the Sandy Hill School: at 8:40 A.M. a warning bell sounds, followed by another bell at 8:45 A.M. to indicate that the home rooms are open for the use of those children desiring to pray. At 8:50 A.M. a third bell rings, signifying the end of the voluntary prayer period and additionally, that school is about to begin. At 9:00 A.M. a bell signifying the actual start of the class day is rung.

Plaintiffs object to these practices, claiming that they raise problems of excusal and segregation which are constitutionally prohibited.

By this opinion, the court will attempt to clarify its suggestion for an interim procedure.

The policy initially proposed by defendants purported to establish a position of neutrality on the part of the Board of Education with respect to religion.[1]

The Supreme Court of the United States, in the cases of Engel v. Vitale, 370 U.S. 421, 82 S. Ct. 1261, 8 L. Ed. 2d 601, and Abington School District v. Schempp, 374 U.S. 203, 83 S. Ct. 1560, 10 L. Ed. 2d 844, has been called to rule upon the constitutionality of prayers and Bible reading in the public schools

In the Engel case the court ruled that the recitation of a prayer composed by the New York State Board of Regents, at the direction of the local Board of Education, violated the establishment clause of the First Amendment.

In the Schempp case, the court held that a requirement that the school day open with a reading, without comment, of verses from the Holy Bible and the recitation of the Lord's Prayer by the students in unison, was also a violation of the establishment clause.

[1] 1. Upon the request of any student or parent of a student in any particular class that the individual be allowed prayer and/or Bible reading as a regular religious exercise at the opening of school, the teacher must devise reasonable rules and regulations controlling such exercise.

2. The rules and regulations devised to implement the requested exercises may vary, depending on the number of children or parents so requesting, from allowing a moment of reverent silence to allowing prayers in unison, aloud. In the event the teacher finds that divergent requests preclude reasonable control, the teacher may always allow as a satisfactory substitute, a moment of reverent silence.

3. Depending upon the form of requested exercise permitted in the discretion of the teacher, those who object shall remain in the class, or be excused from the requested exercise, or may arrive at class late, as the teacher feels will best serve classroom procedures and minimize embarrassment. (Jenison Public Schools District No. 30, Statement of Policy, pp. 1–2.)

This was so even though attendance at the exercises was not compulsory.

The establishment clause of the First Amendment has two important characteristics. First, the relationship between government and religion; by that relationship the First Amendment, by its position of neutrality, protects both religion and government. Secondly, the establishment limitation serves as an instrument to the second provision of the First Amendment, namely, the free exercise clause. It is designed in this respect to insure to all the free exercise of their religion, free from the influential interference of government.

Nothing in the Engel or Schempp decisions inhibits in the slightest way an individual in the free exercise of religion in his home, in his church, or in any assembly with the particular denomination to which he belongs, either in the practice or the teaching of that religion.

[1] On the other hand, the First Amendment insures to parents the security that children attending public elementary schools are not officially taught the tenets of a religion other than that of the parents. This insurance is a protection to both the majority and the minority, and it is an essential safeguard to the protection and free exercise of religion. In the fast-changing circumstances of our day, today's majority may be tomorrow's minority.

The natural right of the parents to educate their children was recognized by Mr. Justice McReynolds in Pierce v. Society of Sisters, 268 U.S. 510, 45 S. Ct. 571, 69 L. Ed. 1070.

"The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from the public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to prepare him for additional obligations." Id. at 535, 45 S. Ct. at 573.

[2] When the time of the public grade schools is given over to religious practices, there is an interference with this fundamental right of parents to see to the education of their children, for continued observances, being repetitive, when joined with the authority of the local school, could easily constitute a teaching of the particular practices and beliefs involved.[2]

[2] See: Prayer, Public Schools and the Supreme Court, Kauper, Michigan Law Review, April 1963, Vol. 61, Page 1031, at Page 1065:

"Viewed with respect to the precise problem before the Court, the decision in Engel is not a disturbing one, when evaluated in terms of underlying policy considerations. Prayer, religious faith, and the freedom of religion are not damaged by the Court's holding. On the contrary, the decision maintains the dignity and religious significance of prayer by keeping it free from state compulsion and interference, and, by the same token, it preserves the freedom of both the believer and the non-believer in respect to prayer. Nor should it be of consequence that the prayer was 'nonsectarian.' Even such a prayer can be productive of religious divisiveness, not only because it is objectionable to non-believers or non-theistic religionists, but also because theistic believers may find it an offense to conscience to engage in prayer except in accordance with the tenets of their own religion. Moreover, religionists can have little enthusiasm for an officially sanctioned nonsectarian expression of religious belief which at most reflects a vague and generalized religiosity. Any usefulness of a prayer practice in public schools as symbolic of the religious tradition in our national life, of the values of religion to our society, and of religious ideas shared in common, must be weighed against the peril that the official promotion of common-denominator religious practices, conspicuous by their vagueness and syncretistic character, will contribute to the furtherance and establishment of an official folk or culture religion which many competent observers regard as a serious threat to the vitality and distinctive witness of the historic faiths."

[3] By sending their children to the public schools, parents tacitly approve of the education which the children will receive there. However, when religion is included in the regular program in such a way as to become connected with the learning process, other than within the framework of a general, objective course on religion as religion, the parents have every right to object on constitutional grounds, for espousal of a particular religious doctrine is not the function of the public grade schools in our society.

[4] Children attending public grade schools are effectively captives. Thus, in seeking an accommodation, school authorities, and those accommodated, must not violate the rights of free exercise of those not in accord with the practices of the accommodated.

[5] Each individual in society has the right to free exercise of his religion according to the dictates of his own conscience. There is a corresponding duty upon public authority as well as other individuals to recognize and respect that right in such a way that the individual is free from coercion of any kind.[3]

Mr. Justice Clark, in the majority opinion in the Schempp case, succinctly stated the basis for the belief in separation of government from any one form of religion when he quoted from the Engel case, supra: "* * * the 'first and most immediate purpose (of the Establishment Clause) rested on the belief that a union of government and religion tends to destroy government and to degrade religion.' (Citation omitted.) When government, the Court said, allies itself with one particular form of religion, the inevitable result is that it incurs 'the hatred, disrespect and even contempt of those who held contrary beliefs.' Ibid." (Abington School District v. Schempp, supra, 374 U.S. at 221, 83 S.Ct. at 1571.)

In Schempp, it was contended that to require the elimination of religious exercises in public schools was an interference with the religious liberty of those children who wished to participate. In this respect, Justice Clark said:

"Finally, we cannot accept that the concept of neutrality, which does not permit a State to require a religious exercise even with the consent of the majority affected, collides with the majority's right to free exercise of religion. While the Free Exercise Clause clearly prohibits the use of state action to deny the rights of free exercise to *anyone* it has never meant that a majority could use the machinery of the State to practice its beliefs. Such a contention was effectively answered by Mr. Justice Jackson for the Court in West Virginia State Board of Education v. Barnette, 319 U.S. 624, 63 S.Ct. 1178, 87 L.Ed. 1628:

" 'The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to * * * freedom of worship * * * and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.'

"The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church

[3] Brown, Observer in Rome, Appendix B, p. 261.

and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the State is firmly committed to a position of neutrality. Though the application of that rule requires interpretation of a delicate sort, the rule itself is clearly and concisely stated in the words of the First Amendment." (Abington School District v. Schempp, supra, 374 U.S. at 225–226, 83 S. Ct. at 1573–1574.)

[6] An examination of the establishment clause in light of the Schempp and Engel cases, supra reveals that there need be no coercion upon minorities in order for a violation of the establishment clause to exist. *It is only necessary that the practice or enactment have the net effect of placing the official support of the local or national government behind a particular denomination or belief.* Abington School District v. Schempp, supra, 374 U.S. at 222, 83 S. Ct. 1560. See also Engel v. Vitale, supra, 370 U.S. at 430–436, 82 S. Ct. 1261.

[7] Similarly, were state or federal government to espouse a particular philosophy of secularism, or secularism in general, the establishment clause would be violated. Zorach v. Clauson, 343 U.S. 306, 314, 72 S. Ct. 679, 96 L. Ed. 954, Abington School District v. Schempp, supra, 374 U.S. at 225, 83 S. Ct. 1560.

However, there do exist areas in which the interplay between government and religion does not constitute an establishment of religion. This is the field of accommodation, first expressed in the Zorach case, and explored at great length by Mr. Justice Brennan in a concurring opinion in Schempp. Abington School District v. Schempp, 374 U.S. 203, 230, 83 S. Ct. 1560, 10 L. Ed. 2d 844, 862. It has also been noted in articles by leading commentators.[4]

As set forth in Zorach v. Clauson supra, the principle was stated:

"When the state encourages religious instructions or cooperates with religious authorities by adjusting the schedules of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs." Id. 343, U.S. at 314, 72 S. Ct. at 684, 96 L. Ed. at 962.

[8] It may well be that this court will be called upon to decide ultimately whether or not the actual operation of a particular practice is a permissible form of accommodation. However, for the present, it seems clear that, in light of the decided cases, the public schools, as between theistic and humanistic religions, must carefully avoid any program of indoctrination in ultimate values.

The touchstone in both Engel versus Vitale, supra, and Abington School District v. Schempp, supra, was the support given to the practices by the local school authorities. In both cases, the exercises were directed to be held at the opening of the school day. Students who chose not to participate were required to absent themselves at the start of the school period or remain and silently endure a ceremony which violated their constitutional rights.[5]

[9] Now, it is this court's proposal that the students who wish to say a prayer or read scriptures according to their choice in the morning before the school day begins and after the school day ends, be permitted to do so; provided, however, that they meet in a room other than their regular home room, and complete their exercise at least five minutes before the regularly scheduled class day, or at least five minutes after the completion of the regular school class day.

Furthermore, no bell signifying the start of a prayer exercise should be rung. This exercise is voluntary, and those wishing to avail themselves of the opportunity provided should learn the time when it is offered to them and appear at the designated location without the aid of a school bell. The first bell should signal that school is about to begin.

This plan is an attempted accommodation, and since it is an accommodation, it must in no way affect those who do not wish an accommodation. For this reason, the practices which are observed must be free of any possible elements of coercion. Those who do take the opportunity to participate in the program must be separated from the official activity of the school, as of course must be the program itself. This is the reason for the directed time gap between the end of the practices and the official start of school, and between the end of the school day and the beginning of the practices after the close of the school day.

Furthermore, to fully insure that separation, this court will require that at the completion of the morning exercises there be a general commingling of the entire student body on the way to class, just as there would be were there no exercises whatsoever. That is, all rooms will be empty before the bell rings for the start of the school day. Thus, home rooms, or whatever room students use to commence the official school day will be filled in the usual way, and no student will enter a room containing a group which has previously congregated there for the purpose of prayer—all students will enter simultaneously upon the signal for the start of the school day.

For example, those children wishing to pray before school begins, and who would ordinarily begin the class day in home room A, might meet for prayer in home room B; and, in like manner, those students from home room B who desire to pray might meet in home room A. Thus, when the first bell sounded, all students would proceed to their regular classrooms.

If a prayer is to be said during the lunch period, it shall be a silent prayer, during a few moments of silence set aside for private meditation at the start of that period.

If any reading is to be done, let it be a selection from one of our historical documents, such as the Declaration of Independence, or the Northwest Ordinance; or, for example, speeches of our martyred Presidents, such as Lincoln's Gettysburg Address, or John F. Kennedy's inaugural address; or any one of the Thanksgiving proclamations of any President, or of any Governor.[6]

These writings would be lessons in the impact of religion upon the men who were leaders of our nation, and in turn, through them, upon the nation's affairs and history. The annals of our nation are replete with indications of the essentially religious character of this country[7]—belief in a

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[4] See, for example, Religion and the Public Order, pp. 17–23, (edited by Giannela, 1963); Prayer, Public Schools and the Supreme Court, Kauper, Michigan Law Review, April 1963, Vol. 61, Page 1031, at pp. 1066–1068.

[5] See: Prayer, Public Schools and the Supreme court, Kauper, Michigan Law Review, April 1963, Vol. 61, Page 1031, at page 1066:

"The issue raised in Engel is symptomatic of the problem we face in a religiously pluralistic society. * * *

"Religionists have ground for complaint if the public schools by studied indifference teach that belief in God is irrelevant to life. The Engel decision does not require such indifference. Consistent with it the schools may follow practices and teaching programs that help to create awareness, appreciation and understanding of the religious factor in the life of the nation and its citizens. They may create respect for the moral values which reflect the community consensus and which illuminate the purposes and processes of our democratic society. But it is not their responsibility or function to cultivate an official faith or ideology, whether religious or humanistic in character, or to indoctrinate students in any system of beliefs and values that rests on a claim of insight into ultimate truth with respect to the meaning and purpose of life. Parents who desire religious instruction for their children as part of a school program have the option of sending them to parochial schools. One effect of the school prayer decision is to highlight the importance of private schools and of the parents' freedom of choice in our free and pluralistic society that does not recognize governmental monopoly of the educational process. But the majority of Americans who are concerned with the relevancy of religious teaching to the total educational program do not see the parochial school as the answer to the problem. Their interest may lie in the further development of dismissed- or released-time programs in connection with the operation of the public school systems. Moreover, in view of the present impasse with respect to the parochial school situation, it may well be that the shared-time plan offers the greatest promise for reconciling the felt needs for religious instruction with the secular limitations placed on the public school systems. All proposals of this kind deserve careful study. Needless to say, any constructive solution to the problem will require a generous measure of sympathetic understanding, good will and tolerance on the part of all concerned elements of the community.

"Whatever the merits of plans for accommodating the educational system to programs of formal religious instruction, they should not serve to obscure the fundamental consideration that the cultivation of religious faith is the responsibility of home and church. If secularism triumphs as the dominant American ideology, it will not be because of the Constitution or the Supreme Court or because the public schools have failed in their limited tasks, but because meaningful and vital religious faith has lost its place in the hearts and lives of the people. The Engel decision is a forceful reminder to parents and the churches that theirs is the task and responsibility of making prayer, worship and religious instruction rich and meaningful in the lives of their children."

[6] For an example of some of the past presidential speeches which would be acceptable for this purpose, see Footnote 3 to Mr. Justice Stewart's dissenting opinion in Engel v. Vitale, 370 U.S. 421, 446–448, 82 S. Ct. 1261, 8 L. Ed. 2d, 601, 617–618.

[7] See, for example, Abington School District v. Schempp, 374 U.S. 203, 213, 83 S. Ct. 1560, 1566, 10 L. Ed. 2d 844, 853: "It can be truly said, therefore, that today, as in the beginning, our national life reflects a religious people * * *" See, likewise, President Lincoln's Inaugural Address of March 4, 1865: "* * * Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue until all the wealth piled by the bondsman's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said 'the judgments of the Lord are true and righteous altogether.'

"With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in to bind up the nation's

Supreme Being,[8] belief that the rights of man are not the creation of government[9]—and the pronouncements of the Supreme Court of the United States demonstrate that the nation is not hostile, nor are any of its governmental units hostile to religion as such.[10]

Those children who may themselves dissent, or whose parents may dissent from their participating in the exercises, would be required only to report for school at the regular opening time of school and would be permitted to leave school at the regular closing time.

Certainly the period of silent prayer before lunch affords the students an opportunity to say their own denominational prayer, and all would be privileged to say any prayer which their own denomination may have taught them. Those who do not share the prayer would be free to contemplate anything which they desired.

[10] During the regular school day, there will be no reading from the Bible, nor Bible stories, and no themes will be assigned on such topics as "Why I believe or disbelieve in religious devotions."

[11] Additionally, the pledge of allegiance and patriotic songs or readings are permissible at any time, provided they are voluntary.

[12] The role of the teacher at these pre- or post-school sessions is strictly that of one charged with the responsibility of maintaining order. No teacher shall be called upon to select the prayer which should be said, or to select the readings which may be given. The students would determine, by means of their own choosing, what should be done in this respect. The burden would not be cast upon the teacher to make the decision, nor to stand up and be counted.

This approach is by no means a final judgment of the court, nor should it be taken as a preliminary indication of a final judgment. In suggesting this plan, the court is merely trying to arrive at an interim accommodation, having foremost in mind the natural, God-given rights of each parent to determine the course of religious education for his child, but also considering the fact that the present proposal of the school board does relate to a serious effort to reconcile divergent opinions in an area where rigid, dogmatic positions too often abound, with the effect that a problem of continuing importance results in increased misunderstanding and bitterness, a situation which must certainly be regretted by all, regardless of religious affiliation, or lack of it.

The Engel and Schempp cases, supra, were decided on the basis of the establishment clause of the First Amendment. The accommodation suggested in this opinion is an attempt to avoid the nexus between official authority and religion which constitutes a violation of the establishment clause.

However, even should the program successfully escape the prohibitions of the Establishment Clause, as administered it may possibly result in abridgment of rights of free exercise, and for this reason testimony may be required to determine precisely the effect which such a program has.[11]

I direct that provision be made for the keeping of a record of the happenings during this interim period, as an aid to the court, in reaching a final judgment on the merits in this case.

There is available a vast store of examples of our national leaders lifting up their minds and hearts for worship, guidance, supplication, and thanksgiving—all of which would be permissible. But a program incorporating such examples into the school day does require conscientious effort on the part of teachers and students. It will have its own reward, in enhancing a knowledge of our history, informing sound moral tenets, and providing a true regard for man's individual relationship to God.[12]

In this sensitive area of constitutional law, our jurisprudence must be prudential. If there be a solution, it may be found only at the end of a period of patient trial, success, error experience. Ultimate results may be worth the irenic effort.

I am not granting the injunction requested in this case. I am setting forth this policy during the pendency of this suit, and I expect it will be followed. If it is not followed, I will then consider the granting of an injunction.

Mr. ERVIN. Mr. President, I am firmly of the opinion that the diversity of religions in America makes it imperative that we retain religious freedom for all men as a way of life. This can only be done in the manner pointed out by the first amendment, which declares, in effect, that the state must not undertake to control religion and religion must not undertake to control the state.

The history of man's struggle for political and religious freedom makes this clear. Political freedom cannot exist in any land where religion controls the state, and religious freedom cannot exist in any land where the state controls religion.

Justice Clark alluded to the reason why I say that the diversity of religions in America makes it imperative that we retain the separation of church and state decreed by the first amendment.

I refer to his opinion in the Schempp case, and I quote these words from it:

This freedom to worship was indispensable in a country whose people came from the

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wounds, to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations."

And from the Inaugural Address of President Kennedy, January 20, 1961: "With a good conscience our only sure reward, with history the final judge of our deeds, let us go forth to lead the land we love, asking His blessing and His help, but knowing that here on earth God's work must truly be our own."

[8] "We are a religious people whose institutions presuppose a Supreme Being." Zorach v. Clauson, 343 U.S. 306, at 313, 72 S.Ct. 679, at 684, 96 L.Ed. 954, at 962.

See also, Joint Congressional Resolution of July 30, 1956, 70 Stat. 732, declaring the national motto to be "In God We Trust."

[9] See, for example, the Declaration of Independence: "When in the Course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, * * *."

See also, the Inaugural Address of President Kennedy, January 20, 1961: "* * * the same revolutionary beliefs for which our forebears fought are still at issue around the globe—the belief that the rights of man come not from the generosity of the state but from the hand of God."

And, also, from the address of President Kennedy delivered in Dallas, Texas, November 22, 1963: "We in this country, in this generation, are, by destiny rather than choice, the watchmen on the walls of world freedom. We ask, therefore, that we may be worthy of our power and responsibility, that we may exercise our strength and wisdom with restraint, and that we may achieve in our time and for all time the ancient vision of 'peace on earth, good will toward men.' That must always be our goal—and the righteousness of our cause must always underlie our strength. For as was written long ago: 'Except the Lord keep the city, the watchman waketh but in vain.'"

[10] "But we find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence." Zorach v. Clauson, supra, 343 U.S. at 314, 72 S.Ct. at 684.

"It has been argued that to apply the Constitution in such a way as to prohibit state laws respecting an establishment of religious services in public schools is to indicate a hostility toward religion or toward prayer. Nothing, of course, could be more wrong. The history of man is inseparable from the history of religion." Engel v. Vitale, supra, 370 U.S. at 433–434, 82 S.Ct. at 1268.

"We agree of course that the State may not establish a 'religion of secularism' in the sense of affirmatively opposing or showing hostility to religion, thus 'preferring those who believe in no religion over those who do believe.'

* * * * *

"Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistently with the First Amendment." Abington School District v. Schempp, supra, 374 U.S. at 225, 83 S. Ct. at 1573.

"The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home the church and the inviolable citadel of the individual heart and mind," Id. at 226, 83 S.Ct. at 1574.

[11] "Neither the fact that the prayer may be denominationally neutral nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitations of the Establishment Clause, as it might from the Free Exercise Clause. * * *" Engel v. Vitale, 370 U.S. 421, at 430, 82 S.Ct. 1261, at 1266, 8 L. Ed. 2d 601. "Hence it is necessary in a free exercise case for one to show the coercive effect of the enactment as it operates against him in the practice of his religion." Abington School District v. Schempp, 374 U.S. 203, at 223, 83 S.Ct. 1560, 10 L.Ed. 2d 844.

[12] For a lucid comment on the problem generally, see Ramsey, "Teaching 'Virtue' in the Public Schools"—Religion and the Public Order, pp 37–8 (edited by Giannela, 1963).

"Voluntary or prescribed readings may be edifying without being devotional and no less educational than instruction about the history of religion.

* * * * *

"From Plato and Aristotle to our own time, one question that may never have been answered conclusively is: Can virtue be taught? Our achievement is no longer to ask the question, but to proceed upon the unexamined assumption that the way to teach virtue is to inform and discipline what we mistakenly called the 'intellect.'

"In response to the Court's prayer and Bible-reading decision, should there not be numerous and radically new experiments in public education on how to teach anybody to become someone? It is incidental that in the course of this the pupils might glimpse for the first time the meaning in the fact that one who has borne the human contenance became someone by first becoming and being religious. They might learn, in an entirely free, unimposed, and unembarrassing way, what religion is all about. Then the public schools could remain entirely secular, without secularizing."

four quarters of the earth and brought with them a diversity of religious opinion. Today authorities list eighty-three separate religious bodies, each with memberships exceeding 50,000, existing among our people, as well as innumerable smaller groups.

We have today in America three major religious groups. One may be designated as Protestants, another may be designated as Catholics, and the third may be designated as Jewish.

Our country can derive great strength from our diversity of religious beliefs, if we maintain the principle that all men of all faiths are to enjoy freedom of religion without let or hindrance from government. On the other hand, the diversity of our religious groups may operate as a divisive force if, under our system of government, each of these groups may strive to control a State or a school board for the purpose of imposing its particular religious beliefs upon the schoolchildren attending public schools.

The decisions of the majority in the Engel case and the Schempp case remove this temptation from our three major religious groups and from all other religious groups by saying that the state must keep its hands off religion, and religion must keep its hands off the state.

When James Madison wrote his great "Memorial and Remonstrance Against Religious Assessments," he had something to say on this point. I quote these words of James Madison from his "Memorial and Remonstrance Against Religious Assessments":

> [I]t is proper to take alarm at the first experiment on our liberties. . . . Who does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish with the same ease any particular sect of Christians, in exclusion of all other Sects? That the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?

The great English poet, Alfred Tennyson, has his immortal character, Ulysses, say this:

> I am a part of all that I have met.

That statement, of course, is a recognition of the fact that each man is, in part at least, a product of his environment. I believe that each man is also, in part at least, a product of heredity. Hence we can say, and must say, that in addition to being a part of all that we have met, we are also a part of all that our ancestors have met.

Some of my ancestors were among the Scottish Covenanters who were run down and murdered upon the crags and moors of Scotland because they dissented from the doctrines of the established church in that land. Others of them were Scotch-Irish Presbyterians, who were denied political and religious liberty in Ulster. Some of them were among the Huguenots, who were massacred in France merely because they worshipped Almighty God according to the dictates of their own consciences instead of the dictates of the ecclesiastical and political rulers of France. Some of them were English Pilgrims, who were driven from their native England by way of Leyden, Holland, to Plymouth, because they did not want to use the prayers which the Church of England had inserted in the prayer book established by the act of Parliament. Some of them were Quakers, who were despised because of the simplicity of their religion and way of life.

All of them came to America to obtain the simple right to bend their own knees and raise their own voices to their own God in their own way. I believe their experiences had some relation to the creation of my abiding conviction that religious liberty is the most precious of all freedoms.

I think that the greatest book, from a literary as well as from a religious standpoint, ever made available to mankind, is the King James version of the Bible. As soon as my forebears obtained the King James version of the Bible, they adopted it as a guide for their religious faith, and they recorded within its covers their marriages, their births, and their deaths. They found something within that old Book which revealed to them the promises of God, and something which made them fear God and nothing else. I think that perhaps they found there what Annie Johnson Flint has described for us in her little poem entitled "What God Hath Promised":

> God hath not promised
> Skies always blue,
> Flower-strewn pathways
> All our lives through;
> God hath not promised
> Sun without rain,
> Joy without sorrow,
> Peace without pain.
>
> But God hath promised
> Strength for the day,
> Rest for the labor,
> Light for the way,
> Grace for the trials,
> Help from above,
> Unfailing sympathy,
> Undying love.

I covet freedom of religion for all men. Let them study their holy writings and meditate upon their teachings without let or hindrance from government. I cherish this freedom for myself as well as for others.

I find these words of the ancient Hebrew Psalmist in the King James version of the Bible:

> The heavens declare the glory of God; and the firmament showeth his handywork.

I look at the universe and behold with wonder the lifegiving sun, which rises in the east at morn, travels across the sky by day, and sets in the west at eventide; the galaxies of stars, which twinkle in the infinite heavens; the clouds, which bring the soil-refreshing rain; the majestic mountains with hills at their knees; the rivers, which water pleasant valleys and fertile plains and run endlessly to the sea; the tall trees, which lift leafy arms heavenward to pray; the arbutus and dogwood, which brighten springtime, and the marigolds and roses, which ornament summer; the glory of the leaves and ripened crops of autumn; the crystal snowflakes, which descend so gently in winter; and the other beautiful things past numbering, which adorn the earth.

I note with awe the order and regularity of the processes of life and nature as the tide ebbs and flows, as the harvest succeeds the seedtime, and as the heavenly bodies move in their orbits without mishap in conformity with natural laws. I observe with reverence that, despite the feet of clay on which he makes his earthly rounds, man is endowed with the capacity to obey conscience, exercise reason, study holy writings, and aspire to righteous conduct in obedience to spiritual laws.

On the basis of these things, I affirm with complete conviction that the universe and man are not the haphazard products of blind atoms wandering aimlessly about in chaos, but, on the contrary, are the creations of God, the Maker of the universe and man.

Religion adds hope to man's desire for immortality. This desire is not to be attributed simply to the egotism of men, or their fear of the unknown beyond the grave, or their repugnance to the thought of their nothingness after death.

The pessimistic philosopher Schopenhauer was sadly in error in his caustic comment that "to desire immortality is to desire the eternal perpetuation of a great mistake." The longing for immortality is prompted by most meritorious motives.

Life on earth at best is all too short and unfinished. Man entertains high hopes for an abundant life with his loved ones, and undertakes worthwhile things for them and his generation. His high hopes vanish as he is robbed of those he loves by death, and his hands drop the working tools of life while his undertakings are incomplete.

As a consequence of these things, our hearts cry out that there must be some place after life's fitful fever is over where tears never flow and rainbows never fade, where high hopes are realized and worthy tasks are accomplished, and where those we "have loved long since and lost awhile" stay with us forever.

I revere religion. I revere religion because it gives us these promises and this hope. I would protect and preserve the right of freedom of religion for all men.

In closing, I ask these questions: Why did the Founding Fathers incorporate freedom of religion in the first amendment? What purpose did the Founding Fathers have in view when they did this?

The answer to these questions, it seems to me, appears with great clarity in the opinion of the late Justice Jackson in *West Virginia Board of Education* v. *Barnette*, 319 U.S. 624, 638.

I read what he has to say on this point:

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to * * * freedom of worship * * * and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.

Let us keep it that way. Let us preserve for all Americans of all generations

the right to bow their knees and lift their voices to their own God in their own way.

We can do this by standing by the first amendment as it has been written and interpreted.

I close with a prayer that the Senate will do exactly this and no more.

Mr. President, I yield the floor.

Mr. HART. Mr. President, before the Senator yields the floor, will he yield to me?

Mr. ERVIN. I yield to the Senator from Michigan.

Mr. HART. Mr. President, I thank the Senator from North Carolina for discussing in the thoughtful, sound fashion that he has, a question that in long term perhaps overrides the subject matter that we have been engaging ourselves in for the last couple of weeks.

There is a lot less drama in our treatment of the 1st amendment than there is in our treatment of the 14th amendment in the area of civil rights. But I fear that there is apt to be just as much oversimplification of our responses to pressures in respect of the 1st amendment as there are, on occasion, in respect of the 14th.

I shall not detain the Senator from North Carolina more than to thank him and to say that I hope the counsel he offered will be accepted by the majority. It certainly is by me.

We, each of us, are our own judges of our consciences and the degree to which we can be identified as religious men and women. But I think we advance religion's cause and denominational causes and society not a bit by undertaking to issue advisory opinions here as to what the Supreme Court has told us the first amendment permits and prohibits.

I am grateful that the Senator from North Carolina should have given the time and thought that he has to this subject.

Mr. ERVIN. I express my deep gratitude to my good friend from Michigan. I know he shares my concern about the problem and the issue now confronting the Senate.

I have the highest respect for the good work which my good friend from Indiana [Mr. BAYH] has done as chairman of the Subcommittee on Constitutional Amendments. I trust that he will pardon me if I say that I agree with the observation made by the Senator from Michigan [Mr. HART] that even the resolution to be proposed by the Senator from Indiana ought not to be adopted because it is, in effect, a proposal that Congress in its collective capacity usurp and exercise a power it does not possess in such capacity, namely, the power to tell the people of America what the Supreme Court has decided. Each Senator has a right to express his opinion on that point, but I would question the authority of the Senate as a collective body to do so.

Mr. BAYH. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. I am glad to yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I should like to make the observation that the Senator in his recounting of the development of the first amendment provision has rendered the Senate a significant service.

There is a great feeling permeating the grassroots of this country that the bulk of our colonies were founded to establish freedom of religion, but, as the Senator from North Carolina pointed out, many of our colonists came here not to get freedom of religion, but freedom to establish their own religion.

The Senator from North Carolina has pointed out the fact that many of the original Colonies subsequently became States, but while they were Colonies, they did have colonial religion. Thus, it was our great forebear James Madison who insisted that we establish the first amendment, and to him we are deeply indebted, just as we are indebted to the Senator from North Carolina for pointing out this historical background of the first amendment. It is as lucid a recitation of the development of this amendment as I have heard.

Mr. ERVIN. I wish to thank my friend, the Senator from Indiana, who, as chairman of the Subcommittee on Constitutional Amendments, has given most serious thought to the proposed Dirksen amendment, and who has become in his own right an expert in this particular field of our national life.

Mr. BAYH. The historical development of the first amendment ranks high in the annals of the Senate, so far as enlightenment is an important area of our country's concern.

I shall not discuss at length the feeling of the Senator from North Carolina. However, I believe that Congress can make a contribution to clear the air, to try to undo some of the confusion which exists in the country today—and it cannot be denied that confusion exists.

I would be the first to say, as I did in conversation with the Senator from Michigan [Mr. HART], that Congress dare not jump into the arena every time there is controversy about a Supreme Court decision. But in the particular area of school prayer, an unusually sensitive spot has been struck, and we find a great deal of heat without much light. All I suggest in my proposal, which I shall ask the Senate to consider tomorrow, is that we shed a bit of light in this area.

I should like to ask the Senator from North Carolina, if he has the time to do so, to speak once again about one or two of the specific areas.

As a result of the Senator's study of the Schempp case and the Vitale case, which dealt with the New York Board of Regents, and the prescription by the Pennsylvania and the Maryland Legislatures of religious ceremonies—the courts said this shall not be allowed; this is the only thing involved—does the Senator feel that the holding of baccalaureate ceremonies around graduation time are prohibited?

Mr. ERVIN. I do not.

Mr. BAYH. I agree 100 percent. Yet, as the Senator from Illinois correctly pointed out, this is an interpretation that has been put on it. I think, erroneously so.

Mr. ERVIN. During the course of my remarks I stated that much of the consternation which had arisen in the country arose not out of the majority opinion in the Engel case and not out of the majority opinion in the Schempp case, but arose out of the concurring opinion of Justice Douglas in the Engel case.

I think that Justice Douglas, in his concurring opinion, went far beyond the scope of the case. Indeed, I think he went far beyond logic. If a man starts to travel north on a road that leads to an overhanging cliff down which he can only tumble, I do not think that logic compels him to continue his journey until he falls over the edge of the cliff. In fact, I think that logic such as that is somewhat illogical, if I may use that term.

Mr. BAYH. I must say that I agree wholeheartedly with my friend, the Senator from North Carolina.

Anyone who has read this decision, or who has read 20 pages of these almost 900 pages of our hearings, knows how ridiculous it is. But they have not had this opportunity.

The Senator from North Carolina mentioned that in his judgment voluntary prayer—certainly, I would say silent meditation—was not dealt with by the court.

I should like to have the Senator's thoughts concerning some other specific points that the Senator from Illinois raised yesterday:

First, the flying of a banner that contains "under God";

Second, the saying from this rostrum every morning of an invocation;

Third, the provision by the Federal Government, the U.S. armed services, of chaplains for the armed services.

The Senator from Illinois would lead us to believe that a logical interpretation of the Supreme Court decision would prohibit these things. What does the Senator from North Carolina have to say about this?

Mr. ERVIN. I would say in reference to chaplains for the armed services, that we have a situation in which men go from their homes and absent themselves from their customary places of worship in order to serve their country. The first amendment says, among other things, that Congress shall pass no law prohibiting the free exercise of religion. I think that when Congress makes provision for chaplains in the Armed Forces, all Congress is doing is making it possible for these men freely to exercise their religion. There is no compulsion for them to go to a chaplain, and each is free to go to the chaplain of his choice.

Therefore, Congress is merely recognizing their right to worship freely, even though they are in the Armed Forces.

Mr. BAYH. May I ask the Senator if he is familiar with the Stein against Oshinsky case, which was appealed in the Second Circuit?

Mr. ERVIN. I have read the case, but not with the care with which I have read the Engel and the Schempp cases.

Mr. BAYH. I have a copy of the report here. I should like to read some excerpts from it, because the Senator from Illinois and, indeed, many other thoughtful Senators and well-meaning

school officials have based their fear in the outlawing of voluntary prayer on the Stein against Oshinsky case. This case was brought to the Supreme Court, and certiorari was denied. The Senator from Illinois said yesterday that because certiorari was denied, that means per se that the Supreme Court is going to outlaw voluntary prayer.

Permit me to reconstruct the case: In the school district in question, the principal ordered his teachers to stop the saying of any prayer in any classroom. The prayer was one of these milk-and-cookie prayers, such as:

God is Great, God is Good and We Thank Him for Our Food, Amen!

Thank You for the World so Sweet,
Thank You for the Food We Eat,
Thank You for the Birds that Sing—
Thank You, God, for Everything.

Why he said that, I do not know. But the inference was that he interpreted the Supreme Court decision to outlaw this; and he, as the chief administrator in that school, said, "You shall not say the prayer."

The parents of 13 or 14 children in the school then brought a court action to require the principal to reinstate the prayer. In other words, the parents said that it is a violation of their right to free exercise of religion for the principal to deny it. Then the Court said:

We shall assume, *arguendo*, in plaintiffs' favor that the Establishment Clause would not prohibit New York from permitting in its public schools prayers such as those here at issue. Nevertheless New York is not bound to allow them unless the Free Exercise Clause or the guarantee of freedom of speech of the First Amendment compels.

The Court stated further:

Determination of what is to go on in public schools is primarily for the school authorities. Against the desire of these parents that their children "be given an opportunity to acknowledge their dependence and love to Almighty God through a prayer each day in their respective classrooms," the authorities were entitled to weigh the likely desire of other parents not to have their children present at such prayers, either because the prayers were too religious or not religious enough; and the wisdom of having public educational institutions stick to education and keep out of religion, with all the bickering that intrusion into the latter is likely to produce.

Given this brief excerpt, it would seem to the Senator from Indiana that the court was deciding in the Oshinsky case that the school officials would decide what the curriculum is going to be, and not a handful of parents; and that the fact that the court denied certiorari does not necessarily mean they would not rule the other way if the issue of voluntary prayer and its constitutionality was in question.

This has been only a sketchy recitation, but on the basis of this brief recitation, would the Senator from North Carolina give us his opinion?

Mr. ERVIN. I find myself in complete agreement with the Senator from Indiana [Mr. BAYH], on that point. Furthermore, I would say the fact that the Supreme Court declined to grant certiorari and review the decision of the court of appeal means nothing insofar as the Supreme Court is concerned. The Supreme Court has stated on many occasions that its refusal to grant certiorari does not mean that it expresses any opinion whatever with respect to the case it refuses to review. It is manifest that the Supreme Court could never complete its task if it had to review every case brought to it. This is so because there are 50 State supreme courts whose decisions are subject to review by it on constitutional grounds, and there are a multitude of U.S. circuit courts and three-judge Federal district courts throughout the United States whose decisions are subject to review by it on general grounds.

Mr. BAYH. Mr. President, will the Senator yield for one last question?

Mr. ERVIN. I yield.

Mr. BAYH. In considering the main reason for the constitutional amendment which is to permit voluntary prayer in public schools, does the Senator think that there is any reconcilable difference which would permit the Court to say, on one hand, that there is the right and authority of public school officials to determine the curriculum and still permit voluntary prayer?

Mr. ERVIN. As I interpret the opinions, none of them deal with the subject of voluntary prayer. All they do is to hold that under the establishment of religion clause, the State cannot require religious exercises to be conducted in the public schools. Under the decision in the Zorach case, parents of children who wish for their children to receive religious instruction at the hands of teachers provided by them can do so under a released time program; and under Reed against Van Hoven schoolchildren can engage in voluntary religious exercises before or after the termination of the regular curriculum for the schoolday.

Mr. BAYH. I suppose that one could take that great address that the Senator from North Carolina [Mr. ERVIN] made and with some difficulty compress it into one doctrine; namely, that the Supreme Court decisions have not outlawed voluntary school prayer.

Mr. ERVIN. I agree with the Senator from Indiana [Mr. BAYH] perfectly in that observation.

Mr. BAYH. I thank the Senator from North Carolina.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAYH. Mr. President, I would like to propose a unanimous-consent agreement.

The PRESIDING OFFICER. The unanimous-consent agreement will be stated.

The legislative clerk read as follows:

Ordered, That on Wednesday, September 21, immediately after the prayer and during the further consideration of Senate Joint Resolution 144, time on the Bayh substitute amendment for the Dirksen substitute amendment to Senate Joint Resolution 144 be limited to 1 hour, the time to be equally divided and controlled by the junior Senator from Indiana [Mr. BAYH] and the junior Senator from Illinois [Mr. DIRKSEN] and that the time on any other amendment be limited to one-half hour, to be equally divided between the proponent of the amendment and the junior Senator from Illinois [Mr. DIRKSEN], or whomever he may designate, and that the time on the Dirksen amendment be limited to 1 hour, to be equally divided and controlled by the junior Senator from Illinois [Mr. DIRKSEN] and the majority leader, and that the vote on final passage of Senate Joint Resolution 144 be taken not later than 3 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, the order is entered.

The unanimous-consent agreement later reduced to writing is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That immediately after the prayer on Wednesday, September 21, 1966, during the further consideration of Senate Joint Resolution 144 (authorizing the President to designate October 31 of each year as National UNICEF Day), debate on the substitute amendment offered by the Senator from Indiana [Mr. BAYH] for the substitute amendment offered by the Senator from Illinois [Mr. DIRKSEN] to the joint resolution (S.J. Res. 144) be limited to 1 hour to be equally divided and controlled by the Senator from Indiana [Mr. BAYH] and the Senator from Illinois [Mr. DIRKSEN] and that the time on any other amendments (except the substitute by Senator DIRKSEN) be limited to one-half hour to be equally divided and controlled by the proponent of the amendment and the junior Senator from Illinois [Mr. DIRKSEN] or somebody designated by him.

Ordered further, That debate on the substitute amendment by Mr. DIRKSEN be limited to 1 hour to be equally divided and controlled by the Senator from Illinois [Mr. DIRKSEN] and the majority leader [Mr. MANSFIELD], and that the vote on final passage of the joint resolution be taken not later than 3 o'clock on Wednesday, September 21.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. YOUNG of Ohio in the chair). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, yesterday in this Chamber I had the great privilege of listening to our distinguished minority leader's words of conviction and of dedication to a cause of great concern to us and our Nation. I listened with respect—indeed, with admiration—to Senator DIRKSEN.

I follow his leadership, and cosponsor his proposed constitutional amendment which would allow for the spiritual growth and development of the young people of our Nation.

Since my election to the Senate in 1962 I have been greatly concerned about the Supreme Court's decisions that have denied our young schoolchildren the opportunity of acknowleding the presence of God by prayer in our public schools. It is not my purpose or intention to unduly criticize the Supreme Court; this distinguished body knows of the Court's decisions relating to school prayer. I will not review those facts with you. Rather, I think we should address ourselves to the need for change—and that

change will, by necessity, have to come about through a constitutional amendment. Let me address myself to this need.

History is replete with evidence that our Nation is a nation founded because of a profound love of God and a desire to have freedom to worship him. The drafters of our Constitution, which has stood the test of time, supplicated for Divine guidance. And I believe with many Americans that our Constitution truly was inspired. The wording of our many historical documents and patriotic songs is further evidence of our reverence for God. We have all grown up under this great heritage; we have sung that song, "Our fathers' God to thee, Author of liberty, to Thee we sing," and "God bless America, land that I love." We have all approved with pride and uttered with sincerity the Pledge of Allegiance to our Flag, and have spoken along with our fellow Americans that this is truly "one nation under God."

Thomas Jefferson said:

> God Who gave us life gave us liberty. Can the liberties of a nation be secure when we have removed a conviction that these liberties are the gift of God?

And in 1798 John Adams made the following proclamation:

> As the safety and prosperity of nations ultimately and essentially depend on the protection and the blessing of Almighty God, and the national acknowledgement of this truth is not only an indispensable duty which the people owe to Him, but a duty whose natural influence is favorable to the promotion of that morality and piety without which social happiness can not exist nor the blessings of a free government be enjoyed.

We find expressions of reliance upon Divine Providence in the Mayflower Compact of 1620; in the Declaration of Independence of 1776; in the Constitutions of all but one of our States; in our national anthem, 1931; in the Pledge of Allegiance to the Flag, 1954; in the national motto inscribed upon our currency, 1955. Truly, we have been a nation that has trusted in God.

In addition to the abundance of evidence that clearly establishes this Nation as a religious one, the Supreme Court in 1952, in *Zorach* v. *Clauson* (343 U.S. 306, 313), recognized the fact, when it said:

> We are a religious people whose institution presupposes a Supreme Being.

The framers of our Constitution and the builders of our Republic wisely provided for our religious freedom and the separation of church and state, but not in the separation of God and state, or in the separation of God and the individual.

The first amendment now provides, in part:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

This amendment is held applicable to each State of the Union under the provisions of the 14th amendment. Thus, we are protected from the establishment of an official church on either the national or local level. But this does not mean that we are to create a spiritual vacuum or to deny the reference to God or reliance upon Him.

Mr. President, there can be no neutrality when it comes to a belief in and a reliance upon God. If the Government, through a decision of the Supreme Court, forces upon the people a "neutral position," to use the Court's words, we are then, in effect, denying the existence of the power and the influence of the Almighty. This is wrong, and will lead to the further decay of morality in this country.

The primary responsibility, of course, for teaching religious principles and truths must be in the home and in the church. I do not believe that the Government should teach theology; but neither do I believe that the Government should deny the spiritual growth of its people. I do believe that the Government must be neutral as between the denominations and sects of the religious. But the Government cannot be neutral as between those who believe in God and those who deny Him.

The proposed constitutional amendment that we are discussing today simply states that no entity shall deny the voluntary participation by students in prayer. This is consistent with the American dream, the fundamental freedoms which were granted to this country, and for which this country was created.

We are a nation which allows the individual the freedom to worship or not to worship, according to the dictates of his conscience. But since we are a religious nation, and since the great majority of Americans do believe in the sacred privilege of communicating with God through prayer, is it not truly desirable that this body of distinguished men and women representing all people of this great Nation, vote favorably upon this constitutional amendment which would allow voluntary participation in prayer in our public schools?

Are we becoming so weak that we cannot strive to retain the faith that has made America great? If so, then truly the old axiom applies:

> More harm is done by the weak than by the wicked.

"Faith without works is dead," the Bible tells us. Let us not only make our faith work, but let us work to restore faith to this Nation.

In this time, we are bombarded by the unhappy pronouncements of the "Deniests." "God is dead," we hear. But I have always been taught, both in church and in the schools of my youth, that if God is dead, then love, too is dead. I cannot believe this, and I cannot believe that our Nation will tolerate such denial.

I give you two views on prayer, two views which I consider particularly germane to this discussion. One is Lenin's view:

> We will never succeed—with Communism—until we have removed the myth of God from the minds of the masses.

Contrast this, if you will, with Evangelist Billy Graham, who said during a Los Angeles crusade in September of 1963:

> Some day there may be a march on Washington to put the Bible back in the schools. Our forefathers never meant freedom from God when they said religious freedom.

Mr. President, I have worked long and hard on this matter. I sponsored a Constitutional amendment in a previous Congress and I have spoken frequently on the subject. On April 5 of this year, I introduced Senate Joint Resolution 152, which would authorize the President of the United States to proclaim a National Day of Prayer.

Mr. President, the amendment before us will help satisfy the need which this Nation has for a return to the religious faith of our Founding Fathers. It will permit us to maintain separation of church and state without separating God and state. It will fill the existing vacuum and will restore a segment of our heritage. It will give America a new birth of freedom, now so sorely needed. It will help to perpetuate the rich religious heritage which this God-loving country has enjoyed.

As William Penn so eloquently observed:

> Unless man choose to be governed by God, they condemn themselves to be ruled by tyrants.

Mr. EASTLAND. Mr. President, it is indeed ironic that the U.S. Senate may open its sessions with a prayer and yet our school children are denied by the Supreme Court ruling this privilege.

Indeed, not only is prayer recognized by this august body, but we have set aside a place here in the Capitol to be used for prayer and meditation.

If the Supreme Court's ruling that prayer in public schools is unconstitutional, then it would appear that the establishment of a chapel in the Nation's Capitol is also an unconstitutional expenditure.

From the very beginning of this country a belief in God and the right of men to worship as they saw fit was the driving energy, not only behind the colonization, but was the guiding spirit in our war for independence.

Our pilgrim forefathers placed their trust in God and suffered great hardships to preserve their right to worship.

Mr. President, the signers of the Declaration of Independence felt in drafting that historic document that it could not be complete without a reference to God.

I do not believe there is one American who is not proud of the great traditions of our country and of the high moral fiber of its founders. I personally have always been inspired by the thought of General Washington kneeling in prayer at Valley Forge during that bitter winter when the fortunes of the American Army were at a low ebb.

Mr. President, we are now considering a proposed amendment which would allow our children the right of prayer on an individual and voluntary basis.

We live today in a world made terrible by technological progress, a world of great stress and of hectic routine. If

ever people needed the comfort of prayer it is needed today.

The foundations of our country are without question in the youth of our Nation.

Certainly we would be remiss if we failed to give them the opportunity provided by the legislation we are considering. We are doing no more than preserving the right which so many Americans have died on foreign battlefields to preserve.

Mr. President, we must amend the Constitution to correct the Court's decision on prayer. It is necessary that we do so. The right of prayer is fundamental to our Government and to our civilization.

I have always believed in the people's right to exercise their will through legislative processes and I think the time has come to offer to them this long desired change.

Mr. President, I support the Dirksen amendment.

Mr. SALTONSTALL. Mr. President, as a cosponsor of Senate Joint Resolution 148, I should like to say a word or two about it. This proposed constitutional amendment would permit voluntary prayer by students in public schools. If Congress passes it, of course it will have to be ratified by three-fourths of the States. So unless there is widespread public sentiment in behalf of the proposal—and on the basis of my mail and what I read and hear, I am convinced that the public heartily endorses Senate Joint Resolution 148—it will not become part of our Constitution. It is an important matter, however, and one of interest and concern to us all. I am glad that the Senate is providing this opportunity to discuss it.

Let us be clear about what is involved. The Dirksen proposal, which I have cosponsored, says that nothing in the Constitution prohibits the authority administering any school, school system, educational institution, or other public building supported in whole or in part through the expenditure of public funds from "providing for or permitting the voluntary participation by students or others in prayer." It does not permit the administration, however, to prescribe the form or content of any prayer. Local administrators of schools and public buildings could decide for themselves whether prayer would be permitted and could provide for it. But the prayer would have to be voluntary. Students could not be forced to participate.

Recent decisions of the Supreme Court interpreting the first amendment to our Constitution have led to misunderstanding and confusion as to what the Court did and did not say and as to what is permissible and what is prohibited.

It seems to me that a constitutional amendment such as that proposed by the Senator from Illinois is highly desirable to clarify the situation. Of course, we want to be careful in amending our Constitution. We want to confine such amendments to fundamental principles. But I believe this issue to be fundamental. Certainly, I am not one of those who has attacked the Supreme Court of the United States. I believe in its integrity, and I believe in the position of the judiciary as a separate and equal branch of government dedicated to the preservation of our freedom and our way of life. I do not always agree with its judgment, but I respect the men who sit on the Court.

I personally do not think it wise to have a public authority prescribe the form or content of prayer, but I do believe an individual should have the right to participate in prayer. We know that important differences exist in the religious beliefs of the citizens of our country, and we would not want to make conformity part of our tradition. But as a boy in school I always started my day with a prayer and a reading from the Bible by the headmaster, and I believe it got us off to a good start. Further, I think it was a valuable experience which helped instill in those of us who participated the desire to do right and to carry forward in the best interests of our community and our country.

I believe in prayer and the strength and help it provides, and I believe that it is important for our young people in their formative years to be encouraged, although not required, to stop and reflect. A nondenominational prayer in the schools can be helpful, in my opinion. At the very worst, it would not be harmful. This proposal encourages our young people to believe in and to draw strength from spiritual worship, and Senator DIRKSEN is to be commended in advancing the proposal.

There have been many expressions of support from my own State. Cardinal Cushing has written in support of it and of the importance of prayer in our daily lives. Earlier this year, the Massachusetts State Legislature sent to Congress a resolution supporting it, just as it had done 2 years ago. I include that resolution at this point in my statement:

Whereas it is the will and desire of the majority of our citizens to recognize the existence of God and our dependence on Him; and

Whereas the recital of voluntary prayers in our public schools will accomplish that purpose and will help maintain traditions cherished by so many of our citizens: Now therefore be it

Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact legislation presenting to the States a proposed constitutional amendment permitting the recital of a non-sectarian prayer in our public schools.

Dean Griswold, the highly respected dean of the Harvard Law School, has also written of the value of prayer in our schools.

Since the earliest days of our country, schools have permitted prayer, and there has been no thought that such activity was leading to a state church. I respect the argument of those who are concerned about this amendment, but I believe that their fears are unfounded, and I hope very much that the Senate will adopt this resolution.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. BAYH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPORT DUTIES ON RUBBER FOOTWEAR

Mr. PASTORE. Mr. President, issues of great moment affecting the lives and the livelihood of the American worker are decided daily by Federal Administrative Agencies—often with scant publicity.

Hearings of such consequence were held this week before the U.S. Tariff Commission. Their outcome is of vital concern to the State of Rhode Island and the Nation as a whole.

These hearings were scheduled at the request of Governor Herter, our special representative for trade negotiations. Their purpose was to secure information for Governor Herter on the probable economic effect on the domestic rubber footwear industry of proposed changes in import duties imposed on foreign fabricated rubber footwear.

Governor Herter requested this information in order to advise the President on our future import policy with respect to this footwear.

The hearings raise two questions of concern to the domestic industry.

First. Should we eliminate the American selling price method of assessing duty on imported rubber-soled footwear—which has been the rule under law since 1933—and substitute a straight ad valorem rate of 58 percent?

Second. Should this type of footwear be subject to GATT bargaining and a possible duty cut of up to 50 percent?

The answer to both of these questions, to my mind, is an emphatic no, if we wish to affirm our support for an essential domestic industry—one that has already suffered from excessive imports.

I am concerned because two of the major manufacturers of rubber footwear in the United States are located in the State of Rhode Island. And I might say for the benefit of other Senators that representatives of these two firms have been in constant communication with my office over the years, because of the excessive importation of rubber wear.

One of them, of course, is the Bristol Manufacturing Co., which has a plant in the town of Bristol. The other is the U.S. Rubber Co., which produces rubber footwear in the city of Woonsocket. These companies are both vital to the Rhode Island economy—as a matter of fact, they are the largest employers in Bristol and Woonsocket, respectively, and the largest taxpayers as well.

Any decrease in the duty rate of rubber-soled footwear will flood the American market with the foreign-made products, and will do irreparable harm to our domestic rubber industry.

The Commission, Governor Herter, and the President, must realize the economic effect this will have on cities in the United States with rubber footwear plants, and what harm it will do to the economy of my own State.

In regard to the economic effect of these proposals, I think a review of the

history of the American selling price method of evaluation would be helpful.

The American selling price method of imposing duty was first applied to imported rubber footwear in 1933. This action resulted from an investigation by the Tariff Commission into the cost of production in this industry both at home and abroad.

Over 30 years ago the Commission recommended that the differentials in cost of production—and I mean basic labor costs—were so great that a duty increase to the fullest extent then permitted under the law—50 percent—would not be adequate to allow the American manufacturer to compete fairly in our home market with products from abroad.

The wage differentials between American manufacturers and foreign producers are certainly as great today as they were 30 years ago. I cannot understand, therefore, how the Commission could justify the revocation of the policy which we adopted in 1933 to protect our domestic workers.

I am greatly concerned that in the proposed conversion from the American selling price, the American workers and the domestic industry will lose some of the protection Congress provided for them in the Tariff Act of 1930. Both the manufacturers and the unions believe that they will. They are not satisfied—nor am I—that the Commission has taken the proper base—or a broad enough base—in averaging applicable duties.

The proposed rate of duty is based on new procedures of the Treasury Department—which the Treasury admits have resulted in a reduction of 35 percent in duties collected.

As a result we have pending in Congress several bills which would reverse the action of the Treasury. Under the circumstances this is not the time to consider such a drastic change in the method of assessing duty on rubber footwear.

Now the Commission is considering also whether or not rubber footwear should be included in the Geneva tariff negotiations. I do not believe that the industry is in a position where it can withstand any further reduction in duties on competitive imports.

Foreign manufacturers have already captured a disproportionate share of the domestic market. Our American industry has long lost its export market. We can no longer compete abroad—not because of any lack of enterprise on the part of American manufacturers but simply because of American labor's high standard of living.

The basis of this high standard of living, of course, is our high wage level. Rubber footwear requires a greater ratio of labor in production than most industries. Wages represent between 45 and 50 percent of the cost of production of rubber footwear in the United States. It is true that a high ratio of labor is needed overseas to produce rubber footwear but the big difference is in the way we pay labor in this country.

I believe that it is essential that we preserve our high standard of living. We must protect the jobs of our American workers. Under the present import duties on rubber footwear the impact of imports has been immense.

We have already lost one manufacturer in Rhode Island—the Goodyear Footwear Corp.—and there have been losses of jobs in other companies. The details have been provided to the Tariff Commission by spokesmen for the labor unions.

We have only to scan the witness list at the Tariff Commission hearings to understand the problem. Representatives of the American footwear industry and American labor testified as did representatives of their foreign competition.

Let us this once resolve the question in favor of the American worker.

I hope that the Tariff Commission and Governor Herter, and all those responsible for making the decision, will consider very long and very deeply the interests of our American workers. There is no man, in my opinion, who should understand this problem better than Governor Herter, who used to be the Governor of the State of Massachusetts. I would hope that in our desire and our intent to obtain an agreement with GATT, we do not bargain away the birthright of the American worker.

I urge the Tariff Commission and Governor Herter to retain the American selling price method of valuation and to remove rubber footwear from any consideration for further tariff reductions.

Mr. President, I submitted a statement to the Tariff Commission, and I ask unanimous consent that that statement be printed in the RECORD at this point, as a part of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JOHN O. PASTORE, DEMOCRAT, OF RHODE ISLAND, BEFORE THE U.S. TARIFF COMMISSION, SEPTEMBER 19, 1966

Mr. Chairman, your Commission has under consideration today a matter which is of serious concern to me and to the State of Rhode Island. The purpose of this hearing is to determine the probable effects of a proposed change in the method of assessing import duty on rubber footwear, and of a further reduction in the rate of duty on such footwear. The first part of your inquiry involves the elimination of the American Selling Price method of assessing duty on imported rubber-soled fabric footwear and the substitution of a straight 58 percent ad valorem rate. The second phase is directed to a determination of whether or not this type of footwear should be put on the GATT bargaining table where it would be subject to a duty cut of up to 50 percent, pursuant to the provisions of the Trade Expansion Act of 1962.

I appreciate this opportunity to submit to you my views on these points, and to explain my deep interest in your investigation. We have in my State two of the major manufacturers of rubber footwear, Bristol Manufacturing, of Bristol, and the United States Rubber Company. The latter has plants in both Providence and Woonsocket. Its rubber footwear producing facilities are located in Woonsocket.

These companies are vital to the Rhode Island economy. In both Bristol and Woonsocket, they are the largest employers and the largest taxpayers. It seems to me that it is important to keep in mind during your deliberations whether or not the rubber footwear industry and the general economy would be adversely affected by either of the two proposed changes in tariff treatment on imported rubber footwear.

Through a provision of the Tariff Act of 1930, the American Selling Price method of assessing duty was applied to imported rubber footwear in 1933. This action followed an investigation by your Commission into the costs of production in this industry as well as in the exporting countries. It was this Commission's recommendation at that time that the differentials in costs of production, chiefly labor costs, were so wide that a duty increase to the fullest extent then permitted under the law, 50 per cent, would not be adequate to allow the American manufacturers to compete on a fair basis in their home market with products from abroad.

Those costs of production and wage differentials between the American manufacturers and the producers in the leading exporting countries are as great today—possibly greater—than they were at the time of this Commission's investigation. Under these conditions, there appears to be no justification for revoking the policy you recommended more than 30 years ago.

I am greatly concerned that in the proposed conversion from American Selling Price to an ad valorem of 58 per cent, the domestic manufacturers may lose some of the protection Congress meant for them to have. The manufacturers feel they will. They are not satisfied that in its study of this matter the Commission took the proper base, or a broad enough base, in averaging the applicable duties.

Further, the proposed rate was based on new procedures of the Treasury Department, which, by the Department's admission, have resulted in a reduction of 35 per cent in the effective duties collected. Congress has before it now several identical bills seeking to reverse the Treasury action. With the atmosphere so beclouded, it hardly is the time to consider such a drastic change in the method of assessing duty on rubber footwear.

There is more clarity on the second question—whether rubber footwear could be negotiated for tariff cuts in Geneva.

This industry is in no position to withstand a further reduction in duties on competitive imports.

Importers already have taken over a disproportionate share of the domestic market. The American industry has long lost its export market and can no longer compete abroad. This is in no sense due to lack of enterprise or intelligence on the part of the American manufacturers. It is simply because of the high standard of living we have acquired in this country. The basis of that high standard is our high wage level. Rubber footwear requires a greater ratio of labor in production than most industries. Wages represent between 45 and 50 per cent of mill door costs in the United States. A high ratio of labor is needed also to make competitive rubber footwear abroad. But the big difference is in what we pay labor in this country and what they pay in foreign countries.

It is essential that we preserve our high standard of living. It is essential that we protect the jobs of American workers. Under the present import duties on rubber footwear, the impact of imports has been severe. One manufacturer of rubber footwear in my State has closed its doors—the Goodyear Footwear Corporation. There have been losses of jobs in other companies. Details on this were given to your Commission by spokesmen for the labor unions of several rubber footwear manufacturers at the hearings you held June 8 on your proposed conversion from the American Selling Price.

With the difficulties the American rubber footwear industry has been having with expanding imports for the past decade, it hardly seems necessary to comment on a proposal to subject the industry to further reductions in its tariff protection.

But for the record, let me say that this industry needs more—not less—tariff protection. I urge you to recommend that rubber footwear *not* be considered for any further tariff reductions at the GATT conferences.

Mr. PELL. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. PELL. Mr. President, I congratulate and commend my senior colleague on his leadership—just as he has already displayed it with respect to the question of textile imports—in seeking to stem the flood of foreign footwear, which can, unless braked, wash out two of the most important companies in our State of Rhode Island.

Mr. PASTORE. Mr. President, I wish to say we are developing a certain rationale in this country that some of our American industry is dispensable. And some of our foreign friends ought to know better, but that is the argument that they make. We have to understand that, bit by bit, they are chewing away at our American economy.

It is true that we are the most affluent society in the world. It is true that we probably have the largest gross national product of any country in the world. But the fact still remains that we have our share of poverty. We have our share of unemployment, although we have the largest employment rate today in the history of the country.

But we must take into account that we are fighting a war in Vietnam, and many of our workers are manufacturing the implements of war while some of our friends all over the world are manufacturing refrigerators, televisions, and radios—peacetime commodities.

The time will come, and I hope that the time will come soon, when we have peace in the world. At that time, our workers will have to be engaged in the manufacture of peacetime commodities. We might wake up to find that some of our domestic manufacturers have disappeared.

That has happened to the textile industry. It is now happening to the footwear industry.

Our boys in Vietnam need boots, shoes, and footwear of all sorts. I hope that we will not have to go scurrying around the world to buy this footwear from Japan, Italy, and other nations. We ought to insure that this footwear will continue to be manufactured right here in the United States of America.

I hope that we do not begin to bargain away, as I said before, the birthright of the American worker so that he will wake up and find that there is no job for him in our factories manufacturing peacetime goods rather than bullets and atomic bombs.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO WIDER WAR

Mr. McGOVERN. Mr. President, for many months some of us in the Senate have expressed concern over the deepening involvement of American forces in the Vietnam war. The expression of that concern has been varied, unorganized, and sporadic. At times it has been timid and faltering. But it has for the most part represented the thoughtful questions and doubts of Americans deeply troubled by our Vietnam policy.

I believe that history will vindicate those who have warned against the course our Government is following in southeast Asia—especially since early 1965. Even in a great democracy such as ours, however, dissent is difficult and sometimes ineffective in competing with the din of battle and the avalanche of official pronouncements.

In 1964 the American people overwhelmingly endorsed the position of President Johnson who said: "We seek no wider war." Those who called for the bombing of North Vietnam, aerial interdiction of the jungle trails, defoliation, and a sharp U.S. troop buildup were rejected as irresponsible and trigger happy.

But for the past 2 years, we have been widening the war in virtually every conceivable manner. Our bombing planes are now hitting daily in both North and South Vietnam with a force equal to our World War II bombardment of Germany and Japan. We have 400,000 men in southeast Asia and that number is growing.

Where are we heading in Vietnam? Has the bombing worked? Are we moving toward an endless war in Asia involving eventually the Chinese and the Russians? Have we been given all the facts about the nature of our commitment and the alleged efforts to reach a settlement with the other side? What is the significance of reports this weekend that American forces are now engaged in a combat role in Thailand? Does this mean we are setting the stage for another Vietnam-type war? Was there an election mandate in 1964 against a wider war? If so, what are we to say of our fast spreading involvement since 1964?

There are questions that have been brilliantly considered by Mr. Richard Goodwin, former White House assistant to Presidents Kennedy and Johnson in a historic speech given at Washington's Statler Hotel, September 17. Mr. Goodwin, now associated with Wesleyan University, and the author of a highly discussed book on Vietnam, "Triumph or Tragedy," is one of the Nation's most brilliant young men.

His words are well worth considering. He has now called on Americans of every persuasion to unite on the proposition we accepted 2 years ago: "We seek no wider war." He advocates a national committee of citizens opposed to any further escalation of the war. In describing the purposes of such a committee, he said:

It will not be aimed at withdrawal or even a lessening of the war in the South; although individuals who oppose escalation may also hold those views. Thus it will be open to all groups who oppose escalation in the North regardless of their position on other issues, and will be open to the millions of Americans who belong to no group but who share this basic belief and apprehension. Such a committee can provide a constant flow of objective information about Vietnam. It can keep vigil over official statements and ask the hard questions which might help separate wishful thinking from facts. It will neither be against the Administration nor for it, neither with any political party or opposed to it, neither liberal nor conservative. Its sole aim will be to mobilize and inform the American people in order to increase the invisible weight of what I believe to be the American majority in the deliberations and inner councils of government. Its purpose is to help the President and others in government by providing a counter pressure against those who urge a more militant course; a pressure for which those in government should be grateful since it will help them pursue the course of wise restraint.

Mr. Goodwin's proposal for the formation of a national committee opposed to any further widening of American military operations against North Vietnam would seem to make sense. I hope such a committee will be established. Those of us who question the wisdom of the war in the South have all the more reason to oppose its escalation in the North.

These are some of the observations advanced by Mr. Goodwin:

First. He believes that the Vietnamese war is "the most dangerous conflict since the end of World War II."

Second. He believes that our fast-spreading commitment in Vietnam "has reduced discussions about domestic America to academic discourse," and "has swallowed up the New Frontier and the Great Society" while "eroding our position throughout the world."

Third. He believes that "there has never been such intense and widespread deception and confusion as that which surrounds this war."

The continual downpour of contradiction, misstatements, and kaleidoscopically shifting attitudes has been so torrential that it has almost numbed the capacity to separate truth from conjecture or falsehood. At one time we are told that there is no military solution, and then that victory can be ours. There are months when we talk about negotiations and months when we forget them. There are times when dissenters give aid and comfort to the enemy and times when they are acting in the greatest of our traditions. We have been reassured about efforts to reach a peaceful settlement when there is no plan or program for settlement in existence. We are given endless statistics with a numerical precision which only masks the fact that they are based on inadequate information, or guesses, or even wishful thinking. For example, if we take the numbers of enemy we are supposed to be killing, add to that the defectors, along with a number of wounded much less than our own ratio of wounded to killed, we find we are wiping out virtually the entire North Vietnamese force every year. This truly makes their continued resistance one of the marvels of the world. Unless the figures are wrong, which of course they are. We are told the bombing is terribly costly to North Vietnam. Yet the increase in Soviet and Chinese aid, since the bombing, is far greater, in economic terms, than the loss through bombing. Except in human life, the North Vietnamese are showing a profit * * *.

As predicted by almost every disengaged expert, from General Ridgway to George Kennan; and as taught by the whole history of aerial warfare, that bombing has neither

brought the enemy to his knees or to the council table. It has not destroyed his capacity to make war, or seriously slowed down either infiltration or the flow of supplies. At each step it was claimed the bombing would make a decisive difference. Yet it has made hardly any difference at all. In fact, the tempo of conflict has increased.

The official statements justifying the Hanoi-Haiphong raids bore partial witness to the futility of bombing. We were told the raids were necessary because infiltration had increased enormously; an official admission of the failure of one of the most intensive bombing campaigns in world history. Despite thousands upon thousands of raids, more men and supplies are flowing South and the routes of infiltration have been widened and improved. Despite the bombing, or perhaps because of it, all signs indicate the North Vietnamese will to fight has stiffened and the possibilities of negotiation have dimmed. Despite the bombing, or because of it, North Vietnam has become increasingly dependent upon Russia and China. Despite the bombing, or because of it there has been a vastly increased supply of aid to North Vietnam by Russia and China and a deepening world communist commitment to this war.

In short the bombing has been a failure, and may turn out to be a disaster.

Fourth. To those who are afraid of honest dissent and courageous criticism in time of war lest it give encouragement to the enemy, Mr. Goodwin answers:

Of course the enemy is glad to see our divisions. But our concern is with America not Hanoi. Our concern is with those millions of our own people, and with future generations, who will themselves be glad to see that there were men who struggled to prevent needless devastation and thus added to the strength and the glory of the United States.

It is in that American tradition that Mr. Goodwin speaks as have earlier wartime dissenters including Abraham Lincoln who could not remain silent when his conscience told him that the campaign against Mexico was wrong.

I hope that every Member of Congress, every Government official and many American citizens will read Mr. Goodwin's thoughtful analysis of where we are heading in the Vietnam war.

I ask unanimous consent that his address be printed at this point:

There being no objection, the address was ordered to be printed in the RECORD, as follows:

SPEECH BY RICHARD N. GOODWIN AT THE NATIONAL BOARD MEETING OF AMERICANS FOR DEMOCRATIC ACTION, STATLER-HILTON HOTEL, WASHINGTON, D.C., SEPTEMBER 17, 1966

This is a time when labels are unfashionable. Men hesitate to call themselves liberals or conservatives or radicals, fearing the complexity of their views will be swallowed up in some formal catechism of belief. Yet groups like this one are drawn together by a shared body of beliefs and values, and by common reactions to the sins and shortcomings of their society. They differ on many particular issues; but they do agree on the wisdom of a general direction and the urgency of certain purposes. In this sense, even in nonideological America, there are radicals and rightists, liberals and conservatives. In this sense the Americans for Democratic Action is the spearhead of American liberalism.

It can look back on a record of achievement unmatched in American political organization. It has elected dozens of members to high office, many of its early programs are now law, and its once theoretical notions are the daily staple of bureaucracy.

It is easy to blunt, answer, and even ignore the criticism of liberalism which is largely a reflex action from past battles. The ease of such refutation, however, should not be permitted to obscure real defects. If there is reason for doubt it is not that today's liberals are too progressive, but that they are often not progressive enough: not that they are radical but that they are sometimes mired in outworn outlooks and programs; not that they are impractical but they have occasionally let practical necessities override faithfulness to ideals and values. We have discovered the perverse principle that defeat can breed strength while victory often erodes will and creates intoxication with success. Success is the disease of American society, a disease which strikes impartially at businessmen, politicians, movie stars and intellectuals alike.

It is especially virulent when it attacks the politically concerned and passionate, making them more anxious to enact bad programs than fight for a good one, elect a mediocrity than lose with distinction, support a sympathetic office holder even when he is wrong, simply because he is sympathetic. We do not advocate a policy of defeatism or even political suicide. We are politicians and the object of politics is the acquisition and use of power. Pragmatism, the code word of today's liberalism, is a useful tool to carry you forward, remove obstacles, and solve problems. But it does not tell you where to go. Beliefs tell you. Values tell you. Common goals tell you. Once that distinction is obscured it is easy to forget where you are going and even who you are.

Let me give a few tentative thoughts about today's redefinition of liberal goals before proceeding to the principal obstacle to all those goals: the war in Vietnam.

Liberal thought in America has always been a confederation of diverse beliefs. But there have been certain, discernible, central strands in the fabric of the past thirty years. One is the once revolutionary idea that the national government has a direct responsibility for the welfare of the people: For their well-being as individuals—older citizens, poor or Negro—and for the general health of the economy. Another is the belief that private power must be compelled to act in the public interest, that through regulation America must be made safe for capitalism.

Those were the subject of wonderful, passionate engagements, but they are largely won. They have become the truisms of American political life, although there are many important skirmishes to be fought and the specter of Hooverism occasionally looms over the horizon only to be brushed casually away by a slightly surprised electorate.

It is this victory of important principle, and the changes it has helped bring the nation, which makes it necessary to rethink most of the old political beliefs and slogans as this organization, and others, have been doing.

At one time to be a liberal meant to be for federal action against states' rights. Particularly in civil rights this is still a vital question. Yet our major effort now is to find new ways to help states and local government assume responsibilities and burdens; and it was a Democratic liberal, not a Republican conservative, who proposed to turn over federal revenue to state government.

At one time to be a liberal meant to automatically favor the cause of labor over business. Yet the Chamber of Commerce is more willing to trade with China than the AFL-CIO; unions are often more concerned with protecting the established order than businessmen; and it was the liberals who helped pass laws against racketeering in labor. Even the most ardent liberal will prefer the activities of Tom Watson of IBM to those of Jimmy Hoffa.

At one time to be a liberal was to oppose big business. Yet it was the Administration of John Kennedy, not Eisenhower, that proposed and passed measures for business expansion to the benefit of all of us.

At one time to be a liberal was to fight for the principle that collective action did not diminish individual freedom. While we still go through the motions, the battle is over, for freedom has been enlarged as collective action widened. Rather we are now increasingly concerned about coercion from the center.

These old battle cries are largely a victim of success and of profound changes in American society. They were built on the assumption that rising wealth fairly shared was the key to the American dream. Of course, that dream has not yet come true for the chronically poor or the Negro. Still, in terms of the old values, most Americans have achieved greatly. They are well-fed, live in decent houses, own television sets, drive 90 million automobiles, and debate not whether but where to take a vacation. Yet even at the moment of victory for so many we know that shared prosperity is not enough. Modern man, with all his wealth and comfort, is oppressed by forces which menace and confine the quality of his life.

Increasingly American thinkers are discovering, describing, and attacking these forces. It is the responsibility of politics to translate this emerging awareness into political action.

The ancient desire to stretch one's talents to the limit of ability and desire now enters a world whose instruments grow in complexity, where understanding is more difficult as the possibilities of all encompassing knowledge disappear, and where leisure threatens many with boredom and futility. It is not enough to train people, we must do so through an educational system of a quality and daring of innovation past all our old objectives.

Even with knowledge and understanding at his command, however, man alone is not man fulfilled. He must be sustained and strengthened by the world around him, and by those with whom he lives and works.

He will not find that strength in cities scarred by slums, encircled by suburbs which sprawl recklessly across the countryside; where movement is difficult, beauty rare, life itself more impersonal and security imperiled by the lawless.

And even beyond education and the deterioration of our environment modern America assaults the deepest values of our civilization, those worlds within a world where each man can find meaning and dignity and warmth: family and neighborhood, community and the dignity of work.

Family ties grow weaker as the gap between the generations widens. The community disappears as the streets of our cities rush in upon each other. Work, once the principal support of self-respect, becomes more and more mechanical, each man a replaceable componency in an abstract task. Ahead lies the most terrible danger of all: a nation of strangers; each separate from his fellows, remote from his labors, detached from participation in the great enterprise of American life.

Underneath there is a single, overwhelming cause for the discontent which runs like a dark thread through the silver fabric of American life. It is cause and consequence of all the rest. It is the fear of the individual human being that he has become meaningless in the great human enterprise. Decisions of peace and war, life and death, are made by a handful of men beyond his reach. Cities and factories grow and spread seemingly powered by a force beyond the control of man.

Science describes our world, and life itself, in terms far beyond the reach of ordinary understanding. Computers and marvelous

machines seem to make man unnecessary in the oldest stronghold of all, his work.

This is the motive power, the fueling force, behind the new right and the new left. They want to matter. And so do we all.

To glimpse the shortcomings of American life, to feel the weight of dark and obscure forces, even to illuminate with investigation and thought the wrongs of American life, it is not enough for any group dedicated to political action. That requires we translate passion, engagement, and a sense of injustice into concrete action; as individual groups, and through political institutions. Many of the proposals which fill liberal journals and meeting chambers are little more than logical extensions of old ideas and processes. The guaranteed annual wage, the organization of farm workers, national health insurance, and many other ideas, can stand on their own merits but they hardly represent a radical departure from our past. Most of the causes which engage us deeply—from civil rights to the war against poverty—flow from the historic drive to open the blessings of society to all people.

I do not pretend to have the answers or a dramatic new approach but it seems to me that certain guidelines are emerging which may help show the way.

First, is to devote more of our resources to common needs; from schools and playgrounds to blighted cities and poisoned air. History has proved that rising national wealth does not resolve social problems. Present experience proves that the old method of handing out federal grants will not rebuild a city or clean up pollution. The problems of the city, for example, are not simply problems of welfare or income. They demand technical skill, a network of subsidies and regulation, planning and engineering. More and more we will have to turn problems over to technicians, equip them with authority, and provide the funds to do the job. People are far more concerned with progress, with getting the job done, than they are with the ideology of change. The technician-politician—the man who regardless of party can resolve complex problems—is the man of the future.

Secondly, we will have to reshape the historic relationships of our federal structure so not to be completely dependent on Washington for comfort, help and skill. The problems are far too huge and varied to be solved from the top. Moreover, to attempt it is to strip people in communities and states of the chance to share in the solution of the great problems of society. It is essential to our spiritual health to develop structures which give people a chance to share in the American enterprise. It is essential to our national progress that we tap the enormous resources of mind and energy which lie unused, ignored and unwanted throughout America.

This means decentralization of government action; a decentralization which will take many forms and whose evolution is a challenge to our genius for political creation. Variety will be the hallmark of such a system, but I believe the basic pattern will be federal funds and guidelines with responsibility for action left to the community. For example, perhaps the best approach to the problem of our cities can be drawn from the theoretical patterns of foreign aid. The federal government would require the city to develop a master plan of development embracing basic services, housing and all the components of community life; providing federal funds on a large scale to carry the plan forward. As another example I have proposed turning a large part of the foreign aid program over to the states, involving communities and citizens directly in our relationship with the underdeveloped continents.

Even then individuals will have to fight City Hall; but it is far easier than fighting the White House.

We are worlds away from the old debate about federal power and big government. For underneath the rhetoric that was a debate whether we should tackle social and economic problems at all; or whether we should leave them to the impersonal workings of an unregulated society. Today decentralization assumes that many problems will yield to directed human intelligence; the question is how best to enlist the energies of Americans in that task. I have no doubt that citizen participation is the future direction of liberalism. It will permit us to do a better job with our society. It will allow our people to share the life of the nation; to contribute, to work, to be needed and to be heard. It is a key to salvation from the separation and human frustration which are a poisoning and unnecessary by-product of our civilization.

Thirdly, we who have often looked to Washington for protection of human rights must increase our guard against the coercive society. It is the nature of power to resent opposition to its exercise. That resentment is multiplied as power grows. When those who have such power are also convinced of the wisdom and beneficence of their views that freedom is in danger. The worst threat to liberty comes not from those who simply seek their own aggrandisement, but from those who seek the good of others, identifying opposition to their desires with harm to the nation. Already wiretapping, bugging, and manifold invasions of privacy are growing, I believe, far beyond the present knowledge of any of us. There are laws in Congress to give the Secretary of State arbitrary power to limit the travel of Americans. It has even been proposed that we draft all Americans—not simply to meet an immediate threat to our security—but as a matter of course. All of these have in common the frightening belief that individual action and freedom should be limited for the good of the state, according to some officeholders' view of what that good requires. That is the cause to enlist our energies, to bring us shouting into the streets against any who claim the right to tell us where to go, or listen to our private conversations, or prescribe how we must serve our society. The coercive society is no less obnoxious when coercion is masked in benevolence.

These are tentative steps toward redefinitions of difficult and shifting goals; but they are charged with a traditional faith in the capacity to reshape our society more to the needs of man.

There is, however, another issue which has reduced discussions about domestic America to academic discourse, which has swallowed up the New Frontier and Great Society, and which is eroding our position throughout the world. That issue is, of course, the war in Vietnam.

The Vietnamese war is, I believe, the most dangerous conflict since the end of World War II: more dangerous than Berlin or even Korea. In those confrontations the danger was clear and sensibly appraised. The stakes were fairly obvious to both sides. Objectives were carefully limited; and power ultimately became the handmaiden of reason and final accommodation. In Vietnam, on the other hand, the dangers are confused and unclear. Objectives are expressed in vague generalities which open to endless vistas. Moreover, from other cold war confrontations there evolved a set of tacit understandings designed to limit conflict even while it was being waged. That, for example, is the real meaning of the no-sanctuary policy carefully observed, we should remember, by both sides. Today those understandings are in grave danger of being swept away, and with them our most important protections against enlarging conflict.

The air is charged with rhetoric. We are buried in statements and speeches about negotiation and peace, the defense of freedom and the dangers of communism, the desire to protect the helpless and compassion for the dying. Much of it is important and sincere and well-meaning. Some is intended to deceive. Some is deliberate lie and distortion. But the important thing is not what we are saying, but what we are doing; not what is being discussed, but what is happening.

And what is happening is not confusing or unclear or contradictory at all. It is not masked in obscurity or buried in secret archives. It stands in clear, vivid and towering relief against the landscape of conflict. The war is getting larger. Every month there are more men in combat, more bombs falling, greater expenditures, deeper commitments. It is the steady inexorable course of this conflict since its beginning. We have gone to the United Nations' and the war has grown larger. We have offered funds for development and talked of social reform; and the war has grown larger. We have predicted victory and called for compromise; and the war has grown larger.

There is therefore, little escape from the conclusion that it will grow larger still.

Nor is this steady pattern the consequence of inexorable historical forces. It flows from the decisions of particular men in particular places—in Washington and Hanoi, in Saigon and in the jungle headquarters of the Vietcong. It is in part a product of communist hope and drive for victory; but it is partly our decision too. And we must suppose those same decisions will continue to be made.

Nor is this, as we are sometimes told, because there is no alternative. There are dozens of alternatives. There are enclave programs, and programs to hold the centers of population. There are suggestions that we rely on pacification of the countryside rather than the destruction of the Vietcong. There are proposals to limit the bombing or to end it. There are proposals for negotiations, complete with all the specifics of possible agreement. The fact is the air is full of alternatives. They have simply been rejected in favor of another course; the present course. And we must also suppose they will continue to be rejected.

All prophecy is an exercise in probability. With that caution let us try to strip the argument of its necessary passion and discuss the probabilities which are compelled by the awesome logic of the course of events in Vietnam. Passion is important; it lies at the root of war and of hatred of war. Nor do I lack personal feeling; for only the strongest of feelings could impel me to discuss a subject with which I was so recently connected in so intimate a way. Yet we can perhaps now meet more productively on the common ground of reason. Rarely has there been greater need for such unity among men of good will.

In other places I have set forth my personal views on the conduct of the war in South Vietnam: The belief that we have an important stake in Southeast Asia, and that we must continue the battle in the South—although differently than we are now doing—until a political settlement is reached. And I have, like many others, discussed alternative routes to these objectives. Today, however, I would like to talk about the lengthening shadow of the war in the North; for in that war are the swiftly germinating seeds of the most grave danger.

In this, as in so many aspects of the war, much of the information which feeds judgment is deeply obscured. Of course, in times of armed conflict facts are often elusive and much information, of necessity, cannot be

revealed. By its nature war is hostile to truth. Yet with full allowance for necessary uncertainties I believe there has never been such intense and widespread deception and confusion as that which surrounds this war. The continual downpour of contradiction, misstatements, and kaleidoscopically shifting attitudes has been so torrential that it has almost numbed the capacity to separate truth from conjecture or falsehood.

At one time we are told there is no military solution, and then that victory can be ours.

There are months when we talk about negotiations and months when we forget them.

There are times when dissenters give aid and comfort to the enemy and times when they are acting in the greatest of our traditions.

We have been reassured about efforts to reach a peaceful settlement when there is no plan or program for settlement in existence.

We are given endless statistics with a numerical precision which only masks the fact they are based on inadequate information, or guesses, or even wishful thinking. For example, if we take the numbers of enemy we are supposed to be killing, add to that the defectors, along with a number of wounded much less than our own ratio of wounded to killed, we find we are wiping out virtually the entire North Vietnamese force every year. This truly makes their continued resistance one of the marvels of the world. Unless the figures are wrong, which of course they are.

We are told the bombing is terribly costly to North Vietnam. Yet the increase in Soviet and Chinese aid, since the bombing, is far greater, in economic terms, than the loss through bombing. Except in human life, the North Vietnamese are showing a profit.

At the time of the Hanoi-Haiphong bombings last June we were told that in the first six months of 1966 enemy truck movement had doubled, the infiltration of supplies was up 150%, and infiltrated personnel increased 120%. However, the fact is we do not know, except in the most vague and general way, how much supplies are being brought in or how many men. They move at night, sometimes on trails we have not yet discovered, and the best intelligence gives only the most vague picture. We could not only be wrong, but enormously wrong. The swiftness with which we change our estimates helps show that seeming exactness conceals large uncertainties.

The statements which followed the Hanoi-Haiphong bombings are an illuminating example of this process in action.

It was said the raids would destroy a large proportion of North Vietnam's fuel capacity and this would help paralyze—or at least slow down—the process of infiltration. Yet these raids had been anticipated, alternative techniques of providing fuel had been developed, and the raids were destined to have little if any effect on the North Vietnamese capacity to make war. And this was clear at the time we bombed.

We were told, in an inside story in the New York Times, that the bombings would prove to Hanoi it could not count on its allies. The fact is that aid was stepped up as we anticipated it would be.

Within a few days a high official said fresh intelligence showed that Hanoi was now plunged in gloom, weary of war, and suffused with a sense of hopelessness, presumably at least in part as a result of the raids. Yet, there was no substantial intelligence of this kind. We have heard little about it since. And recent information indicates that the opposite was the case—the enemy's will was strengthened.

The truth is that this major and spectacular escalation in the war had had little measurable effect on the enemy's capacity or morale, and most of those who looked at the matter seriously in advance of the bombing knew it would probably be ineffective.

Yet despite confusion and misstatement, despite the enormous difficulty of grasping the realities on which policy must be based, I believe we can know that further escalation of the war in the North will only bring us farther from settlement and closer to serious danger of a huge and devastating conflict.

We began the campaign of bombing in the North as a result of the enormous and unresolved difficulties of winning the real war, the war in the South.

As predicted by almost every disengaged expert, from General Ridgway to George Kennan; and as taught by the whole history of aerial warfare, that bombing has neither brought the enemy to his knees or to the council table. It has not destroyed his capacity to make war, or seriously slowed down either infiltration or the flow of supplies. At each step it was claimed the bombing would make a decisive difference. Yet it has made hardly any difference at all. In fact, the tempo of conflict has increased.

The official statements justifying the Hanoi-Haiphong raids bore partial witness to the futility of bombing. We were told the raids were necessary because infiltration had increased enormously; an official admission of the failure of one of the most intensive bombing campaigns in world history. Despite thousands upon thousands of raids more men and supplies are flowing South and the routes of infiltration have been widened and improved. Despite the bombing, or perhaps because of it, all signs indicate the North Vietnamese will to fight has stiffened and the possibilities of negotiation have dimmed. Despite the bombing, or because of it, North Vietnam has become increasingly dependent upon Russia and China. Despite the bombing, or because of it there has been a vastly increased supply of aid to North Vietnam by Russia and China and a deepening world communist commitment to this war.

In short the bombing has been a failure, and may turn out to be a disaster.

Yet we once again hear voices calling for further escalation; just as each previous time that the bombing has failed we have been told that more bombing is necessary and new goals are articulated. First it was said we wanted to stop infiltration. Next, we would persuade the North Vietnamese to come to the Council table. Then we would punish them and force them to surrender. Now men are talking of the need to destroy their capacity to make war. And so we move inexorably up the ladder of failure toward widening devastation. And the latest goal, the destruction of enemy capacity, if ever adopted, will be the most vaguely ambitious of all. For such capacity rests on the entire society; and that whole society; factories, dams, power plants, cities themselves must be brought tumbling down.

All of this is possible despite the fact that each future escalation will probably have the effect of previous escalations. It will increase the dangers of wider war, lessen the chances of a negotiated settlement, drain away effort which should be concentrated in the South, further alienate our allies, and have little damaging effect on the enemy's ability or will to fight.

We are sometimes asked what else we can do. I believe there are other things to do. The war can be fought more effectively in the South. The search for a settlement can be given greater direction and brilliance. We can prepare ourselves, if necessary, to accept a long ground war of attrition leading ultimately to a political settlement. But that is not the question. If the bombing cannot win the war, if it does not work; and above all if it carries tremendous political and military risks, then it should not be increased, either out of frustration with the war or with the polls.

For the greatest danger of this course—the course of escalation—is not only in the extent of devastation and death, or the damage it does to the hope of peaceful solution, but the fact that each step of the way increases in vast proportion the danger of a huge and bloody conflict. If North Vietnam is devastated then all reason for restraint or compromise is gone. The fight is no longer a war for the South but a struggle for survival calling their still largely uncommitted armies and people into battle. Nor can China stand by and see its ally destroyed. I do not believe China wants to fight the United States, at least not yet; but it cannot stand by while we destroy North Vietnam. To do so would forfeit all its claim to moral and political leadership of militant communism. They would then be truly a paper dragon, stoking the fires of revolution only when Chinese blood and land was not at stake.

Nor is China's entrance likely to be signalled by a huge and dramatic sweep of armies across the frontier. It is far more likely that increasing destruction in the North will stimulate or compel the Chinese to accelerate the nature and kind of their assistance. Perhaps Chinese pilots will begin to fly air defense over Hanoi. The number of Chinese troops in North Vietnam may be greatly increased. Chinese anti-aircraft crews may be placed throughout the country. Thus, step by step, China acting in response to seeming necessities, may become involved in a war it did not fully contemplate, much as we have. And there are many signs that this process has already begun. This is the most likely and grave route to enlarging conflict. And if China does enter we must bomb them, for certainly we will not permit them sanctuaries or, if it comes to that, engage their armies solely in the jungles of Southeast Asia. And lastly is the Soviet Union, forced to choose between China and America.

None of this is certain. An entirely different course is possible. Yet the danger of such a chain of events grows by immeasurable strides each time we enlarge the war in the North: and if past is prologue we will continue that enlargement. Yet the fantastic fact, the truth that challenges belief, is that this is being done although virtually no one remains besides some of the engaged military and a few men in the State Department—virtually no one in the Administration or out—who believes that increased bombing will have a decisive effect on the war in South Vietnam. We are taking likely and mounting risks in pursuit of an elusive, obscure, marginal, and chimerical hope; a course which defies reason and experience alike.

Yet I believe this is the way we are going; that only beneficent and uncertain fortune can bar the way. This is not a belief born of personal fear. After all, we, or most of us, will continue to work and prosper, hold meetings and make speeches, unless all of our civilization is swallowed up. Even then enough will survive for the race to evolve and perhaps create something finer. It is rather a belief born of a fallible reason and analysis, always better able to describe our situation that guide our action, which seeks in the acts of our past and the attitudes of our present a guide for our future.

I do not wish however, to come with a counsel of despair. The surest guarantee of misfortune is resignation. Therefore, we must all make what effort we can. There are enormous differences among the critics of the war. There are those who believe we have no interest in Vietnam or even in all of Asia. There are those who wish us to withdraw. There are fierce debates over the history of the war, the nature of its participants, the goals of our enemies. There are those, like myself, who believe we should carry on the war in the South while intensi-

fying, modifying and sharpening the search for peaceful compromise tied to some measures of de-escalation in the North. Yet our danger is so grave that those who fear the future even more than they distrust the past—a group which encompasses, I believe, the majority of the American people—must seek some common ground rather than dissipating energies in exploring the varieties of dissent. Without sacrificing individual views we must also shape a unified stand, a focal point of belief and action which can unite all who apprehend coming dangers. Only in this way can we create a voice strong enough to be heard across the country, bringing together men of diverse beliefs, adding strength to the views of those in government who share this apprehension. It must also be a clear and direct stand; one that fires response in those millions of our fellow citizens who glimpse through complexity, discord and obscurity the vision of something dark and dangerous.

I believe there is such a position. It is simply the victorious slogan of the Democratic Party in 1964. It is: No wider war. It is to oppose any expansion of the bombing. It is to speak and work against all who would enlarge the war in the North.

Such a stand will not end the war in South Vietnam. It may even prolong it. It will not fully answer the deep objections, feelings and fears of many in this room or across the country. But it can crystallize the inarticulate objections of many. It may well increase the weight and impact of the forces of restraint. Most importantly it strikes at the most ominous menace to the lives of millions and the peace of the world. Such a rallying cry requires compromise, the willingness to seek less than is desired; but that is the basic necessity of those who seek not self indulgence but to shape the course of this nation.

To be most effective this position will require more than speeches and resolutions. It will need structure and purpose. I suggest this organization work with other groups and individuals to form a national committee against widening of the war. It will not be aimed at withdrawal or even a lessening of the war in the South; although individuals who oppose escalation may also hold those views. Thus it will be open to all groups who oppose escalation in the North regardless of their position on other issues, and will be open to the millions of Americans who belong to no group but who share this basic belief and apprehension. Such a committee can provide a constant flow of objective information about Vietnam. It can keep vigil over official statements and ask the hard questions which might help separate wishful thinking from facts. It will neither be against the Administration nor for it, neither with any political party or opposed to it, neither liberal nor conservative. Its sole aim will be to mobilize and inform the American people in order to increase the invisible weight of what I believe to be the American majority in the deliberations and inner councils of government. Its purpose is to help the President and others in government by providing a counter pressure against those who urge a more militant course; a pressure for which those in government should be grateful since it will help them pursue the course of wise restraint.

Although I believe deeply in this proposal I do not wish to give the argument a certainty I do not have. The most important fact of all, the unkown which transcends all debate, are the thoughts and intentions of our adversaries and their allies. Yet skepticism born of imperfect knowledge cannot be permitted to dull the passion with which we pursue convictions or the fervor of our dissent. For we must fight against fulfillment of Yeats' prophecy which foresaw destruction if the time should come when "the best lack all conviction, and the worst are full of passionate intensity."

Some have called upon us to mute or stifle dissent in the name of patriotism and the national interest. It is an argument which monstrously misconceives the nature and process and the greatest strength of American democracy. It denies the germinal assumption of our freedom: that each individual not only can but must judge the wisdom of his leaders. (How marvelously that principle has strengthened this country—never more dramatically than in the postwar period when others have buried contending views under the ordained wisdom of the state, thus allowing received error to breed weakness and even defeat. The examples are legion. The virgin lands settlement and the Great Leap Forward failed because experiment was made into unchallengeable law; while we began to catch up in space, modernized and increased our defenses, and started the Alliance for Progress because what began as dissent became national purpose). Of course the enemy is glad to see our divisions. But our concern is with America not Hanoi. Our concern is with those millions of our own people, and with future generations, who will themselves be glad to see that there were men who struggled to prevent needless devastation and thus added to the strength and the glory of the United States.

Among the greatest names in our history were men who did not hesitate to assault the acts and policies of government when they felt the good of the nation was at stake: Jefferson at a time when the integrity of the new nation was still in doubt, Lincoln during the Mexican war, Roosevelt in the midst of national depression, John F. Kennedy among cold war defeats and danger.

Only a dozen years ago, in 1954, another American leader assaulted our policy in Vietnam, saying "The United States is in clear danger of being left naked and alone in a hostile world . . . It is apparent only that American foreign policy has never in all its history suffered such a stunning reversal. What is American policy in Indochina? All of us have listened to the dismal themes of reversal and confusions and alarms and excursions which have emerged from Washington . . . We have been caught bluffing by our enemies. Our friends and allies are frightened and wondering, as we do, where we are headed . . . The picture of our country needlessly weakened in the world today is so painful that we should turn our eyes from abroad and look homeward."

It is in this same spirit of concern for our country that we should conduct our dissent as, on that day, did Lyndon B. Johnson then leader of the minority party.

It is not our privilege, but our duty as patriots, to write, to speak, to organize, to oppose any President and any party and any policy at any time which we believe threatens the grandeur of this nation and the well-being of its people. This is such a time. And in so doing we will fulfill the most solemn duty of free men in a free country: to fight to the limit of legal sanction and the most spacious possibilities of our constitutional freedoms for the safety and greatness of their country as they believe it to be.

The arguments of this speech have been practical ones founded, to the limits of my capacity and knowledge, upon the concrete and specific realities and dangers of our present situation. But there is more than that in the liberal faith. American liberalism has many faces. It pursues divergent paths to varied and sometimes conflicting goals. It cannot be captured in an epigram or summarized in a simple statement of belief. Part of it, however, is simply and naively a belief in belief. It is the idealistic, visionary and impractical faith that action and policy and politics must rest on the ancient and rooted values of the American people. It still believes that for a nation to be great, to serve its own people and to command the respect and trust of others, it must not only do something but stand for something. It must represent in speech and act the ideals of its society and civilization.

Some part of the conflict in Vietnam may have been unavoidable, some is the result of well-intentioned error, but some must surely flow from the fact we have bent belief to the demands of those who call themselves realists or tough minded.

It is not realistic or hard-headed to solve problems and invest money and use power unguided by ultimate aims and values. It is thoughtless folly. For it ignores the realities of human faith and passion and desire; forces ultimately more powerful than all the calculations of economists and generals. Our strength is in our spirit and our faith. If we neglect this we may empty our treasuries, assemble our armies and pour forth the wonders of our science, but we will act in vain and we will build for others.

It is easy to be tough when toughness means coercing the weak or rewarding the strong; and when men of power and influence stand ready to applaud. It is far harder to hold to principle, speaking, if necessary, alone against the multitude, allowing others to make their own mistakes, enduring the frustration of long and inconclusive struggles, and standing firm for ideals even when they bring danger. But it is the true path of courage. It is the only path of wisdom. And it is the sure path of effective service to the United States of America.

TAX TREATMENT OF TREBLE DAMAGE PAYMENTS

Mr. HRUSKA. Mr. President, if a person violates our antitrust laws, he may have to pay treble damages in private lawsuits under section 4 of the Clayton Act to the persons wronged by such violation. A certain amount of concern has been generated lately over the deductibility of these treble damage payments for Federal income tax purposes. The purpose of my remarks today is to place the tax status of these payments in proper perspective.

About 2 years ago, the Internal Revenue Service ruled that amounts paid as treble damages under section 4 of the Clayton Act are deductible as ordinary and necessary business expenses. The position adopted by the Internal Revenue Service in that ruling was the result of an intensive task-force study of the applicable law, including all of the Supreme Court decisions on the subject. Recently, the procedures followed, and the multitude of factors considered by the Service in arriving at its conclusion, has been fully and ably explained before the Antitrust and Monopoly Subcommittee by Mr. Mortimer M. Caplin, who was Commissioner of Internal Revenue when the Service was considering this problem.

Mr. Caplin, who is now engaged in the private practice of law here in Washington, testified before the Antitrust Subcommittee on July 29, 1966, in connection with the subcommittee's consideration of a bill which its proponents say would restrict the deductibility of treble damage payments (S. 2479). In

my opinion, Mr. Caplin's testimony demonstrates the soundness of the present Service position, which allows a tax deduction for treble damage payments, and I ask unanimous consent, that his testimony be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. Mr. President, in regard to this subject, I would like to make two points. The first is that, in my opinion the Service position is a correct interpretation of present law. Because the ruling does reflect present law, we should recognize that any legislation which would prohibit the deductibility of treble damage payments would constitute a change of present law; it cannot be passed off as a clarification of original congressional intent made necessary by an erroneous administrative interpretation. I think we should proceed slowly before we change present law.

My second point is that, in addition to changing present law, legislation to disallow a deduction would have a harsh effect. It would result in the violator paying six times his after-tax gain, which is the same as the wronged party's after-tax injury. Thus, if the violator is taxed on his gain but disallowed a deduction for the damage payments, he will end up paying six times the out-of-pocket damages incurred by the wronged party.

The reason for this is explained by Mr. Caplin in a colloquy which followed his formal statement and can be demonstrated by a simple example.

Before giving that example, Mr. President, I observe that the treble damage statute was passed at a time when income tax was not a factor. Certainly it was not a factor such as that which we have now, inasmuch as the bracket for corporate profit is in the neighborhood of approximately 50 percent for corporations.

Assume that a corporate seller receives an extra $100 because of a price-fixing conspiracy. Its gain, and the other party's damage, after taxes is $50. If the seller has to pay $300 in treble damages, that is, three times the overcharge, without being able to take a deduction, it will be out of pocket six times its net gain or six times the other party's net injury.

On the other hand, if the seller is allowed to take a deduction, it will be out of pocket three times its net gain, which is the same effect that would have prevailed in 1890 when the treble damage provision was passed and before our income tax laws were enacted. In short, if we tax the violator on his gain, we must allow him to deduct his damage payments or else the damages become disproportionately and, in my view, unintentionally large.

Of course, if Congress decides that sextuple damages rather than treble damages should be imposed, fine and good. But we should recognize that this is what we will be doing if we enact legislation to disallow a deduction for treble damage payments.

EXHIBIT 1

STATEMENT OF MORTIMER M. CAPLIN (CAPLIN AND DRYSDALE) WASHINGTON, D.C., ON TAX TREATMENT OF TREBLE DAMAGES

Mr. CAPLIN. Mr. Chairman and Members of of the Committee, I appreciate the invitation of this subcommittee to testify on Revenue Ruling 64-224 and S. 2479, dealing with the deductibility for federal income tax purposes of treble damages paid on account of violations of the antitrust laws. This issue is of interest to me as a student of tax law and as a lawyer engaged in tax practice. It also was of great concern to me during the period of my service as U.S. Commissioner of Internal Revenue from February 7, 1961, to July 10, 1964.

On July 24, 1964, the Internal Revenue Service issued Revenue Ruling 64-224 announcing its position on treble damage payments as follows:

1. Amounts paid or incurred in satisfaction of claims for treble damages under section 4 of the Clayton Act are deductible as ordinary and necessary expenses under Code section 162(a).

2. Amounts paid or incurred in satisfaction of damage claims by the United States under section 4A of the Clayton Act or under the Federal False Claims Act are not deductible.

I believe that has not been commented on.

3. Amounts paid or incurred for attorney's fees and directly related expenses in connection with private civil actions under section 4 of the Clayton Act are deductible under Code section 152(a).

4. Attorneys' fees and related legal expenses paid or incurred in cases in which the U.S. Government is the injured party as buyer of goods are not deductible.

In brief, Internal Revenue took the position that, where the plaintiff-claimant was a private party, treble damage payments to him were remedial and in the nature of reparation of a private injury; hence, no public policy would be violated if these payments were held deductible. If the damage payment was to a governmental body, however, the deduction would be denied.

As a matter of tax law, the proper answers to the questions raised were not readily apparent, but required extensive research and study. Among other things, Internal Revenue had to analyze a series of related U.S. Supreme Court decisions. None was squarely in point. The closest prior published precedent was Internal Revenue's ruling in I.T. 3627, issued in 1943, holding that treble damage payments to a private party by a violator of the Emergency Price Control Act of 1942 were tax deductible since the payments were considered remedial in nature.

Again, as a matter of tax law, and as good tax administration, I think the conclusions reached by Internal Revenue were sound and in accordance with the approach of the Supreme Court as reflected in its decided cases to date. Confirmation of the judgment of Internal Revenue is found in the rationale of the recent U.S. Supreme Court decision of Commissioner v. Tellier, decided on March 24, 1966.

In the Tellier case—despite, as the Court said, "considerable support in other administrative and judicial decisions"—the Supreme Court refused to apply the "public policy" exception to income tax deductions. Instead, it allowed as an "ordinary and necessary" business expense deduction the legal costs incurred by a convicted securities underwriter in his unsuccessful defense of a criminal prosecution.

The Court in Tellier carefully limited the "public policy" rule in the following terms:

"Deduction of expenses falling within the general definition of section 162(a) may, to be sure, be disallowed by specific legislation . . . The Court has also given effect to a precise and long-standing Treasury Regulation prohibiting the deduction of a specified category of expenditures . . . But where Congress has been wholly silent, it is only in extremely limited circumstances that the Court has countenanced exceptions to the general principle reflected in the Sullivan, Lilly, and Heininger decisions. Only where the allowance of a deduction would "frustrate sharply defined national or state policies proscribing particular forms of conduct" have we upheld its disallowance . . . Finally, the "test of nondeductibility always is the severity and immediacy of the frustration resulting from allowance of the deduction."

The Supreme Court has been quite reluctant to deny business expense deductions on the grounds that their allowance would "frustrate sharply defined national or state policies proscribing particular forms of conduct." It has viewed the federal income tax as "a tax on net income, not a sanction against wrongdoing." In Tellier, the court referred back to the 1913 Senate debate on the first modern income tax law, when the Senate rejected amendments which would have limited deductions for losses to those incurred in a "legitimate" or "lawful" trade or business. The court referred in the Tellier case to the floor statement of Senator Williams, who was in charge of the 1913 bill, to the effect that "the object of this bill is to tax a man's net income . . . It is not to reform men's moral characters; that is not the object of the bill at all."

As the late Randolph Paul, one of the leading tax authorities in the nation's history, stated:

"An exploration of relevant congressional debates indicates, section 23(a)(1)(A) (now section 162(a)) is not an essay in morality, designed to encourage virtue and discourage sin. It "was not contrived as an arm of the law to enforce State criminal statutes by augmenting the Punishment which the State inflicts. Nor was it contrived to implement the various regulatory statutes which Congress has from time to time enacted. The provision is more modestly concerned with 'commercial net income'—a businessman's net accertion in wealth during the taxable year after due allowance for the operating costs of the business."

With this history in mind, the Supreme Court in a number of significant cases has found the "public policy" argument inapplicable and has allowed tax deduction:

In Commissioner v. Sullivan (1958), the court sustained the allowance of a deduction for rent and wages paid by the operators of a gambling enterprise, even though both the business itself and the specific rent and wage payments were illegal under state law.

In Lilly v. Commissioner (1952), the court upheld deductions claimed by opticians for amounts paid to doctors who prescribed eyeglasses that the optician sold, although the Court was careful to disavow "approval of the business ethics or public policy involved in the payments."

In Commissioner v. Heininger (1943), the court upheld deductions claimed by a dentist for lawyer's fees and other expenses incurred in unsuccessfully defending himself against an administrative fraud order issued by the Postmaster General.

In contrast, to get the feeling of the Supreme Court, the Supreme Court has denied business deductions on the ground that they "frustrate sharply defined" public policies in only two categories of cases:

1. Payments of fines and penalties to governmental bodies. Tank Truck Rentals v. Commissioner (1958); Hoover Express Co. v. U.S. (1958).

2. Payments specifically prohibited by long-standing Treasury Regulations. Textile Mills Corp. v. Commissioner (1941); and Cammarano v. U.S. (1959) (lobbying expense Regulations, dating back to 1918).

I believe these Supreme Court cases illustrate the soundness of the much-quoted statement in the law that public policy is an "unruly horse to ride." Certainly it has only a sharply limited role in the determination of proper deductions under our income tax law. When used, it is best expressed through specific action of Congress by way of amendment of the Internal Revenue Code. In 1958, for example, Congress reversed Internal Revenue's ruling position which had allowed deductions for bribes or improper payments to foreign officials where the foreign government itself demanded or acquiesced in the payments. This was accomplished by adding Code section 162(c) which now bars a deduction for payments to officials or employees of a foreign government if in the United States such payments would be unlawful. Again, in 1962, Congress in effect overturned U.S. Supreme Court decisions and Treasury Regulations by providing tax deductions for certain lobbying expenses. See Code section 162(e).

As the Supreme Court has said a number of times and reiterated in Tellier, "since deductions 'are a matter of grace . . . Congress can, of course, disallow them as it chooses.' "

While publication of Revenue Ruling 64–224 took place on July 24, 1964, the development of Internal Revenue's position evolved during the preceding period of several years.

Mr. Colin P. Stam, the then Chief of Staff of the Joint Committee on Internal Revenue Taxation, had requested the Treasury Department to express its policy on the deductibility of treble damages. His inquiry grew out of a proposed refund being reviewed by the Joint Committee. In a letter dated October 18, 1961, Internal Revenue explained that the treble damage deduction was being allowed in that case because it was believed virtually impossible to forecast the illegality of the taxpayer's actions prior to a 1948 antitrust decision of the Supreme Court. However, Internal Revenue also stated that, as a general rule, it was taking the position that treble damage payments were not deductible.

Later, as an aftermath of the antitrust convictions of certain manufacturers of electrical equipment and their officers, Internal Revenue believed it advisable to take a public position on the treble damage issue. In that connection what proved to be a lengthy project was set in motion to consider all the facts carefully, to review existing law and to prepare a proposed Revenue ruling.

I might say as an aside, up to that point the Internal Revenue Service had never denied an individual taxpayer a deduction for treble damages, to my knowledge.

Early in 1963, a staff meeting was held in the Commissioner's office to bring him up to date on the project. At the time it was indicated that, although various staff members thought Internal Revenue had a weak position, the majority was inclined to recommend that no deduction be allowed. Before a final position was reached, the staff was requested to study the matter further, to consult outside experts, and to give interested parties the opportunity to express their views and answer questions which Internal Revenue might raise.

These meetings were later held with representatives of the Tax and Antitrust Divisions of the Department of Justice usually in attendance. Subsequently, the Chief Counsel of the Internal Revenue Service analyzed the key issues in a memorandum which served as the basis for the final position taken in Revenue Ruling 64–224.

I believe that this subcommittee has a copy of that memorandum.

On July 10, 1964, Secretary of the Treasury, Douglas Dillon, was advised of the position Internal Revenue was planning to take on the treble damage issue. On July 24, 1964, the formal Revenue Ruling was issued.

I would like to give credit to the Internal Revenue staff members who worked on the treble damage project. They were able, hardworking and dedicated professionals and were most mindful of the significance of their conclusions, both to the government as well as to the private plaintiffs and defendants in the treble damage actions. They reached their final conclusion and position only after lengthy study and meticulous legal analysis.

The fairness of legal interpretations by Internal Revenue goes to the heart of sound tax administration. This is expressed in Revenue Procedure 64–22, released after careful study on May 1, 1964, which states certain principles of Internal Revenue tax administration as follows:

"It is the responsibility of each person in the Service charged with the duty of interpreting the law, to try to find the true meaning of the statutory provision and not to adopt a strained construction in the belief that he is 'protecting the revenue.' The revenue is properly protected only when we ascertain and apply the true meaning of the statute."

Earlier in Rev. Proc. 64–22 it is emphasized that, "it is the duty of the Service to carry out that policy by correctly applying the laws enacted by Congress; to determine the reasonable meaning of various Code provisions in light of the congressional purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view."

These principles are designed to encourage staff members to make honest and good faith judgments on all matters before them. If they are not followed there could be a tendency to consistently rule against taxpayers in close cases or cases involving large sums of taxes. Such an attitude would be unfortunate and would undermine taxpayer confidence in our entire revenue system.

I might add that between 20,000 and 40,000 private rulings are made a year. They are extremely important to individuals and to the business community. And this system would never attain the high level of compliance that it does without such an effective ruling process.

In closing, I would like to emphasize that my comments today are based on my study of the tax law over a number of years and my experience as a tax administrator. My comments are not oriented toward the nation's antitrust policy, which is the special responsibility of this subcommittee. Of course, the purpose of our tax laws do not necessarily coincide with the goals of other federal laws.

If Congress should decide to limit tax deductions for treble damage payments, I would suggest that an alternative approach be taken to that contained in S. 2479. There, the emphasis is on making it unequivocally clear that treble damages are penal in nature, not remedial. Apparently it is believed that this would be sufficient to foreclose an income tax deduction.

Until the Supreme Court passes on such an issue, obviously no one can provide a definitive answer to whether S. 2479 would accomplish its purpose. But I do question whether the bare label "penal" would control the Supreme Court's view that, in the circumstances, allowance of a deduction for treble damages would "frustrate sharply defined national . . . policies proscribing particular forms of conduct."

If complete or partial nondeductibility is the result desired by Congress, I believe a specfic amendment of the Internal Revenue Code would be more effective in accomplishing this end. In this connection, the Staff Study for the Joint Committee on Internal Revenue Taxation (Nov. 1, 1965) suggests a specific amendment to the Code worthy of careful consideration by Congress.

And such a bill is S. 3650 which follows the recommendation of the staff.

I thank you for the privilege of appearing before this subcommittee. I will be happy to answer any questions you may have.

NATIONAL UNICEF DAY—PRAYER IN PUBLIC SCHOOLS

The Senate resumed the consideration of the joint resolution (S.J. Res. 144) to authorize the President to designate October 31 of each year as National UNICEF Day.

Mr. HRUSKA. Mr. President, we are considering an item which is not often encountered in the Senate Chamber. We are debating the first step in the process of amending our Constitution, as provided for in article V. We are doing it by considering the approval of Senate Joint Resolution 144 in the substitute form proposed by the junior Senator from Illinois.

Mr. President, I ask unanimous consent that the substitute resolution be inserted at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SECTION 1. Nothing contained in this Constitution shall prohibit the authority administering any school, school system, educational institution or other public building supported in whole or in part through the expenditure of public funds from providing for or permitting the voluntary participation by students or others in prayer. Nothing contained in this article shall authorize any such authority to prescribe the form or content of any prayer.

SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

Mr. HRUSKA. In essence, it provides that "Nothing contained in this Constitution shall prohibit the authority administering any school, school system, educational institution, or other public building supported in whole or in part through the expenditure of public funds from providing for or permitting the voluntary participation by students or others in prayer."

Then it provides "Nothing contained in this article shall authorize any such authority to prescribe the form or content of any prayer."

It goes on to say, of course, what the Constitution itself requires:

SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States . . .

It further provides something that is not in the Constitution, but which is the usual practice in matters of this kind, that such ratification must be effected within 7 years after the date of its submission to the States.

The occasion for this proposition being before the Senate today has been brought about by recent Supreme Court decisions. These decisions have effected radical changes in the interpretation and application of the Federal Constitution as

we have known and recognized it for generations.

There has been widespread practice and custom in hundreds and perhaps thousands of schools for having a little prayer exercise, which normally opens the schoolday. The testimony in the record shows that this practice goes back as long as a hundred years—in some instances ever since the public school system was founded. It was a custom and a practice with which there was no trouble, no trouble at all, because it was executed in good faith and it was administered in proper, orderly fashion.

Suddenly, this was brought to an end. It was a practice that was denied from the time that the Supreme Court spoke when such a practice was held to be violative of the first amendment of our Constitution.

There has been a massive interest on the part of large segments of our population for the restoration of this practice and usage. The impact of the decisions is one thing, Mr. President, but the matter goes beyond that, as has already been pointed out on the floor of the Senate in the course of this debate.

What is particularly dangerous is not so much the decisions themselves, but rather the interpretations that are placed upon the decisions of the Supreme Court.

Perhaps the most extensive illustration of that was found in the opinion of the Attorney General of the State of Michigan, who went into this matter in great detail and in great depth. In his opinion he pointed out specific things which can and which cannot be done as a result of these Supreme Court decisions.

At another time, the attention of the Senate has been brought to the proposition that many school boards, for example, forbade the singing of the last verse of "America." They also forbade the singing of "God Bless America." They have forbidden, in some instances, the pledge to the flag because it contains the words "under God."

Also, included in the prohibitions, in the judgment of many of these school authorities, were the simple exercises and the folk ways in the observances of Christmas and Easter and Thanksgiving—all on the ground that the Supreme Court said, "No, you cannot do this any more."

Mr. President, when we consider these simple things, which were elaborated upon in great detail by the Senator from Illinois yesterday, going to their logical conclusion, we certainly can contemplate a very bleak place in the schools without this warming and very religious background and history. These activities on the various holidays, and the singing of songs, would bring warmth to the hearts and the minds and later on to the memories of the schoolchildren. The proposed amendment seeks to clarify this situation.

First of all, I should like to point out that it is permissive. It says that nothing in the Constitution shall prohibit the authority of a school from providing for or permitting the voluntary participation by students or others in prayer. School boards and authorities could not, of course, prescribe the form, but they could permit or provide for voluntary prayers by the students.

If this article became part of our Federal Constitution, school authorities or legislatures could still prohibit any religious exercises of any kind in their schools or in their public buildings.

In my own State of Nebraska, the supreme court has held that under our State constitution, it is forbidden that there be any religious ceremony in a school, even if it consists of the utterance of a prayer. Now, that is the business of the State. If the State is silent on it, then the school board or the school administrator, or whoever is the legal authority in charge of the school, would pronounce the judgment—yes or no. Voluntary prayers may or may not be allowed.

However, if he says that they may be given but he will not prescribe their form, then the Federal Constitution would not be interposed as an instrumentality by which his decision could be negated.

So I say that the proposed amendment is permissive and it would clarify. To that end, I believe it is wholesome and should be approved. It clarifies in that it provides that such practices or exercises shall not be considered "an establishment of religion," which are the words of the first amendment of our Bill of Rights, and which, of course, we want preserved.

We should have a separation of church and state, and certainly there should not be an establishment of religion by any act of Congress. By that, we stand firmly. The adoption of this amendment would not interfere with that.

Mr. President, I should like now to discuss particularly the amendatory process, because other facets of this matter have been covered very thoroughly by other Senators.

Article V of the Constitution provides:

> The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

The key words are these:

> The Congress, whenever two-thirds of both Houses shall deem it necessary . . .

When is it necessary to propose amendments to the Constitution such as we are doing now?

First, I should like to point out, Mr. President, that the word "necessary" in that connection has never been construed as meaning "indispensably requisite."

Rather, in the context of our experience with amendments that have been proposed for consideration of the State legislatures it has been held to mean "reasonably necessary." I respectfully submit, that the Constitution simply means this: That when it becomes apparent to the Congress that a large percentage of the States want the privilege of passing on an amendment, and there is reasonable probability of its adoption if submitted, the opportunity should be afforded in the orderly manner prescribed by the Constitution itself.

It is further submitted that a more restrictive construction of the constitutional language involved would result in a denial of a fundamental right.

Mr. President, I shall not depend on that very simple and, I think, justifiable definition of when it is necessary to propose an amendment. I do believe that we have a stronger case than that in the instance of the series of decisions on school prayers rendered by the Supreme Court.

I submit that there are three conditions which are fulfilled in the present situation and because they are fulfilled, a duty imposed upon the Congress to submit a resolution to the several State legislatures for ratification.

The first of these conditions is:

The Supreme Court, through a series of decisions, has handed down an interpretation of the Constitution which is in direct conflict with earlier interpretations of the Constitution. The Supreme Court in those instances has handed down opinions which directly reverse longstanding pronouncements and applications of the Constitution.

The second condition is: There is a strong diversity of respectable opinion on the controverted point. A substantial number of able and respected leaders of political and legal thought, including Justices of the Supreme Court, are convinced that such a decision conflicts with the Constitution.

The third condition is: Large numbers of people, whose rights the Constitution was designed to protect, and not necessarily learned in the law, feel that the decision, even if it is legally and technically correct, produces a result of which they disapprove. They believe that in the public interest the decisions should be changed.

Mr. President, those are the three conditions which I believe are completely and fairly fulfilled by the situation we have before us today.

How do these conditions specifically apply in this situation? On the first point, in New York, wherein the case of Engel against Vitale arose, these had long been accepted as constitutionlly permissible the practice of prayer in schools. Cases in Pennsylvania and Maryland were also founded upon what had long been the understanding which was overturned by the Supreme Court. The longstanding practices in many other States are now being challenged. So, in effect, when the Supreme Court says that those practices and exercises may no longer be pursued, we have, in effect and substance, an amendment of the Constitution by the Supreme Court decision. Mr. President, that meets the first condition.

The second condition is the strong diversity of respectable opinion on the subject. The list of able and respected leaders of political and judicial thought, including the members of the Supreme Court, is an impressive one from the point of saying that this is an erroneous decision of the Supreme Court, or if it is not erroneous, certainly it is a reversal of the previous interpretation and application of that organic document.

In that connection let me point out, Mr. President, that nearly a majority of the Members of this body are cosponsors of Senate Joint Resolution 148, the text of which is sought to be substituted for the pending Joint Resolution 144. A substantial number of Members of the other body have introduced resolutions on this subject. Of course, there are many organizations which have endorsed the principle.

There has been other material submitted on this matter by a large number of citizens, the people whose rights the Constitution is intended to preserve, who feel that these decisions of the Supreme Court produce a result of which they do not approve. That bears on the third point. It bears on the proposition of whether or not there would be a reasonable chance that the amendment would be adopted if it were submitted to the several States.

Public opinion polls show that well over 80 percent of the American people favor a prayer amendment according to the testimony already given. Other sources of public opinion have reinforced the view that the people at the grassroots level continue to disagree with the result brought about by the Supreme Court decisions. Unless they are given an opportunity to speak on the issue, democracy will be thwarted. We will have substituted the Supreme Court's constitution for the people's Constitution.

The Constitution sets out a method by which its terms may be amended in article V, to which I have referred.

It is the belief of this Senator that when these three conditions are satisfied as completely as they have been in this instance, a duty is imposed upon the Congress to submit a resolution to the legislatures of the several States so that the people may then make known their will to the members of the State legislatures. That is as close as we can get to the will of the people unless a referendum is used; and in many cases referendums are held and that is perfectly proper, if they wish to pursue that course.

Whether the recent interpretations of the Constitution by the Supreme Court are correct is immaterial for the purposes of my presentation. The point I wish to stress is that these recent decisions bring about new law and, correct or not, many people believe that these results are not desirable. Nor is it necessary for Congress to count noses, because the answer to this question of grave importance can best be found by submitting the amendment to the people.

There should be, to be sure, evidence of a widespread expression on the part of the people that these decisions have brought about a result that is not desirable. But it is not necessary for the Congress to canvass the people in detail and depth, because we have to call upon our ability to judge public sentiment. In judging public sentiment we see the near majority of this body are cosponsors of the pending resolution, the numerous bills introduced in the other body, and we look at much of the testimony on the point and find that there are a substantial number of these people who do believe something should be done to give the people a chance to express themselves on the issue.

For Congress to do nothing on the matter of this amendment where there is such strong diversity of opinion is to tell the people of the country that no matter how sincerely they may petition their elected representatives for the opportunity to approve or disapprove the amendment, they are denied what is conceived to be a fundamental right. For Congress to do nothing on this issue is to leave immune from the popular will the decisions of the Supreme Court on political policies even though such decisions are contrary to the meaning and intent of the Federal Constitution.

This is not said in criticism of the Court. The Court acted conscientiously. It did the very best that it could. When one does take exception to that decision and interpretation of the Constitution, it is not to say that that person is anti-Supreme Court.

Certainly, I would not want to be categorized in those ranks. I have been a firm believer, a stout supporter, and defender of the Supreme Court as an institution. Yet, there is nothing that would be more in keeping with many of the decisions and some of the dicta of the Supreme Court which has often stated, "This is the way we interpret and construe the Constitution, and, fortunately, we are not the last voice." The Supreme Court has repeatedly said that if the people of the Nation differ with it, the people have avenues of amending the Constitution pursuant to article V.

Thus, when this position is taken, it is not in criticism of the Supreme Court but, rather, a desire to change what they have decided according to their best lights what the Constitution means.

The judicial pronouncements which give rise to the present problem are new, in the sense that there is read into the Constitution a meaning never before attributed to it. In practical application, the Constitution has been changed. The proposed amendment would merely give the States the opportunity to ratify or to disapprove that change.

Mr. President, after all, the Constitution starts out with these three words, "We the people." It does not say, "We the Senate" or "We the House" or "We the Congress." It does not even say "We the Supreme Court."

It says, "We the people."

There is no other way that the people can get a "crack" at this. There is no other way they can officially express their opinion except for the Senate, under these conditions, to refer the matter by a two-thirds vote to the House of Representatives where, we hope, there will be a similar favorable two-thirds vote, and then it will be passed on the legislatures of the 50 States.

There are ample safeguards in this process. Three-fourths of the States must approve this proposal within 7 years before it can become a part of the Constitution.

Thus, it is a process which is well safeguarded and one which allow people of this Nation the opportunity to speak on the meaning of the Constitution.

Mr. President, the hearings were held under the able chairmanship of the Senator from Indiana [Mr. BAYH], who is a fine chairman, an able lawyer, and a conscientious man. When he is an advocate of a cause, he is a formidable opponent or proponent, as the case may be. But when he is a chairman, he is a fair chairman. I have served under him in some matters of controversy which have demonstrated that fact to me in indelible fashion.

One of the most outstanding witnesses at our hearing was Rev. Robert G. Howes, who is an associate professor at Catholic University of America.

The text of his formal statement was placed in the CONGRESSIONAL RECORD on August 24, and will be found there beginning on page 20469.

However, I ask unanimous consent to have printed in the RECORD excerpts from that statement—two brief paragraphs to demonstrate the rationale behind the influences which seek to bring about the submission of this issue to the State legislatures.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

In short, time adds a critical dimension to the matter now before us. First, a clear and increasingly serious challenge to the democratic process has been placed. Second, the fact is more and more evident as further court cases are brought, as well as from the statements of some of those who initially pushed for the prayer ban, that the two "prayer" decisions are by no means minimal, narrow judgments, but rather very fundamental precedents which (even with their pleasant dicta) can and will be used in a widening attack against other instances of public reverence. Third, the massive national will for a prayer amendment survives and is backed by many responsible Americans, as individuals and as organizations. Fourth, what is obviously now required is not the prolongation of debate, a debate long since fully joined, but the immediate proposition to the American people at their several State Capitals of a reasonably worderd constitutional prayer amendment. What is now required is not an affirmative substantive vote in the Congress on the merits of school prayer, but rather a specific piece of enabling legislation which will permit the nation to decide this basic issue. We have no doubt whatsoever that, given their rightful chance, the American people will decide overwhelmingly for public reverence. We challenge our opponents to take their cause, as we have ours, to the people.

* * * * *

Gentlemen, it would seem that the task before you is now clear. The issue has been canvassed. The will of the nation has not changed. The generals without armies have not been able to convince even their own congregants. Your job, in all respect, is not to decide the continuing debate. Your job is not to return prayer and Bible reading to

the public classroom; although I am sure I speak for the massive majority of Americans when I applaud these Senators and those Representatives who here, and earlier, have testified to the value of such prayer. Your job is to enable a popular decision. Elected by the people and responsive to their conscience, your job is to put this question clearly and quickly to them for an ultimate judgment. If those who have come here dragging up the old red herrings of an attack on the Bill of Rights and minority rights are as confident of their logic as they seemed to be before you, why let them carry their case to the people, as we have done?

Mr. HRUSKA. Mr. President, there is one other point which I want to cover. It has been announced, that there will be a sense-of-Congress resolution submitted for the consideration of the Senate in due time.

I want to address a few remarks to that proposition.

My general view of a sense-of-Congress resolution is not a very charitable one. A sense-of-Congress resolution, when we look at it realistically, is a nullity. It starts out being a nullity. It is an exercise in futility. It is a gesture of nothingness—that is all it is. It has been so ruled, so held, and so applied.

Again, I pay my highest respects to the Senator from Indiana [Mr. BAYH], who will offer the sense-of-Congress resolution. He is conscientious, he is studious, he is diligent. He proposes the sense-of-Congress resolution in good faith and in good conscience. But, Mr. President, it means nothing. It will give a good many Senators a chance to vote for God, for country, and for home, so that they can return to their respective States and say, "Yes, I favored the sense-of-Congress resolution. Therefore, I am on the side of prayer and belief in God, and that this is a religious Nation," and so on. That it will do. But it certainly does not mean a thing legally; nor will it have any binding effect on anyone.

We have had some experience with sense-of-Congress resolutions. It was *not too long ago*—as I recall, it was only about 3 years ago next month—when the Senate was considering the sale of wheat to Communist Russia. A point was raised concerning a declaration of policy through a sense-of-Congress expression, which was made in July 1961, at the height of the Berlin crisis. An amendment to the Agriculture Act of 1961 expressed the sense of Congress to be in opposition to the exportation of subsidized agricultural commodities to unfriendly nations. "Unfriendly nations" at that time were defined to mean and include Communist nations.

When we had the debate on the policy of selling wheat to Communist Russia and other Communist bloc countries, that sense-of-Congress resolution was used and it was argued that it was something that should be taken into consideration to forbid and deny the sales that were then contemplated.

During the course of that debate or prior thereto, the question was referred to the Secretary of State. It was referred to the Attorney General, also. We have the opinion of the Attorney General, which was signed by ROBERT F. KENNEDY, who then held that office and is now one of our esteemed colleagues. He referred to the policy declaration to which I have alluded.

Mr. President, I ask unanimous consent that the text of section 2(c) of the policy declaration be printed at this point in my remarks.

There being no objection, section 2(c) was ordered to be printed in the RECORD, as follows:

II. SECTION 2(c) OF THE AGRICULTURAL ACT OF 1961

Section 2 of the Agricultural Act of 1961 (75 Stat. 294; 7 U.S.C. (Supp. IV) 1282) *declares it to be—*

"* * * *the policy of Congress to—*

"* * * * *

"(c) expand foreign trade in agricultural commodities with friendly nations, as defined in section 107 of Public Law 480, 83d Congress, as amended (7 U.S.C. 1707), and in no manner either subsidize the export, sell, or make available any subsidized agricultural commodity to any nations other than such friendly nations and thus make full use of our agricultural abundance * * *."

The adoption of this declaration of policy followed the announcement by the Department of Commerce in June 1961 of a change in existing export licensing policy to permit the sale of subsidized surplus agricultural commodities to the Eastern European Soviet bloc. The announcement indicated that consideration would be given to approval of export licenses for shipment of such commodities, including commodities acquired directly or indirectly from Commodity Credit Corporation stocks, to the Soviet Union and other Eastern European countries, provided the commodities were sold for convertible currencies ("Hearings Before the House Select Committee To Investigate and Study the Administration, Operation, and Enforcement of the Export Control Act of 1949, and Related Acts" (87th Cong., 1st sess.), p. 109).

Section 107 of Public Law 480 (Agricultural Trade Development and Assistance Act of 1954, 68 Stat. 457; 7 U.S.C. 1707), referred to in the declaration of policy, defines the term "friendly nation" to mean "any country other than (1) the U.S.S.R., or (2) any nation or area dominated or controlled by the foreign government or foreign nation controlling the world Communist movement." Public Law 480 authorized, inter alia, export sales for soft currencies and for long-term credits. See 7 U.S.C. 1701, 1731. Sales of this character are authorized only with respect to "friendly nations," as defined in the act, but no restriction is imposed on commercial sales for cash or short-term credits.

During consideration by the House of the bill which became the Agricultural Act of 1961, Representative LATTA, referring to the change of policy announced by the Department of Commerce, proposed adding to the declaration of policy already contained in section 2(c) the language: "and in no manner either subsidize the export, sell, or make available any subsidized agricultural commodity to any nations other than such friendly nations." He objected to selling subsidized agricultural commodities to the Soviet bloc—even sales not involving any element of assistance under Public Law 480—because sales at the world market price would, in his view, give bloc countries the benefit of subsidies paid by the Commodity Credit Corporation to American producers and exporters.[1] He urged that this was objectionable "in view of the world situation." After some debate as to the meaning and desirability of the amendment, it was adopted (CONGRESSIONAL RECORD, vol. 107, pt. 10, pp. 13746–13748). The conference committee accepted the amendment (H. Rept. 839, 87th Cong., 1st sess., p. 28).

It is clear that the policy declaration contained in section 2(c) does not have the legal effect of prohibiting commercial sales of subsidized agricultural commodities to bloc countries at world market prices for U.S. dollars, gold, or convertible currencies. Declarations of policy in legislation, like preambles and other introductory material, do not alter specific operative provisions of law (*Sinclair Refining Co.* v. *Atkinson*, 370 U.S. 195, 202 (1962); *Lauf* v. *E. G. Shinner & Co.*, 303 U.S. 323, 330 (1938); *Price* v. *Forrest*, 173 U.S. 410, 427 (1899); *Yazoo R. Co.* v. *Thomas*, 132 U.S. 174, 178 (1889); Sutherland, *Statutory Construction* (3d ed.) § 4820). This rule is particularly relevant where, as here, the declaration of policy was not contemporaneous with the enactment or amendment of any of the basic pertinent statutes; the Export Control Act, the Agricultural Act of 1949, and the Commodity Credit Corporation Charter Act.[2]

I have examined the history of the declaration with care and find no indication that Congress itself viewed the amendment as more than an expression of its policy, to be given consideration by the Executive in making decisions within the framework of authorizations and prohibitions established by prior law. Representative LATTA, who sponsored the declaration, himself stated that its purpose was to have the Department of Commerce know "what the sense of this Congress is" with respect to the transactions in question (CONGRESSIONAL RECORD, vol. 107, pt. 10, p. 13746). And Representative Hoeven, one of its supporters, pointed out that the amendment "pertains only to the policy section of this bill" (id. at 13747). At no point in the legislative consideration of the declaration was any effort made to revise or to repeal the statutes that would have to be deemed amended if the policy were to be given binding legal effect.

The Congress could, of course, have embodied its policy in a provision of positive law

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[1] Under sec. 407 of the Agricultural Act of 1949 (63 Stat. 1055, as amended; 7 U.S.C. 1427), the Commodity Credit Corporation is authorized to sell subsidized agricultural commodities owned or controlled by it for export at less than the domestic price. Representative LATTA stated that under the Department of Commerce proposal "the American taxpayer will now [be] picking up the difference between the world price and the domestic price. * * * The exporter would charge this difference to the taxpayer" (CONGRESSIONAL RECORD, vol. 107, pt. 10, pp. 13746-13748). In fact, as noted by Chairman COOLEY of the House Agricultural Committee in debate on the floor of the House, since the commodities in question are surplus, the American taxpayer in each case has already "picked up" not merely the difference between the world price and the domestic price, but the entire amount of the domestic price. Export transactions can be said to involve a "subsidy" only because the losses incurred in maintaining the domestic price support program are not deemed realized until a sale occurs. The net result of export transactions therefor is to reduce the loss to the taxpayer by the amount of the world market price. Id. at 13747.

[2] Export Control Act of 1949 (63 Stat. 7, as amended; 50 U.S.C. App. 2021 et seq. (authorizing the President to regulate exports, including their financing, transportation, and other servicing); Agricultural Act of 1949, sec. 407, supra (CCC authorized to sell agricultural commodities for export at less than support prices); Commodity Credit Corporation Charter Act, sec. 5, supra (CCC empowered to procure agricultural commodities for sale to foreign governments, and to export such commodities, or cause them to be exported, and to aid in the development of foreign markets for these commodities).

to which the executive branch would have been bound to adhere. That it did not choose to do so is significant, not only in establishing that section 2(c) is without legal effect but in determining its proper interpretation and application as policy. Congress evidently contemplated that situations might thereafter arise in which the considerations of policy to which it was directing attention should not be decisive; that it would be necessary for the Executive to consider and appraise the policy thus declared and to determine whether its application would serve the national interest in particular situations. Both Congress and the courts have traditionally sought to avoid restricting the Executive unduly in matters affecting foreign relations because of the need for flexibility in this area and the fact that the Constitution entrusts the external affairs of the Nation primarily to the Executive (*United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304, 319–321 (1936); *Chicago & S. Air Lines* v. *Waterman S.S. Corp.*, 333 U.S. 103, 111–114 (1948)). If, therefore, the executive branch should determine that permitting the sales in question would serve the national interest at this time, its action would not only be lawful but consistent with the intention of Congress as to the manner in which section 2(c) was to be interpreted and applied.

Mr. HRUSKA. Mr. President, I quote from the opinion of the Attorney General of that time. The date of his opinion is October 1963.

It is clear that the policy declaration contained in section 2(c) does not have the legal effect of prohibiting commercial sales of subsidized agricultural commodities to bloc countries at world market prices for U.S. dollars, gold, or convertible currency. Declarations of policy in legislation, like preambles and other introductory material, do not alter specific operative provisions of law.

Mr. President, what is he saying? He is saying that there are operative provisions of the law which are not overruled by declarations of policy. Here we have a specific operative provision of the Constitution itself. Certainly, if a sense-of-Congress resolution will not have any effect upon statutory provisions of law, it certainly will not have any on the organic law of our Republic.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. HRUSKA. I am more than happy to yield to the distinguished chairman of the Subcommittee on Constitutional Amendments.

Mr. BAYH. I feel highly honored by the complimentary statements the Senator from Nebraska made about me. If I were as eloquent, I would like to make the same tribute to the Senator from Nebraska as an outstanding member of that committee and in conscientiously following the proceedings, sitting there, and analyzing the witness' testimony. Whether he was a proponent or an opponent, as the case might be, it has been a privilege to sit beside him in the various hearings we have held.

I do not want the Senator from Nebraska to think that the Senator from Indiana is so naive that he does not understand the limitations of a sense of Congress resolution, and for the RECORD, and anyone who may be listening who has doubts about who is going to propose that sense of Congress resolution, let me say I intend to do so.

There can be no dispute over the fact that seldom has there been more misunderstanding, confusion, and furor raised over a Supreme Court decision than that which is presently going on over the country. I believe that we have a common belief on that point. Have we not?

Mr. HRUSKA. Yes, and I tried to express some of my sentiments and thoughts in that regard. The Senator has been fair. This question has raised a great deal of interest and a great deal of compulsive thinking.

Mr. BAYH. I am concerned about this. The Senator from Nebraska and I differ on some aspects of this question. We differ on the amendment process. With respect to the obligation of Congress, I do not intend to debate that question at this time. I may do so later on, after the Senator from Nebraska completes his statement. So we differ on some aspects of this question, but I think we agree that there is a great deal of confusion and turmoil and we are concerned about it.

It is my feeling that a sense-of-Congress resolution would do two basic things. One, we are trying to outline, very specifically, what the Court said. I think any astute attorney—and the Senator from Nebraska is one of the best—can see what the Court said. We are also specifying what the Court did not say.

The argument that the Court has outlawed all baccalaureate services, and that the words "under God" cannot be said, the argument that it outlaws voluntary prayer, the argument that we in Congress cannot convene each day and have a chaplain lead us in prayer to God, are arguments that are ridiculous in terms of the Court's decision.

We say specifically that the Court did not outlaw those practices. We say that voluntary prayer and a period of silent meditation are wholesome and should not be and have not been prohibited by the Supreme Court decision.

So this proposal does not reverse the Supreme Court decision. The Senator from Indiana is not so naive as to think it does. It merely sets the record straight. It seeks to help a school principal who may be in doubt by giving him a sense-of-Congress declaration.

For those reasons, I feel the proposal would have a wholesome result as far as clarifying and stilling some of the confusion and controversy which have arisen. It is to this goal that we have been directing support for a sense-of-Congress resolution, not a desire for anyone to be able to say he is in favor of motherhood and God, although that might be the inference taken with respect to it. However, the express purpose of this resolution is to help still and clarify some of the controversy.

Mr. HRUSKA. Before we go further, let the Senator from Indiana be dispossessed of the thought that the Senator from Nebraska charged the Senator from Indiana with proposing the sense-of-Congress resolution with that motive. That was not my observation. My observation was that a sense-of-Congress resolution would afford the opportunity to many of our colleagues to say they voted in favor of God, motherhood, goodness, light, and so on; but that is not the motive from which the Senator from Indiana introduced the proposal. I wanted the Senator to be certain of that.

Mr. BAYH. If the Senator will allow me one more comment—he has been more than kind——

Mr. HRUSKA. Surely.

Mr. BAYH. I would not want to deny any of our colleagues the opportunity to vote in favor of God, country, and motherhood.

Mr. HRUSKA. I would not want to do that either, but I would not want to see us engage in a senseless and pointless exercise, and that is what a sense-of-Congress resolution is. I say, let us come to grips with this question. The Senator from Indiana says that his resolution proposes to draw out what the Court did say and did not say, that the Court did not mention voluntary prayer, that it has not been outlawed, and that a school principal can look at the resolution and be guided.

I submit that that is nonsense, and I will state why. The school principal will look to the school board. The school board will look to the attorney general of the State, and the State attorneys general will look at what? The State attorney will do as the attorney general of the State of Michigan did. So we will add this language to a long line of cases. The State attorneys will say, "We have all kinds of cases and interpretations of court decisions." Here is another interpretation by the Congress to add confusion and chaos to an already chaotic and confused situation.

So I say, when you get all through with it, when there is a breach of the law, it is the courts that will find that man guilty, and fine him or imprison him and order him not to do it any more. It is not the Congress. This resolution if it is adopted—which I fervently hope it will not be—will mean about as much as a resolution of the American Legion, the chamber of commerce, the Kiwanis, the Rotary, or any other organization.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. HRUSKA. Surely.

Mr. BAYH. I did not seek the Senator's permission to speak to contest the last assertion he made, although I would not want my silence to testify that I agree with him, because I should hate to think that any action by this body had no more weight, in legal terms, than those of the fine organizations that he referred to, as far as resolutions are concerned.

But I should like to speak to the point as to the attorney general of Michigan. I should like to think, and I think it is justifiable, although we differ on this point, that giving a thorough hearing and debate on this floor such as we are now having, and giving the opportunity to blow some fresh air through these Supreme Court decisions, and then having Congress speak out in a sense-of-Congress resolution, could well change the opinion of the attorney general of the

State of Michigan, if he were called upon to render a subsequent opinion.

I do not, for the life of me—and I ask my friend from Nebraska to help elucidate and illuminate it for me—see how anyone can read those Supreme Court decisions and come to the ridiculous assertions that the attorney general of Michigan came to. The things he put in his opinion are as foreign to what was said in the Supreme Court decision as anything one could imagine.

I thank the Senator from Nebraska. I had not intended to interrupt him.

Mr. HRUSKA. I always welcome contributions from the Senator from Indiana, because he speaks to the point, and what he says does sharpen up the arguments pro and con.

I should like to blow a little fresh air into this thing if I can, and I should like to do it right now. This Chamber is sometimes known as the cave of winds. I do not know how fresh the air is, but we are trying.

Any attorney general, or any attorney for any school board, Mr. President, if he is going to canvass the law on this subject, including a sense-of-Congress resolution, will come to the opinion of ROBERT F. KENNEDY, who was Attorney General of the United States when he rendered his decision. What will he come across when he does that? Not only the language that I have already read, but this language:

> I have examined the history of the declaration (of policy) with care, and find no indication that Congress itself viewed the amendment as more than an expression of its policy, to be given consideration by the Executive in making decisions within the framework of authorizations and prohibitions established by prior law.

And then, in the following paragraph, here is what that opinion says:

> The Congress could, of course, have embodied its policy in a provision of positive law, to which the executive branch would have been bound to adhere. That it did not choose to do so is significant, not only in establishing that section 2(c) is without legal effect, but in determining its proper interpretation and application as policy.

Any careful lawyer who will canvass this situation for his school board, or for the school system of his State, will come across this, and he will state in his opinion—which he will sign without any hesitation—that there is no binding effect to this sense-of-Congress resolution. If it does anything, it adds more confusion and chaos than anything else. The place to look is to the courts.

What do they say? They have held that the saying of a simple prayer in a school is "an establishment of religion." This amendment is directed toward making it clear that that is not the fact.

Mr. BAYH. Will the Senator point to a single example where the Supreme Court of the United States has said that saying voluntary prayer is an establishment of religion?

Mr. HRUSKA. No; I agree with the Senator from Indiana that that question is partially open. The Supreme Court is not squarely on that point. I agree further that the element of a prescription by the school board was present in the New York case. So that made it within the phrase "an establishment of religion," in the opinion of the Supreme Court.

But, as I indicated in my principal statement a little while ago, the vice of those decisions by the Supreme Court is not confined to their text. The vice of those decisions is found in the interpretations made by the many school boards, their lawyers, the school authorities, the superintendents of instruction, and others.

Mr. BAYH. And it is to that particular issue that our sense-of-Congress resolution is directed. We are saying, "Wake up, Mr. School Board. Wake up. Here is what the Court said. It did not say anything about baccalaureate services."

Mr. HRUSKA. And who are we to say what the Court said? The Court speaks for itself, Mr. President. It is a coequal and independent branch of the Government.

If we are to have a caretaker, and the caretaker has a daughter, "who takes care of the caretaker's daughter when the caretaker is busy taking care?" That was a song of my boyhood days. In this case, are we going to have the Supreme Court interpret the laws, and then have Congress come along and say, "This is what the Supreme Court really meant to say"?

What a situation that would be. That is not what Congress is made for. Let us meet this issue squarely and fairly, and say, "This the schools may do; more they cannot do."

Mr. BAYH. If the Senator will yield——

Mr. HRUSKA. Surely.

Mr. BAYH. I did not say that the sense-of-Congress resolution would say, "This is what the Court intended to say," but "what the Court said." And, by the Senator's own admission, they did not outlaw voluntary prayer. All they have said is that the State Legislatures of Pennsylvania and Maryland, and the New York Board of Regents, cannot tell Johnny and Susie what prayer to pray and when to pray. I cannot object to that decision.

Mr. HRUSKA. That is right. But when we adopt that resolution, we will be saying, "In our opinion, this is what the Supreme Court said," and that would be laid before the school board, just like the opinion of the Attorney General or the lawyer for the State superintendent of instruction, or anyone else. So it is just another piece of evidence to be considered in an already very confused and chaotic situation. That is all it is.

I do not mean to downgrade or debase the quality of the work that we put out here in Congress. We are estimable gentlemen; we frequently admit it on the political stumps and elsewhere. But the fact is that it would be nothing but an expression of opinion on our part, and that is all.

Mr. President, by way of summary, I say we have a good case here, in the hearings as well as in the debate on the floor, that it is the duty of the Senate to refer this matter to the House of Representatives, in the earnest and optimistic hope that they will follow our lead with a favorable two-thirds vote, and then refer the proposal to the States. We say that because the decisions of the Supreme Court have been a departure from what the interpretation and the application of the Constitution was prior to those decisions on this point; second, because there is a strong diversity of respectable opinion on the point; and third, that there is a reasonable probability, with the widespread interest and persuasiveness on this issue on the part of many millions of people, that the proposed amendment will be ratified and made a part of our Constitution in due time.

After the Senator from Indiana does propose his sense-of-Congress resolution, perhaps we can engage in another little colloquy to sharpen up its place, or rather its nonplace, in these proceedings. But in the meantime, I suggest, Mr. President, that we have a good case for the proposition that it is the duty of Congress, under the case that is made, to approve the amendment and give the people a chance to really make this a people's Constitution.

Mr. President, I yield the floor.

AMENDMENT NO. 931

Mr. BAYH. Mr. President, so that the Senator from Nebraska and others might have the opportunity to zero in and to sharpen up the discussion, as he mentioned, I send to the desk at this time an amendment in the nature of a substitute to the amendment of the Senator from Illinois in the nature of a substitute.

My amendment will in turn become Senate Joint Resolution 144 if and when the Senate desires to go through these steps of substitution.

I submit the amendment so that it will be printed and the Senate will have a chance to look at it in the RECORD before we finally vote on it tomorrow.

The PRESIDING OFFICER (Mr. BYRD of Virginia in the chair). The amendment will be received and printed and will lie on the table; and, without objection the amendment will be printed in the RECORD.

The amendment (No. 931) is as follows:

> In lieu of the language purposed to be inserted by the Senator from Illinois, insert the following:
>
> *"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is the sense of the Congress that nothing in the Constitution or the Supreme Court decisions relating to religious practices in our public schools prohibits local school officials from permitting individual students to engage in silent, voluntary prayer or meditation; and be it further
>
> *"Resolved,* That the President of the United States is requested and authorized to issue annually a proclamation designating the week during which Thanksgiving Day is observed as National Prayer and Meditation Week, inviting the Governors and mayors of State and local governments of the United States to issue similar proclamations, and urging all Americans, both adults and children, to express, during this period, their thanks for the numerous blessings which have been granted to all the people of the United States."

Mr. BAYH. Mr. President, I point out that, inasmuch as the amendment will be offered as a substitute for the amendment of the Senator from Illinois, in the nature of a substitute for the resolution, only the resolving clause and the language following it will be technically considered when we vote. However, because of my colloquy with the Senator from Nebraska and the reason behind the amendment—namely, that I think it is important for us to do three things in the resolution—I feel that the whereas clauses of the preamble are extremely important. I read them, as follows:

Whereas the Supreme Court of the United States has decided that it is a violation of the constitutional prohibition against the establishment of religion for a state authority to prescribe and require religious practices in public schools; and

Whereas these decisions have been widely misrepresented, misinterpreted and misunderstood; and

Whereas the Supreme Court decisions did not involve or prohibit voluntary prayer or silent meditation in our public schools, or spontaneous prayer in our public schools during time of tragedy; or public school programs commemorating religious events of traditional and historical significance; or the offering of prayer in various public ceremonies involving adults; or references to God on our coins or in our historical documents and patriotic songs; and

Whereas the Supreme Court decisions acknowledged that we are a religious people whose institutions presuppose a Supreme Being: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that nothing in the Constitution or the Supreme Court decisions relating to religious practices in our public schools prohibits local school officials from permitting individual students to engage in silent, voluntary prayer or meditation; and

Be it further resolved, That the President of the United States is requested and authorized to issue annually a proclamation designating the week during which Thanksgiving Day is observed as National Prayer and Meditation Week, inviting the Governors and mayors of State and local governments of the United States to issue similar proclamations, and urging all Americans, both adults and children, to express, during this period, their thanks for the numerous blessings which have been granted to all the people of the United States.

We should first try to set the record straight, not as to what the Court thought, but as to what the Court did in so many words say, so that we can better point out some of the incongruities and ridiculous assumptions that have been read into the Court's decision. We should show what the Court did not say. We should resolve what the sense of Congress is.

I want to have this printed with the understanding that tomorrow when we get to the parliamentary business of substitution we can substitute only the resolving language therefor, and we would have to amend the preamble after the resolution itself is acted upon. I am also submitting an amendment to the preamble for printing.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. HRUSKA. Mr. President, when the Senator does discuss this matter—and I look forward to his discussion of it with great anticipation—I do wish that he will cover the proposition in the first resolve, wherein it is stated to be the sense of the Congress that nothing in the Constitution or the Supreme Court decision relating to religious practices in our public schools prohibits local school officials from permitting individual students to engage in silent, voluntary prayer or meditation.

That point has not yet been decided by the Supreme Court. The Senator from Indiana is correct. The question of oral voluntary prayer which is permitted and authorized by school authorities has not been submitted.

The Supreme Court might say that is all right. We would then have the Supreme Court saying one thing and the sense-of-Congress resolution being more restricted.

I would think that the Senate would be interested, and certainly this Senator would be, in wherein all the world in the second resolve are the children that attend these schools. It reads:

The President of the United States is requested and authorized to issue annually a proclamation designating the week during which Thanksgiving Day is observed as National Prayer and Meditation Week.

I think it is wonderful. He can do it now. In effect, he does it every time he proclaims Thanksgiving Day, but where are the schoolchildren who, for a hundred years more or less, in many areas have had the benefit of prayers given at the opening session of their schoolday?

Perhaps the Senator from Indiana will indulge me and dwell on those two points for my edification and for the edification of other Senators.

Mr. BAYH. If the Senator has some suggestion to make as to how the children can be better provided for in this, I would be glad to have his thoughts on the matter.

We are trying to do two things. We were trying to deal with completely voluntary prayer in schools, and we are trying to reassert the fact that the Congress of the United States has not been captivated by the devil, that we are God-fearing men.

This is important to me because some people have gotten the idea that because we dare to stand here and debate the subject we are automatically the servants of something evil and they are saying also, I might add, that the Court has gone down some devious path, which it has not.

I want to set the record straight. If the Senator has some thoughts on this, I should be glad to have them.

Mr. HRUSKA. Mr. President, I inform the Senator that he should have no misgivings as to the purpose and extent of any sense-of-Congress resolution. That is separate and apart from the very fine motivation of the Senator who proposes this measure.

I certainly would not want to compound an aggravation of nothing but an intellectual futility by offering any amendment to the measure. It would not be my purpose to do so.

Mr. WILLIAMS of Delaware. Mr. President, I support the Dirksen amendment to the Constitution of the United States, the purpose of which is to override the decision of the Supreme Court wherein they prohibited the reading of the Bible and the recitation of the Lord's Prayer in public schools.

In my opinion this decision is not in accord with the principles upon which our country was founded and upon which our Government was established. We as Americans have always prided ourselves upon being a religious nation and have ofttimes—perhaps too righteously so—pointed the finger of scorn at atheistic nations. The early founders of our Republic were men who while determined to maintain a separation of church and state were also men who recognized our dependence upon the Supreme Being.

Just a few years ago Congress added the words "under God" to our pledge of allegiance.

Our national anthem contains this reference to God:

An this be our motto "In God is our trust."

The Senate of the United States under one of its established rules cannot open a session without first having a prayer by the Chaplain or his representative.

Our coins bear the inscription "In God we trust," and over the main entrance to the Senate chamber this same inscription appears in bold letters.

When a Member of the Senate takes his oath of office the last words in that oath are "So help me God."

Our whole system of government from its earliest establishment has been based on the fact that we do recognize ourselves as being a religious nation. This does not mean that we as a people do not respect the right of any individual to select his own religion. This does not mean that we do not extend to an individual his right to be an atheist; that is his individual right.

But we can respect those individual rights and still preserve our dignity as a religious nation, and certainly if the majority of the people in any school district wish to have the Bible read or the Lord's Prayer repeated in their schools that is an American heritage.

Much has been said about the importance of the American Government's portraying a good image to the nations of the world. There is nothing that could be more disastrous to the world's opinion of our country than to leave the impression that we who had prided ourselves upon being a religious nation are now renouncing our dependence upon our God.

I know of no stronger argument that could be made in support of the need of this constitutional amendment than to quote Mr. Justice Stewart, who in his dissenting opinion said:

We err . . . if we do not recognize, as a matter of history and as a matter of the imperatives of our free society, that religion and government must necessarily interact in countless ways.

Continuing, Mr. Justice Stewart cited example after example of the interaction—from the use of prayer in the opening of courts and Congress to the

state support of chaplains to minister to those in the Armed Forces who, of their own choice, seek such ministry.

Mr. BYRD of West Virginia. Mr. President, today, I wish to mark a date which future historians may recognize as the day the Supreme Court of the United States started moving from an attitude of neutrality toward religion to one of hostility. That date was June 25, 1962, the day the Court rendered its first "antiprayer" decision in Engel against Vitale.[1]

Though hostility was not intended—in fact the Court claimed to be preserving that neutrality—the Court failed adequately to understand the integral role that religion plays in our society and all facets of our lives. I agree with Justice Stewart's dissenting view in Abington School District against Schempp when he wrote:

> We err in the first place if we do not recognize, as a matter of history and as a matter of the imperatives of our free society, that religion and government must necessarily interact in countless ways.[2]

To think otherwise is to forget a primary foundation of our American society. As Justice Douglas observed in Zorach against Clauson:

> We are a religious people whose institutions presuppose a Supreme Being. We guarantee the freedom to worship as one chooses. We make room for as wide a variety of beliefs and creeds as the spiritual needs of man deem necessary. We sponsor an attitude on the part of government that shows no partiality to any group and lets each flourish according to the zeal of its adherents and the appeal of its dogma.[3]

Yes, we are a religious people. The youngest child in the grade schools of our land is taught of the formation and settlement of our great country. A schoolchild knows that the Pilgrims, the Puritans, the Mormons, the Quakers, and many others came to the wilderness of the new world to escape the religious persecution of the old and to secure to them the free exercise of their religious beliefs. Justice Stewart was correct when he wrote, in dissenting from the majority opinion in Engel against Vitale:

> [T]he Court has misapplied a great constitutional principle. I cannot see how an "official religion" is established by letting those who want to say a prayer say it. On the contrary . . . to deny the wish of these school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our nation.[4]

Senator DIRKSEN recently said that polls indicate that more than 81 percent of the people of this country disagree with the Supreme Court's decisions in *Engel* v. *Vitale*, 370 U.S. 421 (1962) and *Abington School District* v. *Schempp: Murray* v. *Curtlett*, 374 U.S. 201 (1963).

But despite this overwhelming public outcry, the Engel decision has stood for over 4 years and Abington for 3, nor has anything been done to allay the widespread concern generated by the implications of those rulings. More than 200 resolutions have been introduced in Congress to correct the Supreme Court's misinterpretation of the first amendment. Still Congress has not taken one vote.

I am one of the 47 sponsors of Senate Joint Resolution 148—the proposed constitutional amendment popularly known as the Dirksen amendment. Few proposals have ever been more maligned by critics. Perhaps it is the general misunderstanding of what this resolution does and does not do that is behind the delay.

Let us examine the proposed amendment. It is short and simple and not sinister and dangerous as critics would have us believe:

> Nothing contained in this constitution shall prohibit the authority administering any school, school system, educational institution or other public building supported in whole or in part through the expenditure of public funds, from providing for or permitting the voluntary participation by students or others in prayer. Nothing contained in this article shall authorize any such authority to prescribe the form or content of any prayer.

The reason this resolution is being offered is to correct what many of us believe is an erroneous interpretation by the Court of the 1st amendment requirement applied to the States through the 14th amendment:

> Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof.

I think we were all aware of the Court decisions that have caused heartfelt protest throughout the land. Since they have often been discussed on the floor of this Chamber and by Members of the other body, I do not wish to take further time this afternoon by dwelling on the factual situations involved in Engel against Vitale, Abington School District against Schempp, Chamberlain against Dade County Board of Public Instruction, and Stein against Oshinsky,[5] the latter case not considered by the U.S. Supreme Court. Instead, I would briefly like to offer some historical background concerning the first amendment. I feel this background is important in understanding the purpose of the prayer amendment and why, by enacting this resolution, we are returning that magnificent instrument, the Constitution, back to where it was in 1962 before the Engel case.

First, I think it is important that we stress the fact that the interpretation of the sometimes conflicting "establishment" and "free exercise" clauses of the first amendment is a difficult task. The interpretation given the first amendment in various situations is a matter over which reasonable men can disagree. It is because of this very vagueness and complexity that I believe an amendment, to clarify the meaning of the first amendment with regard to the freedom of children to pray in public schools, is necessary.

The amendment providing for freedom of religion was first proposed by James Madison on June 8, 1789, before the House of Representatives. It read in part:

> The civil right of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext infringed.[6]

The amendment was specifically enacted as a limitation upon the National Government alone. One commentator tells us that James Madison added the word "national" to the restrictions against the establishment of religion, because he was concerned over the reaction from many States which had an established church.[7] So, originally, the amendment was intended not only to prevent the National Government from establishing a religion but also to prevent that Government from interfering with the dominant religion of the various States.

The 14th amendment was adopted in 1868, but it was not until 1940 in Cantwell against Connecticut[8] that the Supreme Court held that the 1st amendment's restriction against the establishment of religion also applied, because of the 14th amendment, to the States. So the amendment which was originally intended to give each of the States freedom in the field of religion now became a restriction on their autonomy.

But until Engel, the Court stepped very lightly with regard to State laws which in some cases might be considered to represent State support of religion. Presumably, the Court recognized the sensitivity of the people when they felt their religious practices are threatened and more importantly, realized that in certain situations two clauses of the first amendment might be in conflict; and that a careful balance had to be maintained between the requirement that Congress and the States "shall make no law respecting the establishment of religion" and the requirement that Congress and the States not interfere with the "free exercise" of religion. The Court then understood that sometimes by doing nothing as well as by doing too much, Congress and State legislatures could interfere with the "free exercise" by the people of their religion.

Take, for example, the hundreds of Army chaplains risking their lives with our fighting men in Vietnam. If one wanted to overemphasize the establishment clause, the Government's activity in supplying uniforms and transportation to these chaplains could constitute state support of religion. But if the Government did nothing, it would be difficult, if not impossible, for these devoted servants of God to accompany our men overseas. If the U.S. Government did nothing, the religious soldier would have no priest to confess to or to give him last rites. This would constitute an interference with the "free exercise" of this soldier's religion and in many cases would constitute an absolute prohibition on his exercise of religion.

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[1] 370 U.S. 421 (1962).
[2] 374 U.S. 203, 309 (1963).
[3] 343 U.S. 306, 313 (1951).
[4] 370 U.S. 421, 445 (1962).
[5] 370 U.S. 421 (1962); 374 U.S. 203 (1963); 377 U.S. 402 (1964); 348 F. 2d 999 (1965).
[6] I *Annals of Congress* 434.
[7] 1 Stokes, *Church and State in the U.S.*, 541.
[8] 310 U.S. 296.

Let us bring the problem a little closer to the resolution before us. The Supreme Court in Everson against Board of Education,[9] upheld a New Jersey law requiring public funds to be used to provide transportation for children from their homes to parochial as well as public schools. The Court, since Pierce against Society of Sisters,[10] had recognized that the right of parents to send their children to nonpublic schools was closely related to their right to freely exercise their religious beliefs. With Everson the Court recognized that if they denied the States the right to supply schoolbuses to the parochial schoolchildren, the cost for children to attend parochial school when combined with the support their parents had to give public schools with their tax dollars, might make the cost of attending parochial school prohibitive. Justice Black, in delivering the Court's opinion, very nicely summarized the point I am trying to make today. He said:

> State power is no more to be used so as to handicap religions than it is to favor them.[11]

You may ask how has the Court handicapped religion by outlawing prayer or religious observance in the public schools? Should not religion be practiced in the homes and in the churches? Of course it should be, but to limit it to those places is to deny the formative and all pervasive influence the schools have on the formation of our children's attitudes and beliefs. I think Justice Stewart stated our concern over the absence of religion in these circumstances when in dissenting in the Abington case he wrote:

> A compulsory state educational system so structures a child's life that if religious exercises are to be an impermissible activity in schools, religion is placed at an artificial and state-created disadvantage. Viewed in this light, permission of such exercises for those who want them is necessary if the schools are truly to be neutral in the matter of religion. And a refusal to permit religious exercises thus is seen, not as the realization of state neutrality, but rather as the establishment of a religion of secularism, or at the least, as government support of the beliefs of those who think that religious exercises should be conducted only in private.[12]

Justice Black in Zorach against Clauson,[13] enunciated the balance that we are trying to restore to the Constitution, particularly to the first amendment:

> Government may not finance religious groups nor undertake religious instruction nor blend secular and sectarian education nor use secular institutions to force one or some religion on any person. But we find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence.

I read a very distressing report in the newspapers recently describing the transformation that has come over our Nation in attempting to comply with the Supreme Court's instructions for the removal of God from our schools. It was a nationwide survey by United Press International which reported that, outside of the South, most schools have now eliminated Bible reading and other devotional exercises. I am pleased to hear that most people are trying to obey the law, but I am distressed by the substitutes that have been found to fill the void, once God has been removed. In Pittsburgh, opening exercises feature readings of a specially selected collection of quotations from Aristotle, Plato, Shakespeare, Daniel Webster, and others. The collection includes some original poems by the students themselves as well as what the report describes as other "suitably secular opening exercises." The New York City Board of Education repealed a regulation on the books for over 100 years that required children to sing the fourth stanza of "America," a prayer set to music. Now all that is required is "the singing of any patriotic song, followed by the pledge of allegiance to the flag." The report continued:

> In some cases, public school officials are so fearful of getting involved in religious controversy that they give short shrift even to such major historical movements as the Reformation.[14]

I find this disturbing, not because I am opposed to the study of the classics in our public schools or the singing of patriotic songs. I am disturbed because people now are fearful of getting in trouble because of religion. They desperately want something to fill the void left by the ban on prayer and have to turn away from our religious heritage. It sounds ominously similar to the early days of communism in Russia when daily recitations from Marx and Lenin replaced prayer. How sterile the substitute.

I propose that it is now time to let the people vote on the matter. The Congress alone cannot amend the Constitution. The people do that usually through their State legislatures. But it is the duty of Congress to propose such amendments. As we observed earlier when I read the text of the proposed amendment, it does not force anyone to do anything. It does not change the Constitution. It clarifies the Constitution. It is permissive. It places the responsibility for deciding whether prayers shall be permitted in the public schools on a voluntary basis where it belongs—on the local school authorities, the people closest to the parents and communities. The resolution does not prescribe the form the prayer is to take or permit official prayers; nor does it authorize any government to prescribe the prayer; it provides only for voluntary participation in prayer.

I think an additional benefit in passing this resolution would be to demonstrate to the Supreme Court the overwhelming public discontent over the direction of recent decisions on prayer.

The Supreme Court does not make the Constitution nor, as Justice Jackson once observed, should it be "a super board of education for every school district in the Nation."[15] The people have spoken to us; we should let them vote on the amendment. Let us have the courage to stand for our religious heritage and eliminate the present hostility in relations between church and state.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Breskin, one of its clerks, announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 491. An act to provide for the establishment of the Bighorn Canyon National Recreation Area, and for other purposes; and

S. 2287. An act to authorize a 5-year hydrologic study and investigation of the Delmarva Peninsula.

The message also announced that the House had passed the bill (S. 3510) to authorize the Secretary of the Interior to study the feasibility and desirability of a Connecticut River National Recreation Area, in the States of Connecticut, Massachusetts, Vermont, and New Hampshire, and for other purposes, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 825. An act to repeal the "cooly trade" laws;

H.R. 13955. An act to establish the past and present location of a certain portion of the Colorado River for certain purposes;

H.R. 14136. An act to amend the Migratory Bird Hunting Stamp Act of March 16, 1934, as amended, to authorize a maximum increase of $2 for each such stamp, and for other purposes;

H.R. 15183. An act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States;

H.R. 15358. An act to amend the act incorporating the Disabled American Veterans so as to provide for an annual audit of their accounts;

H.R. 15662. An act to amend the Federal Seed Act (53 Stat. 1275), as amended;

H.R. 15727. An act to establish rates of compensation for certain positions within the Smithsonian Institution; and

H.R. 16557. An act to provide for the refund of certain amounts erroneously deducted for national service life insurance premiums from the pay of former members of the organized military forces of the Government of the Commonwealth of the Philippines, and to amend title 38 of the United States Code to provide that certain payments under that title shall be made at a rate in Philippine pesos as is equivalent to $0.50 for each dollar authorized.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 825. An act to repeal the "cooly trade" laws;

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[9] 330 U.S. 1 (1947).

[10] 268 U.S. 510 (1925).

[11] 330 U.S. at 18.

[12] 374 U.S. at 313 (1963).

[13] 343 U.S. 306, 314 (1951).

[14] *Washington Post*, Sept. 10, 1966, p. B7.

[15] *McCollum* v. *Board of Education*, 333 U.S. 203, 237 (1948).

H.R. 15183. An act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States; and

H.R. 15358. An act to amend the act incorporating the Disabled American Veterans so as to provide for an annual audit of their accounts; to the Committee on the Judiciary.

H.R. 13955. An act to establish the past and present location of a certain portion of the Colorado River for certain purposes; to the Committee on Interior and Insular Affairs.

H.R. 14136. An act to amend the Migratory Bird Hunting Stamp Act of March 16, 1934, as amended, to authorize a maximum increase of $2 for each such stamp, and for other purposes; to the Committee on Commerce.

H.R. 15662. An act to amend the Federal Seed Act (53 Stat. 1275), as amended; to the Committee on Agriculture and Forestry.

H.R. 15727. An act to establish rates of compensation for certain positions within the Smithsonian Institution; to the Committee on Post Office and Civil Service.

H.R. 16557. An act to provide for the refund of certain amounts erroneously deducted for national service life insurance premiums from the pay of former members of the organized military forces of the Government of the Commonwealth of the Philippines, and to amend title 38 of the United States Code to provide that certain payments under that title shall be made at a rate in Philippine pesos as is equivalent to $0.50 for each dollar authorized; to the Committee on Finance.

EXECUTIVE SESSION

On request of Mr. INOUYE, and by unanimous consent, the Senate proceeded to consider executive business.

EXECUTIVE MESSAGES REFERRED

The ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

The PRESIDING OFFICER. If there be no reports of committees, the nominations on the Executive Calendar will be stated.

DEPARTMENT OF JUSTICE

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nominations in the Department of Justice.

The PRESIDING OFFICER. Without objection, the clerk will report the nomination.

The legislative clerk read the nomination of Patrick J. Foley, of Minnesota, to be U.S. attorney for the district of Minnesota.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Henry S. Wise, of Illinois, to be U.S. district judge for the eastern district of Illinois.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Alexander J. Napoli, of Illinois, to be U.S. district judge for the northern district of Illinois.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

DEPARTMENT OF STATE

Mr. INOUYE. Mr. President, I ask that the Senate proceed to the consideration of the nomination in the Department of State.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read the nomination of Robert R. Bowie, of Massachusetts, to be Counselor of the Department of State.

Mr. CLARK. Mr. President, the President of the United States has sent to the Senate, for its advice and consent, the name of Robert R. Bowie, of Cambridge, Mass., to be counselor of the State Department. The nomination was favorably acted upon by the Committee on Foreign Relations, by voice vote, one day last week, when it was impossible for me to be present because of my responsibilities as the chairman of the Subcommittee on Manpower, Employment, and Poverty, to mark up and bring to the floor the administration's poverty bill.

I had requested the chairman of the committee, in writing, to defer consideration of the nomination until this week, in order that I might be present; but for reasons to which I take no exception, the committee decided to pass on the nomination without availing itself of my views.

The nomination is now before the Senate for confirmation. I desire to indicate my doubts as to its wisdom. Before doing that, I would like to state that I have complete confidence in the integrity of Mr. Bowie. I also very much admire both his intelligence and his grasp of foreign affairs. My concern is with his philosophy and his judgment. On this point, I shall elaborate relatively briefly.

Mr. Bowie is a graduate of Princeton and the Harvard Law School. He practiced law for a short while in Baltimore, his native city. He served with the Army during World War II. On the conclusion of hostilities, he was appointed professor of law at the Harvard Law School.

He left that post to accept a temporary appointment in Germany. In 1953, upon the Eisenhower administration taking office, he was persuaded by Mr. John Foster Dulles, the Secretary of State—a gentleman whom, Mr. Bowie said, he had never met until he was asked to come to the State Department—to become Director of the Policy Planning Staff of the State Department, and a member of the Planning Board of the National Security Council. He served in that capacity from 1953 until some time in 1957, when he returned to Harvard to become professor of international relations and director of the Center for International Affairs. He remained in that post until he was appointed to his present position, although during 1960, still in the Eisenhower administration, he was commissioned by Secretary of State Christian Herter to write a report to the Secretary of State on the subject of the North Atlantic nations' tasks for the 1960's.

This document was then and is now classified, but we have had access to it in the Committee on Foreign Relations. Of course, because it is classified as secret, I am not at liberty to disclose its contents on the floor of the Senate. I may say that in my opinion the continued classification of this document is a typical example of the reticence of the State Department to permit the American people to know what individuals, whom they are endorsing for high office, think about matters within the scope of their intended duties.

I would also hope that the State Department would now give prayerful thought to removing the classified status of this report prepared by Mr. Bowie over 6 years ago. Without disclosing classified matter, I think that I can fairly say Mr. Bowie himself would be the first to admit that many of the views he set forth in that report are obsolete. They do cast an interesting light on his general philosophy and his view of the NATO-European-Soviet scene. I think those views would be of great interest to the public and to the Senate in particular.

The State Department, with a characteristic timidity, still classifies this report as secret, so I can say no more about it.

I reiterate my high regard for Mr. Bowie's integrity and intelligence. I have had an opportunity to meet with him on several occasions, because in addition to being the director of the Center for International Studies at Harvard, he is a professor in the Department of Government at Harvard, and, for all I know, still holds his title as professor of law at the law school. In that capacity he attends the annual meetings conducted by the Overseers Committee to visit the Department of Government of Harvard University. As I have for some years been a member of that committee I have had an opportunity to discuss with him and his colleagues the activities of the Department of Government of Harvard.

In addition, I am a fellow of the American Academy of Arts and Sciences, which is engaged in what ought to be, I think, a rather utopian study of what the world will look like in the year 2000. Mr. Bowie is on the task force of that committee. I had the opportunity of discussing with him the kind of report which might be written, in conjunction with his friend, Mr. Herman Kahn, the well-known hawk, during an all-day meeting of that committee earlier this year.

Mr. Bowie is unquestionably an expert in European affairs in general, and NATO in particular. However, I think he would be the first person to admit that he has no such competence in the areas of relations with the Soviet, except through NATO, or with Latin American affairs, or with Far Eastern affairs.

My reservations about Mr. Bowie are largely based on certain conclusions to which I have come as a result of my contacts with him and the rather extensive hearings conducted by the Committee on Foreign Relations on August 16 and 23, during the course of which I questioned Mr. Bowie quite closely about his views on the general subject of peace,

a matter with respect to which I have busied myself perhaps unduly since I first came to the Senate.

A peace offensive was initiated in the United States shortly after the inauguration of John Fitzgerald Kennedy as President, and for some time I was optimistic about that peace offensive. Senators may recall that while Mr. Dulles was eloquent in talking about peace, his general views of our relationships with the Soviet bloc, his somewhat belligerent statements about massive retaliation at times and places of our own choosing, and his feeling that we were engaged in a war, perhaps to the death, with Godless, atheistic communism made efforts on our part to ameliorate the tensions of the cold war difficult during the years he served as Secretary of State.

During much of that time, Joseph Stalin was still the dictator of the Soviet Union, and therefore the attitude of the Soviet Union toward peace was at least as belligerent as that of the United States, probably more so.

Personally, I date the beginnings of the peace offensive in our country from the time when Christian Herter became Secretary of State in the dying days of the Eisenhower administration. By that time, Mr. Bowie had left the State Department and had returned to Harvard. It was Christian Herter who first committed our country, as a part of its foreign policy, to the principle of general and complete disarmament under enforceable world law.

When Dean Rusk became Secretary of State at the time of the inauguration of President Kennedy, the President was, to a rather substantial extent, his own Secretary of State. It was not until after his death that some of us came to appreciate that there was very little difference between the foreign policy of John Foster Dulles and Dean Rusk.

During that happy hiatus, when John Kennedy was in the White House, with the assistance of Arthur Dean, John McCloy, Grenville Clark, and a number of other individuals deeply interested in the cause of peace, the initiative first undertaken by Secretary Herter was continued and we had those three magnificent speeches by President Kennedy in 1961, 1962, and 1963 at American University and at the United Nations, in which he substantially advanced the cause of relaxation of tensions with the Soviet Union and advocated—with some success—an approach toward arms control and disarmament through agreement with the Soviet Union, and with many other countries whose accession to arms control and disarmament treaties would be essential.

We had the formation by Congress of the Arms Control and Disarmament Agency, in which I was proud to play a small part. We had the Zorin-McCloy agreement on eight principles of disarmament, which advanced very substantially, the efforts to negotiate in that area with the Soviet Union. We had the U.S. plan for world peace through world law, first in pamphlet form and then, in the spring of 1962, in the form of an outline of a treaty on general and complete disarmament. The Russians filed their own version of such a treaty.

After a while, we got the limited test ban treaty, and hope was high for further progress in the relaxation of tensions and the negotiation and—hopefully—ratification by the Senate of further treaties and agreements on arms control and disarmament.

Then President Kennedy was assassinated and it seemed as though our hopes slowly but surely faded. During all this period, of course, Mr. Bowie was not with the Government; he was at Harvard University. There were some remaining gestures toward peace of which perhaps the most important was the 20th anniversary celebration of the founding of the United Nations, one of the last formal occasions attended by that great advocate of peace and disarmament, the late Adlai Stevenson, and attended also by the President of the United States. We had the White House Conference on International Cooperation which met in November and early December of 1965, and the magnificent reports points the way toward peace made by its many committees of extremely distinguished American citizens. Those reports, at the moment, have been pretty well ignored in our foreign policy, although at that meeting, Secretary of State Rusk, in reply to a question from me from the floor, categorically stated that the United States did take disarmament negotiations very seriously.

Mr. SALTONSTALL. Mr. President, will the Senator from Pennsylvania yield for a question?

Mr. CLARK. I am happy to yield to the Senator from Massachusetts for that purpose.

Mr. SALTONSTALL. I thank the Senator very much for yielding to me. I should like to ask him one question.

Do I correctly understand his point of view, that he believes Mr. Bowie to be a man of integrity and character, that he does not question his personality at all?

Mr. CLARK. The Senator is correct.

Mr. SALTONSTALL. But the Senator from Pennsylvania does question Mr. Bowie's appointment, as I understand it, to be on the Planning Board of the State Department?

Mr. CLARK. No, that is not quite accurate. He is to be Counselor for the State Department. Mr. Henry D. Owen is the Chairman of the Policy Planning Council of the State Department. The job of Counselor and Chairman of the Policy Planning Staff were, at one time, telescoped and made one which, to my mind, was a most unfortunate decision, in that it downgraded efforts toward planning for peace.

Henry Owen is a very competent Foreign Service officer whose integrity and ability I do not question. But, he and Mr. Bowie were the two principal architects of the multilateral force concept, which involved the sharing of nuclear hardware through NATO with West Germany. Mr. Bowie, as Counselor for the Department of State—as I understand the hierarchy—would be, most likely, the No. 4 man in the Department. There would be the Secretary of State, the two Under Secretaries of State, and then the Counselor—except for this, that the Counselor would have no administrative responsibilities. He would be purely a planner, a thinker, and an adviser. In some ways, Mr. Bowie's status would be similar to that of former Ambassador to the Soviet Union, Mr. Thompson, who is now a free-wheeling adviser on Soviet bloc affairs, reporting to the Secretary and also to the White House; and also to that of Averell Harriman, who fills somewhat a "Sunday pitcher" capacity, if we can use the vernacular.

Mr. SALTONSTALL. The point I should like to bring out through the Senator from Pennsylvania is that while the Senator from Pennsylvania thinks that Mr. Bowie is a man of integrity and character, what the Senator objects to, or may object to, are his points of view, that in the State Department at this time the Senator from Pennsylvania believes there is not enough emphasis on working out solutions for peaceful means?

Mr. CLARK. The Senator is correct.

Mr. SALTONSTALL. But, is it not helpful to have different points of view in the Department, just as there are differences in points of view in this body, or in any body; and would not a man of integrity and character, known to have great intellectual capacity and knowledge of foreign affairs—whether the Senator and I agree with his points of view or not—be a helpful man to have in the State Department?

Mr. CLARK. I think it would be terribly helpful, Senator, to have men of different points of view in the State Department.

My objection is that we do not have men there with different points of view. All we have are individuals—and I do not say this in connection with Mr. Bowie—who, in the last analysis, when the chips are down, would rather fight than switch. These are no "doves" in the State Department. The only man around who takes a peaceful point of view, and speaks with authority, is United Nations Ambassador Arthur Goldberg. Those are strong words, but I mean them to be such.

My view of Mr. Bowie is that he is, in a sense, the spiritual successor of a man for whom the Senator had a higher regard than I did, John Foster Dulles; that he is representing that point of view, and that of Dean Rusk and to some extent, although to a lesser extent, of George Ball.

Now we are coming to the point where there is going to be a reorganization in the State Department at the higher levels, because so many of these dedicated men are exhausted and their places must be filled.

I shall not ask for a rollcall vote on this nomination. I am not sure I shall vote against the nomination. My reason for raising the point is that there is every indication that the President is filling these positions with men whose attitudes, in my opinion, will make it difficult to have our own country, represented by the State Department, take any position which will further the cause of peace.

Mr. SALTONSTALL. Personally, I have always felt that, regardless of their point of view, if we can have in the State Department men of intelligence, of education, with a knowledge of foreign affairs, whose patriotism is beyond doubt, we are better off, even though we may not agree with their point of view, than if we have men in the Department who do not have such a background.

Though I know very little about the nominee, from having looked at his qualifications I feel he has that background.

That is where the Senator from Pennsylvania and I do not agree.

Mr. CLARK. Yes. I must say I am not getting any pleasure out of making this statement. I am the first to admit that, within very wide limits, the President is entitled to appoint anyone he wants to these positions, and unless the Senate has reason to question one's character or unless certain Senators think that he may want to get us into war, the Senate should confirm the nominations. I have had previous occasion to oppose nominations, such as in the case of Scott McLeod, Clare Boothe Luce, and one or two others, whose nominations I felt it was my duty to oppose. I do not feel that strongly about Mr. Bowie. But I would like to believe there is still somebody in the State Department, and perhaps one or two in the White House, who read the CONGRESSIONAL RECORD.

Mr. SALTONSTALL. I thank the Senator for permitting me to interrupt him.

Mr. CLARK. I thank the Senator for his always helpful interventions.

Now, Mr. President, my fundamental objection to Mr. Bowie's nomination is that to me it is fresh evidence of the frozen status-quo outlook of our foreign policy. In my opinion, his nomination marks a turning point away from the hopeful, imaginative spirit of the era which produced the limited nuclear test ban treaty, the hot line agreement, and the various other initiatives taken by the United States since 1961 in the search for peace.

I believe it is up to me to document that belief, and I shall do so largely upon the basis of the extensive questioning which Mr. Bowie was subjected to in the Foreign Relations Committee.

Fundamentally—and this point I have raised on the floor time after time—I believe that a treaty to stop the spread of nuclear weapons should take a far higher priority in U.S. foreign policy than working out a nuclear sharing arrangement with West Germany, which would leave, in one form or another, directly or indirectly, the West German finger on the nuclear trigger.

Mr. Bowie and Mr. Owen were two of the architects of the concept of MLF. That concept centers around a nuclear fleet of Polaris submarines and surface vessels, internationally manned, which would wander around the North Sea, the Eastern Atlantic and the Mediterranean Sea, in a position to make belligerent moves toward the Soviet Union and with their nuclear weapons trained on targets within the Soviet Union.

Nobody wanted that in NATO, with the possible exception of two or three of those individuals in West Germany who are regarded, by their Soviet contemporaries, as "revanchistes."

Nobody wants that except the clique in the State Department which seems determined to prevent signature of and ratification of a treaty to stop the spread of nuclear weapons by requiring our negotiators at the 18 Nation Disarmament Conference to insist that the United States retain an option which would enable us at a later date, if we saw fit, to give to the West Germans, through NATO, a share in control over nuclear hardware.

I tried very hard during the questioning to get Mr. Bowie to indicate that he was prepared to abandon that concept. He was unable to do so. He is skeptical about the validity of a nonproliferation treaty. I think in this regard his appointment marks a step backward from a position which I had hoped the administration would be taking on the issue of nuclear sharing, and on the need for and desirability of a treaty to stop the proliferation of nuclear weapons.

Earlier this year I went to Geneva and talked to our representatives, representatives of the Russians, of our allies, of the Eastern bloc, and of other members of the 18-nation disarmament conference. I was convinced that if we changed three words, or perhaps one sentence, of our draft treaty, we could come to an agreement.

My conviction is based on the fact that the Russians, for reasons of their own—which relate to historic Russian fears of German aggression—are not going to sign any nonproliferation treaty which would permit the sharing of control over nuclear hardware by West Germany. This is a Rusk and Owen policy, and I think also a Bowie policy, and to some extent a George Ball policy. It is not a McNamara policy. Secretary of Defense McNamara has stated publicly that an adequate solution can be found by providing for consultation among all NATO nations, including West Germany. But the administration, for reasons obscure to me, rejects the position of Secretary McNamara and accepts the position of Secretary Rusk, which rests upon the advice rendered to the Department of State 6 years ago by Mr. Bowie.

Again I regret that the 1960 report to which I made reference earlier is classified, so that I cannot divulge its contents.

Mr. Bowie, in my judgment, will be a strong advocate of the Rusk policies all over the world—in Vietnam as well as Western Europe. To my way of thinking the principal flaw in that Vietnam policy is the quite unsustainable position that the war in Vietnam is not, basically, a civil war. It is this assumption which in many ways hamstrings President Johnson's desire to bring the Vietnamese war to a close.

I appreciate that Mr. Bowie was under some restraint when he testified before the Foreign Relations Committee. He could not very well say that he disapproved of the Asian policy of the man he was going to work for, Secretary Rusk. He was skillful, and is skillful and intelligent, in ducking questions intended to develop any possible split of views in these areas.

My conclusion is that Mr. Bowie has been revealed, by his former public service, by the work he has been doing inside and outside the Government, and by the questioning to which he was subjected before the Foreign Relations Committee, as an individual who has very little hope for meaningful peace initiatives by the United States; who is very suspicious—as of course we all are—of the intentions of the Soviet Union; who believes that American foreign policy can best be buttressed by a reinvigoration of the military strength of the NATO alliance; and who, in Asian affairs, is quite content to follow the present view that the Vietnam war is a civil war, that until Hanoi stops its aggression, we must continue our aggression, not only through the continued and, as far as I can see, quite ineffective bombings of North Vietnam, but also through the employment of "search and destroy" tactics by American troops.

On those terms, it seems hard for me to believe that Mr. Bowie's appointment is going to work toward that peace which I believe should be the major purpose of our foreign policy, a goal which will require continuous initiative on our part with both the Russians and the Chinese, and also with the French—and Mr. Bowie's distaste for General de Gaulle was very obvious, indeed, in the course of his questioning.

Mr. President, I can understand Mr. Bowie's enthusiasm for his nuclear sharing scheme, but in my view he is out of step with the mood of the Senate, the desire of the country, and the demands of the people of the world, in giving it a higher priority than a treaty to halt the spread of nuclear weapons. Despite the fact that the Senate voted 84 to 0 in favor of the Pastore resolution urging the President to take all necessary steps to halt the spread of nuclear weapons, Mr. Bowie freely told the Foreign Relations Committee that he does not place a high value on such a treaty, and indicated his preference for looking forward to some sort of an agreement, through NATO, with Germany, by which we could perhaps restrain German revanchism and German belligerence, by the curious method of giving the West Germans a share in control over nuclear weapons.

In my opinion, Mr. Bowie is at best passive and at worst downright hostile to arms control and disarmament measures. I believe his appointment will make it even more difficult to break the inertia which has kept the cold war alive, and has frustrated efforts—most of them outside our Government—to put East-West relationships on a permanently improving basis.

What we need in the State Department today is the kind of man who can point the way toward bold initiatives for peace. What we have instead is an able, articulate, intelligent alumnus of the John Foster Dulles State Department of the 1950's, whose considerable talents, I fear, will be employed, not in the pursuit of imaginative new ventures to halt and, indeed, to reverse the arms race, but in a stout defense of the status quo.

Mr. President, I think this is a good place to have printed in the RECORD the

text of the Pope's Encyclical on Peace, as published in the New York Times this morning; and I ask unanimous consent that it be printed in the RECORD at this point in my remarks.

There being no objection, the encyclical was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 20, 1966]

TEXT OF THE POPE'S ENCYCLICAL ON PEACE

(ROME, September 19 (Reuters).—Following is the text of the encyclical letter issued by Pope Paul VI, as translated from the Latin by the Vatican:)

Venerable brothers: Patriarchs, primates, archbishops, bishops and other local ordinaries who are in peace and communion with the Apostolic See: During the month of October, prayers to the Blessed Virgin Mary are to be said.

Venerable brothers:

Health and apostolic benediction.

It is a solemn custom of the faithful, during the month of October, to weave, with the prayers of the Rosary, a spiritual garland to the Mother of Christ. This we heartily approve, following the example of our predecessors, and this year we call upon all the children of the church to perform these special exercises of devotion to the same Most Blessed Virgin. For we are threatened by a more extensive and more disastrous calamity that endangers the human family, even as a bloody and difficult war is raging, particularly in areas of East Asia, so, we are urged to continue working even more intensely, to the extent of our power, for peace.

THINGS THAT DISTURB MEN'S SOULS

Similarly, the souls of men are deeply disturbed by things which all know are taking place in other parts of the world: for instance, the increasing race for nuclear weapons, the unscrupulous efforts for the expansion of one's nation, the excessive glorification of one's race, the obsession for revolution, the segregations enforced on citizens, the iniquitous plotting, the murder of the innocent, all of which are potential material for the greatest possible tragedy.

It seems to us, as it seemed to our more recent predecessors, that a very provident God has committed to us a special task, namely, that we labour, with patient and persevering effort, for the preservation and the strengthening of the peace. This task, as is evident, arises from the fact that we have been entrusted with the governing of the whole church, which as a "sign raised to the nations" (Isaiah xi, 12), does not serve political ends, but should convey to the human race the truth and grace of Jesus Christ, its divine Author.

Actually, from the very beginning of our apostolic ministry, we have neglected no opportunity to use our prayers, entreaties and exhortations for the cause of world peace. In fact, as you well remember, last year we flew to North America in order to speak about the need for peace in the presence of the General Assembly of the United Nations, before that select body of representatives of almost all the nations. We then counseled all peoples that they should not tolerate some to remain inferior to others, but that no one should attack others, but rather that all should unite their zeal and their efforts towards establishing peace.

WARNINGS TO LEADERS CONTINUED

And after this, moved by a deep, apostolic concern for men, we did not cease to urge those who had the responsibility for such a momentous task, to ward off from men the monstrous catastrophe which perhaps was about to overwhelm them.

Now again, therefore, we lift up our voice, "with piercing cry and with tears" (Hebrews v, 7), very earnestly beseeching those who have charge of the public welfare to strive with every means available to prevent the further spread of the conflagration, and even to extinguish it entirely.

For we do not doubt that all men who sincerely seek what is right and what is just, no matter what their race, color, religion or social status may be, feel the same way we do.

Therefore, let all those responsible strive to bring about those necessary conditions which will lead men to lay down their arms at last, before it becomes too late to do so, owing to the mounting pressure of events. Those in whose hands rests the safety of the human family should realize that at this critical moment their consciences are bound by the gravest obligation. With their own country, with the world, God, and history before their minds, they should carefully examine their moral record and obligations, remembering that men will esteem their memory if they will have followed this exhortation with wisdom.

We cry to them in God's name to stop. Men must come together and work out concrete plans and terms in all sincerity. A settlement should be reached now, even at the expense of some inconvenience or loss, for it may have to be made later in the train of bitter slaughter and involve great loss.

PEACE BASED ON JUSTICE

But this peace must rest on justice and the liberty of mankind, and take into account the rights of individuals and communities, otherwise it will be shifting and unstable.

At the same time as we are moved to make this anxious declaration, our high responsibility as Pastor indicates to us that we must ask help from on high, since peace, whose "benefits are so great that even in earthly mortal affairs no more pleasing name is heard, nothing is desired with greater longing, nothing better can be found" (St. Augustine, De Civitate Dei), must be asked from Him who is the Prince of Peace. As the church in uncertain and troubled times used to turn for refuge to His mother Mary, a most ready intercessor, it is right for us to direct our attention, your, venerable brothers, and that of all the faithful to her, who as St. Irenaeus says, "was made the cause of salvation for the whole human race" (Adversus Haereticos). We can see nothing more appropriate or efficacious than for the whole Christian family to raise its voice amid its many stresses and difficulties to pray the Mother of God, whom we also address as Queen of Peace, to be generous, as a good mother, with her gifts. During the Second Vatican Council we gave our confirmation to a point of traditional doctrine when we gave her the title of Mother of the Church, a title acclaimed by the Council fathers and the Catholic world.

STS. AUGUSTINE AND ANSELM CITED

We must pray earnestly and unceasingly to her, for she is the mother of Our Savior, and "clearly the mother of His members," as St. Augustine teaches (De Sanctitate Virginis). St. Anselm, to mention no others, agrees with him: "Can you ever have a greater dignity than to be the mother of those whose Father and Brother Christ deigns to be?" Orationes et Meditationes). In fact, from our predecessor Leo XIII she received the same title: "truly the Mother of the Church" (Encyclical Letter "Adiutricem Populi Christiani, Sept. 5, 1895), hence in our distress at this terrifying upheaval we do not hope in her in vain.

If misfortunes increase, the dedication of the people of God should also increase, and for that reason we are anxious for you, venerable brothers, to give a lead, and urge by exhortation a more persevering prayer to the gracious Virgin Mary, by the devout recitation of the Rosary during the month of October, as we have already indicated. This prayer is well suited to God's people, acceptable to the Mother of God and powerful in obtaining gifts from Heaven.

The Second Vatican Ecumenical Council clearly referred to the Rosary, though not in express terms, when it reminded all the faithful that "practices and exercises of devotion toward her (Mary), recommended by the teaching authority of the church in the course of the centuries, are to be held in high esteem" (Dogmatic Constitution on the Church).

EFFICACY OF PRAYER ASSERTED

As the history of the church so frequently testifies, this duty of prayers, so abundant in its fruits, is efficacious in averting evils and calamities and greatly fosters Christian living. "Above all, it nourishes Catholic faith which, by timely meditation on the Sacred Mysteries, gains new strength, and it lifts the mind to the contemplation of divinely revealed truths" (Pius XI, Encyclical Letter Ingravescentibus Malis, Sept. 29, 1937).

And so during the month of October dedicated to Our Lady of the Holy Rosary our prayers and supplications should be redoubled, in order that through her intercession there may dawn for all men the light of true peace, of true religious peace also, for unfortunately at the present day not all are permitted to profess their religion freely.

We especially desire that this year, Oct. 4, the anniversary, as we have already said, of our visit to the United Nations in the cause of peace, be set aside by Catholics throughout the world as a day of prayer for peace.

It will be your task, venerable brothers, in keeping with your commendable religious zeal and your realization of the importance of this appeal, to prescribe the observances through which priests, religious and laity—and especially the innocent in the flower of youth and the sick in the midst of their sufferings—may be joined together in generous prayer to her who is Mother of God and the church.

CEREMONY PLANNED AT ST. PETER

On the same day, in St. Peter's Basilica, at the tomb of the Apostle, we also will hold a special ceremony of supplication in honour of the Virgin Mother of God, the protector of Christians and our intercessor for peace.

In this way, the one voice of the church will resound on all the continents of the earth and reach the very gates of Heaven. For as St. Augustine states, "amid the various languages of men, the faith of the heart speaks one tongue" (Enarratones in Psalmos).

Look upon all your sons with motherly love, o Blessed Virgin! Consider the anxieties of the bishops who fear the assaults of evil on their flocks, consider the anguish of so many men, fathers and mothers of families who are worried about their lot and that of their families and who are assailed with agonizing responsibilities. Calm the hearts of men at war and inspire them with "thoughts of peace." Through your intercession may the demands of God's justice, which have been caused by sin, be turned into mercy, may He bring mankind back to the peace it longs for, may He lead men to true and lasting prosperity.

Encouraged by the firm hope that the Most High Mother of God will in her kindness grant our humble prayer, we lovingly grant to you, venerable brothers, to the clergy and to the people entrusted to the care of each of you, the apostolic benediction.

Given in Rome, at St. Peter's, on the 15th day of September, in the year 1966, the fourth of our Pontificate.

Mr. CLARK. I quote this from the Pope:

Now again, therefore, we lift up our voice "with piercing cry and with tears," very

earnestly beseeching those who have charge of the public welfare to strive with every means available to prevent the further spread of the conflagration, and even to extinguish it entirely.

And, again:

We cry to them in God's name to stop.

To whom is he talking? He is talking to Dean Rusk. He is talking to Lyndon Johnson. He is talking to Ho Chi Minh. He is talking to Mao Tse-tung. He is talking to General Westmoreland. He is talking to the Vietcong.

I join, as I am sure many Senators, if not all, would join, in the Pope's cry, "In God's name, stop."

I ask unanimous consent that the text of a plea to the President to move forward toward a treaty of nonproliferation of nuclear weapons, accompanied by a letter from that stanch advocate of peace, Dr. Arthur Larson, signed by the distinguished list of members of the Educational Committee To Halt Atomic Weapons Spread, be printed, together with the names of the members of the committee, in the RECORD, at this point in my remarks.

There being no objection, the letter-statement and the list were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 15, 1966]

TEXT OF PLEA TO THE PRESIDENT ON NUCLEAR WEAPONS

(NOTE.—Following are texts of a letter to President Johnson from the Educational Committee to Halt Atomic Weapons Spread and a statement by the committee:)

LETTER

At the behest of a group of distinguished Americans, I submit to you the enclosed statement which they have signed, expressive of their views on the urgency of removing the obstacles which prevent an agreement on the nonproliferation of atomic weapons.

The signatories, whose names are appended, are both aware and approving of your initiative in seeking a nonproliferation treaty.

But the lack of such a treaty, after a year of discussion, increases the apprehensions of Americans, already profoundly disturbed by world developments, and provides incentive to the nonnuclear powers to devise their own nuclear programs.

Before world events foreclose the opportunity, it is imperative that new initiatives should be undertaken to assure a treaty.

The nature of these initiatives, reflecting the opinion of the signatories, is described in the statement. They are in accord with the highest security interests of the United States and of world peace.

"Firm policy" urged

We venture the judgment that it is in order now for the U.S. to adopt a firm policy, making it unequivocally clear, that it will not share its exclusive veto over the ownership and control of nuclear weapons with any other power, through NATO, or in any other form, so that Chancellor Erhard may be so informed upon his arrival in the U.S. and so that renewed negotiations can begin with the Soviet Union with a prospect of agreement.

The Educational Committee to Halt Atomic Weapons Spread is an ad hoc committee formed by a representative group of Americans, to bring about public understanding of what you have called "the gravest unresolved issue of our times," as preliminary to Administration action which U.S. citizenry can support. As a means of educating the public, now largely uninformed, it is our intention to make the statement public.

If you deem it in order, a delegation would wish to be received by you to elaborate on our plans for possible cooperation with Administration action.

Sincerely,

ARTHUR LARSON,
Chairman.

STATEMENT

While all eyes are focused on Vietnam, an even greater danger looms ahead. It is the imminent spread of atomic weapons among the non-nuclear powers, by manufacture or acquisition.

How to avert that danger before events nullify the opportunity for all time, is the gravest problem of our world.

This is the view of two Presidents of the United States, John F. Kennedy and Lyndon B. Johnson. It is the unanimous judgment of the United Nations, expressed by vote. It is the opinion of the United States Senate, formalized in resolution.

President Kennedy's prophetic warning three years ago is now on the threshold of grim reality. On July 26, 1963, in announcing the agreement initialed in Moscow for the limited Test Ban Treaty, he said:

"In the next several years a small but significant number of nations will have the intellectual, financial and physical sources to produce nuclear weapons and the means of delivering them, and the peril of nuclear war will be multiplied. If nuclear arms were acquired by other nations, large and small, stable and unstable, responsible and irresponsible, there would be no rest for anyone. No stability, no real security and no effective disarmament; there would only be increased chance of accidental war and an increased necessity for the great powers to involve themselves in what, otherwise, would be local conflicts."

Five nations already have their hands on the nuclear trigger. Sixteen nations stand in the wings, trying to decide if they must produced their own atomic fire to escape the role of hostages of the nuclear powers.

Twelve of these countries have the scientific and industrial capacity to produce nuclear weapons within three years. Three of them could do so within months, it is believed. Fifteen of these countries are either neutral, nonaligned or allies of the West. One is a number of the Soviet bloc.

Both the United States and the Soviet Union state that they want a nonproliferation agreement. The United States has done more. At President Johnson's initiative, the United States submitted the first draft treaty on nonproliferation last year. In announcing that draft treaty, President Johnson underscored then that atomic proliferation is "the gravest of all unresolved issues" and affirmed that "the time to halt the nuclear spread is before contagion takes root." He was supported by Defense Secretary McNamara who says "the possibility of further diffusion of nuclear weapons poses a severe threat to our national security."

Principal obstacle to agreement

Nevertheless, discussions of the Disarmament Committee in Geneva remain stalled. The principal and continuing obstacle to agreement is the unresolved issue of U.S. sharing of ownership and control of atomic arms with West Germany, through NATO. West Germany is enjoined from manufacturing nuclear weapons but not from acquiring them under the terms of its admission to NATO.

The U.S.S.R. interprets Article 1 of the U.S. draft as providing a loophole whereby Germany, through a NATO nuclear multilateral force, will acquire and share control of atomic weapons. With the memory still alive of 20 million Russians killed in World War II, the Soviet Union is apprehensive of Bonn's ultimate intentions. It has steadfastly maintained that it will not sign any agreement which permits Germany to become a nuclear power.

The U.S. and U.S.S.R. draft treaties agree that the nuclear powers should not transfer nuclear weapons or encourage their manufacture by the nonnuclear powers; the nonnuclear powers are pledged not to manufacture them or to acquire them. But the U.S. draft treaty does not prohibit nuclear sharing.

While the U.S. favors a nonproliferation treaty, it is also concerned with the stated desire of Germany to share in the control of nuclear weapons. It is this unresolved conflict over priorities, within the councils of our government, which has created the present deadlock in the negotiations.

The President must decide which of these objectives should be paramount.

There is already a preponderance of opinion which would give priority to a nonproliferation treaty as against German participation in the control of nuclear weapons.

Members of both houses of Congress oppose any U.S. sharing of nuclear weapons. Members of the Joint Atomic Energy Committee "have told two Presidents" that "they do not consider the multilateral force an effective force." Nor do significant segments of the German people favor Germany becoming a nuclear military power. It does not advance the cause of German reunification or reduce the tensions of confrontation. The majority of the members of NATO do not desire it, fearing that it will be a barrier to a more pacific detente in Europe, now possible. For a future jointly operated NATO nuclear force does not add to the existing massive nuclear deterrent power of NATO. Nor does it advance United States or European security.

"In the calculus of risk, to proliferate independent nuclear forces is not a mere arithmetical addition of danger," Defense Secretary McNamara warned on May 18 1966. "We would not be merely adding up risks. We would be insanely proliferating them."

And President Johnson told the Disarmament Committee that the U.S. seeks a nonproliferation treaty, "void of any loopholes which might permit nuclear or nonnuclear powers to proliferate, directly or indirectly."

Consistent with this view, it is our hope that the President will make evident that in the scale of importance, the U.S. places achievement of a non-proliferation treaty above the sharing of atomic weapons with West Germany or any other nonnuclear power.

Imperative first steps

The next weeks could well be decisive. The undersigned, therefore, urge the Administration to take the following firm decisions, now, in the interest of securing a nonproliferation agreement.

I. To affirm that the U.S. will not give up to any other power its exclusive veto over the ownership, control and use of U.S. nuclear arms through NATO, the European theater or anywhere else.

II. To revise the U.S. draft nonproliferation treaty to reflect this decision in language which is clear and unequivocal.

III. As a signal of its new approach, to name a top level delegation, to meet with ranking Soviet diplomats, at a time and place of mutual choice, and authorized to seek an early agreement on a nonproliferation treaty.

If, at the outset, the United States, the U.S.S.R. and Britain, among the atomic powers, sign that agreement, a giant step forward will have been taken. If they sign, France and the People's Republic of China may eventually find it in their interests also to do so.

The effectiveness of such an agreement is dependent both on the number of atomic powers who sign it and on the number of non-nuclear states who adhere to it. The non-nuclear powers must be convinced that

they will gain in security and prestige by giving up the achievement of nuclear status.

Collateral measures

Therefore, we urge, as collateral measures:

a. Collective assurances of assistance be given by the signatory nuclear powers to the non-nuclear powers against nuclear attack or threats of attack.

b. Undertakings to strengthen the United Nations peacekeeping machinery and other international security agreements.

c. Affirmation of U.S. willingness to negotiate a treaty banning atomic weapons testing underground, possibly for a trial period only, with inspection by challenge and invitation.

Continued testing of atomic weapons by the nuclear powers—actually a proliferation of stockpiles already sufficient to destroy the world several times over—has no rationale, more particularly when we are urging other states not to proliferate. In the light of our improved seismological detection systems, which permit detection and identification of most undergound tests, this ban would involve minimal risks.

Once the door to the nuclear club has been opened, it may not shut again. Without a nonproliferation agreement, the direction of United States policy over the past 20 years to halt a nuclear arms race will be reversed. It is imperative, therefore, that we get down to the business of signing such an agreement.

The enormously difficult task of permanently halting the spread of atomic arms cannot be achieved in a single treaty. But the proposals suggested above constitute major first steps. Once accomplished, additional agreements become possible. A broad new approach is provided by the recommendations of the Arms Control and Disarmament Committee of the National Citizen's Commission to the White House Conference on International Cooperation.

To the attainment of these great objectives, we pledge the President our support.

GROUP'S MEMBERS LISTED

(NOTE.—Following is a list of members of the Educational Committee to Halt Atomic Weapons Spread:)

Chairman, Dr. Arthur Larson, Director, Rule of Law Research Center, Duke University Law School.

Chairman of the Executive Committee, Mrs. Josephine W. Pomerance, Chairman, Disarmament Issues Committee of the United Nations Association.

Dr. John C. Bennett, President, Union Theological Seminary;

Roy Bennett, Chairman, Foreign Policy Commission, Americans for Democratic Action;

Dr. Emile Benoif, Professor of International Business, Columbia University;

Dr. Eugene Carson Blake, General Secretary-elect, World Council of Churches;

Mrs. Catherine Drinker Bowen, novelist;

William J. Butler, Vice Chairman, International League for the Rights of Man; Dr. Walter C. Clemens Jr., Associate Professor, Department of Government, Boston University;

Benjamin V. Cohen, former United States Representative on the United Nations Disarmament Commission;

Dr. Robert S. Cohen, chairman, Department of Physics, Boston University;

Aaron Copland, composer;

Norman Cousins, editor, The Saturday Review;

Malcolm Cowley, former president, National Institute of Arts and Letters;

Dr. Bernard D. Davis, professor of bacteriology, Harvard University Medical School;

Oscar A. DeLima, chairman of the board, Roger Smith Hotels Corporation.

Dr. Freeman J. Dyson, professor of physics, Institute for Advanced Study;

Marriner S. Eccles, chairman of the board, First Security Corporation.

Dr. Bernard T. Feld, professor of physics, Massachusetts Institute of Technology;

Marion B. Folsom, former United States Secretary for Health, Education and Welfare;

Dr. Franklin Clark Fry, President, Lutheran Church in America;

Maxwell Geismar, critic and literary historian;

Dr. Walter Goldstein, professor of political science, City University of New York;

Bishop A. Raymond Grant, Bishop of the Methodist Church;

Walter Gropius, architect;

Dr. William A. Higinbotham, head, Instrumentation Laboratory, Brookhaven National Laboratories;

Dr. Hudson Hoagland, director, Worcester Foundation for Experimental Biology;

Dr. Gerald Hulton, professor of physics, Harvard University;

Archbishop Iakovos, Primate, the Greek Orthodox Church of North and South America;

Dr. David R. Inglis, senior physicist, Argonne National Laboratory;

Stanley Kunitz, poet and lecturer, Columbia University;

Dr. Arthur Kornberg, professor of biochemistry, Stanford University;

Mrs. Betty Goetz Lall, New York State School of Industrial Labor Relations, Cornell University;

Dr. Frederick A. Long, vice president for research and advanced studies and professor of chemistry, Cornell University;

Bishop John W. Lord, Methodist Bishop of Washington;

Stanley Marcus, president, Neiman Marcus;

Mrs. Lenore Marshall, author;

Dr. Robert E. Martin, professor of government, Howard University;

Dr. Hans J. Morgenthau, distinguished service professor, University of Chicago;

Mrs. Agnes Morley, treasurer, Educational Committee to Halt Atomic Weapons Spread;

Dr. Philip Morrison, professor of physics, Massachusetts Institute of Technology;

Bishop Reuben H. Mueller, president National Council of Churches of Christ of the United States of America;

Dr. Herman J. Muller, distinguished service professor emeritus, Indiana University;

Dr. William O'Brien, chairman, Institute of World Policy, Georgetown University;

Earl Osborn, president, Institute for International Order;

Bishop James A. Pike, Center for the Study of Democratic Institutions.

Hubson Pittman, artist and lecturer, the Pennsylvania Academy of Fine Arts.

Walter P. Reuther, president, United Automobile Workers of America.

The Very Rev. Lawrence Rose, Dean, General Theological Seminary, retired.

The Rev. Richard Spillane, S.J., director, Center for Peace Research, the Creighton University.

Max Stanley, president, the Stanley Foundation.

Bishop Anson Phelps Stokes, Jr., Episcopal Bishop of Massachusetts.

Mrs. Carolyn Tumarkin, president, Women United for the United Nations.

Dr. Jerome B. Wiesner, provost, Massachusetts Institute of Technology.

Mrs. James Willen, president, National Council of Jewish Women.

Mr. CLARK. I am delighted at two magnificent statements recently made, the first by Arthur Schlesinger, Jr., formerly on President Kennedy's White House staff, and the second by Richard Goodwin, also formerly on President Kennedy's White House staff. These statements have been printed in the RECORD earlier at pages 23054 and 23060—I think they should, without being printed again, be incorporated by reference in my remarks; because, to my way of thinking, these two extremely able gentlemen, both once high in the councils of a Democratic administration, have shown us the way which we should be proceeding.

I also make reference to the remarks of U Thant, the retiring Secretary General of the United Nations, which appear on pages 23059 and following of the CONGRESSIONAL RECORD. They are excerpts from his introduction to the annual report of the Secretary General of the United Nations, the report having been filed on September 15, 1966, and may be consulted by whoever undertakes to read this speech.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an article entitled "22 Scientists Query U.S. on Chemical War Policy," which was published in the Washington Post of today, September 20, 1966.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWENTY-TWO SCIENTISTS QUERY UNITED STATES ON CHEMICAL WAR POLICY

A group of 22 distinguished American scientists want President Johnson to clarify America's policy on the use of chemical and biological weapons.

Though the scientists, including seven Nobel Prize winners, do not mean their plea to be an anti-Vietnam war protest, their proposed petition to Mr. Johnson cites the "dangerous precedent" being set there in the "large-scale" use of non-lethal chemical weapons. The scientists want these weapons banned in Vietnam.

Yesterday, the scientists began a nationwide campaign for the signatures of other scientists for their petition, which will urge the President to:

"Institute a White House study of overall Government policy regarding CB (chemical and biological) weapons and the possibility of arms control measures, with a view to maintaining and reinforcing the worldwide restraints against CB warfare.

"Order an end to the employment of anti-personnel and anti-crop chemical weapons in Vietnam.

"Reestablish and categorically declare the intention of the United States to refrain from initiating the use of chemical and biological weapons."

The scientists' argument amounts to this:

During World War II the United States maintained a firm policy that it would not be the first to use CB weapons. This policy has never been categorically reaffirmed. Rather, since the late 1950s Defense Department expenditures on developing new CB weapons has increased significantly (one estimate is from $8 million during the Korean War to roughly $200 million annually today).

Making matters worse, in the scientists' view, U.S. forces in Vietnam now are engaged in "the large-scale use of anti-crop and 'non-lethal' anti-personnel chemical weapons in Vietnam."

The scientists plan to submit their petition to Mr. Johnson sometime after Nov. 1.

The 22 scientists are:

Felix Bloch of Stanford University, Nobel Laureate in Physics; Konrad E. Bloch of Harvard University, Nobel Laureate in Medicine and Physiology; James F. Crow of the University of Wisconsin; William Doering of Yale University; Paul Doty, Harvard; Freeman J. Dyson, the Institute for Advanced Study; John T. Edsall, Harvard; Bernard Feld, Massachusetts Institute of Technology; Irwin C. Gunsalus, University of Illinois; Robert Hofstadter, Stanford, Nobel Laureate in Physics;

Arthur Kornberg, Stanford, Nobel Laureate in Medicine and Physiology; Fritz Lipmann, Rockefeller University, Nobel Laureate in Medicine; Robert B. Livingston, University of California at San Diego; Matthew Meselson, Harvard; Severo Ochoa, New York University, Nobel Laureate in Medicine and Physiology; Ray D. Dwen, California Institute of Technology; Keith R. Porter, Harvard; Charles Price, University of Pennsylvania; Eugene Raboniwitch, University of Illinois; E. L. Tatum, Rockefeller University, Nobel Laureate in Physiology and Medicine; George Wald, Harvard; Paul Dudley White, Boston.

Mr. CLARK. Mr. President, I call attention to the statement of these scienists because it relates to a matter which I have had occasion to mention a good many times before on the floor of the Senate; that is, that while we are obsessed with the danger of nuclear war, we are not paying nearly enough attention to the hazards of chemical and biological warfare. We do not really know how much money our Government is spending in getting ready to engage in such a war, but we know it is a large sum. We know that napalm has been used almost indiscriminately in Vietnam. It may be, that in due course, we will trot out for trial runs a good many more of the insidious weapons of chemical and biological warfare. I am greatly troubled by this trend. Should we not be exercising our ingenuity instead toward framing and securing agreement on an international agreement to ban such weapons? I am one Senator who believes so.

Again, I am concerned at the course of the war in Vietnam and at the failure of the administration to be completely candid with Congress and the people. Accordingly, I ask unanimous consent to have printed at this point in my remarks an article, entitled "Vietnam: Correcting the Crucial Error," written by Everett C. Martin, and published in Newsweek magazine of September 12, 1966.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VIETNAM: CORRECTING THE CRUCIAL ERROR

(By Everett G. Martin)

(NOTE.—Since his arrival in Vietnam seven months ago, Newsweek's Saigon bureau chief Everett G. Martin has acquired an uncommonly wide range of Vietnamese friends. Drawing on the insight into Vietnamese thinking which this has given him, he explains below what he considers to be one of the major U.S. errors of the Vietnamese war—and what can be done about it.)

Not long ago, as he stood on a muddy battlefield under the idling rotor blade of his helicopter, a U.S. Army pilot somewhat sadly told me: "If the Vietnamese would only enter enthusiastically into the war effort, all of us would be willing to stay for the duration and win. But no one wants to fight for three, four or five years when there is no chance for solid unity of spirit or effort among the Vietnamese people."

For that particular pilot there is no danger that the Vietnamese war will last so long; only a month after we spoke he was killed following a daring jungle landing which he made at night in a heavy ground fog to evacuate a wounded GI. But the sentiments which he expressed live on among many of the Americans serving in Vietnam. To them it appears that their Vietnamese allies show an alarming and remarkable indifference to the war. And it is indeed true that although the U.S. has put heavy emphasis on the need to win the support of peasants living in areas contested by the Viet Cong, we have yet to convince even those Vietnamese dwelling in the most secure areas of the country that there is a cause worth fighting for.

The Vietnamese, in fact, seem to be able to maintain an almost total impassivity in the face of constant reminders of the urgent struggle going on around them. Most of them have at some time either witnessed or felt the violence of Viet Cong terrorism. Even the inhabitants of Saigon each night see the ghostly orange glow of flares lighting the sky at the edge of their city and hear the repeated dull thud of artillery shells fired into the countryside on the off chance of hitting a guerrilla. Yet, for all this, most Vietnamese appear to be so many stoic islands, as immune to the war as they are to the monsoon rains. If an American soldier carries away any overriding impression from his leave time in a major Vietnamese city, it is of a people abnormally detached from the brutal reality he knows in the battlefield.

This insensibility extends not only to the sacrifices of U.S. soldiers fighting in defense of South Vietnam, but to the welfare of Vietnamese troops as well. A Vietnamese private is paid less than a Saigon housemaid, and, on top of that, he is charged for his field rations. His commissary is so indifferently stocked that it frequently lacks even the bare necessities of existence. Funds set aside for his entertainment are rarely spent on him. His promotions may never come through because they involve too much paperwork for his officers. And he often spends most of his leave time trying to find transportation home. In short, life in the Vietnamese Army is so frustrating men will exhaust every avenue of escape before they finally submit to serving their country. Sometimes, inevitably, they do not serve it well.

To Americans such callous unconcern for the fighting man is hard to comprehend—or excuse. As a result, thoughtful Americans find it unsurprising that the much maligned Vietnamese soldier is not an aggressive fighter and that desertions from the Vietnamese Army so far this year already total 61,000—the equivalent of fifteen battalions. What many Americans do find surprising is that while Hanoi has been able to put North Vietnam under at least partial mobilization, such measures are considered too drastic for the Saigon government to employ.

Perhaps even more disturbing than the state of the Vietnamese Army, however, is the fact that the greatest indifference to the war effort is found among Vietnam's young people. The Communist menace simply does not worry many of them. "At least the Viet Cong are Vietnamese," shrugged one young girl. The chief concern of young Vietnamese nowadays, in fact, is to prevent Vietnamese culture from becoming Americanized. With increasing shrillness, they rail against Americans who date and marry Vietnamese women. And in what was one of the unkindest cuts Americans here have yet received, the Saigon University Students Association last month demanded that the U.S. state exactly how long it intended to stay in Vietnam. No mention was made by the students of the conditions that might compel a long U.S. stay; their whole concern was for the inconvenience the U.S. presence was causing them.

As these incidents mount, relations between the allies have degenerated into a kind of ill-defined antagonism, which shows up daily in the local press and boils over into childish bickering between individual Vietnamese and Americans. Among the poorer classes, the Viet Cong slang term for Americans—"the big monkey men"—is in common use, and the dollar is called "monkey money." (It should in all fairness be noted that Americans call the Vietnamese "Gooks.") Things reached some kind of a nadir this week when American owners of Honda motorbikes—a number of which have been stolen lately—banded together to announce in the local press that they would henceforth blacken the eyes and break the noses of any local citizens they caught handling their machines.

This growing mutual disaffection, plus the repeated disappointment of witnessing the failure of one scheme after another that was to "solve" the Vietnamese problem, has driven many Americans serving here to cynicism. "You don't find any idealists around any more," commented one AID official. "They have either given up and gone home, or they are just serving out their time."

Does all this indicate that the Vietnamese would like the Americans to go home and forget about fighting the Viet Cong? Some do feel that way, of course, but for all the frictions, the desire for a U.S. withdrawal is not widespread. One of the country's top Buddhist lay leaders was shocked when, to test him, I suggested that perhaps the Americans should leave. "Why, you couldn't leave," he said. "It would be immoral to abandon us now."

If this is how the majority feels—and I think that it is—what then is wrong? Why the indifference? The fault, it seems to me, begins with the American assumption that the Vietnamese will fight for the same reasons the U.S. will: to defeat Communism and to stop the Chinese. It is vital to realize that while Americans have democratic institutions to defend, the Vietnamese have none. Says one astute observer of the Vietnam scene: "What the Americans fail to recognize is that, while fighting the Communists, the South Vietnamese must also face up to a more basic issue—the unchaining of their own society from the fetters of the past and the emergence of a new, open, democratic community based on justice and equal opportunity for all citizens."

It may not be strictly correct to say that the U.S. has failed to recognize this need, but it has certainly badly underestimated the urgency the Vietnamese place upon it. Time after time, the aspirations of the Vietnamese people have been postponed in the interests of an ephemeral political stability.

The opportunity that was lost at the time of the revolution against the dictatorship of the late President Ngo Dinh Diem is tragic to recall. In almost every aspect this seems to have been a truly popular revolt. The Buddhists, the intellectuals, the students—virtually every politically aware element of Vietnamese society—fully believed that their country was about to cross a threshold. They expected that officials who were honest and dedicated would take over government positions, that the debilitating corruption and graft would end in the countryside. A citizen's freedom would henceforth be protected, his rights respected, his voice heeded. For one fleeting moment, Vietnam had a single purpose.

But while the U.S. stood piously on the sidelines, military junta after military junta kept the people on their tiptoes—waiting and waiting for the new dawn. And they are still waiting. The only visible change has been that, with each new government, a new and larger group of military politicians gets a crack at the graft and corruption.

Matters are made no better by the fact that not once have the Vietnamese been given any voice in the decisions to escalate their war. As more U.S. troops continue to pour in—as they must because the job to be done is so far from accomplished—the feeling on the part of the Vietnamese that they are merely spectators of events in their homeland will inevitably become stronger. And so will their conviction that ultimately any negotiating to end the war will be done without participation on their part, that

they will be left only with what each individual can salvage for himself.

Undeniably, it is a mark of some progress that now, at last, South Vietnam will have elections. Too much hope should not be placed in them, however. The voters, after all, are only electing a group to write a constitution, and, as one politician told me: "We have had four constitutions since 1945. Writing constitutions is not our problem."

The Vietnamese still need to be convinced that democracy is on the way—if needed it is—and therein lies the potential value of the current elections. They offer the opportunity to begin the process of convincing the Vietnamese people that their revolution may finally be realized—and, incidentally, an opportunity to demonstrate that they can be trusted with responsibility. But it should be noted that the reins are being loosened only a little, and the cynical expectation is that when new government emerges, most of the same men will be in the seats of power.

The great danger inherent in the election is that in the end, the whole performance will turn out to be just another cruel hoax on the people, giving them only a veneer of democracy on the top, but changing nothing. It is significant that no one has yet proposed to replace the system of government-appointed district chiefs and province chiefs—the structure on which the nation's corruption and injustice is based—with any kind of local democracy. Yet until district and province officials are locally elected and thus made responsible to the people rather than to the senior military commander in the area, the people will not be convinced that any real progress has been made.

To be convinced, the Vietnamese must experience the satisfaction of banding together, of forcing, a complaint through their local council and of seeing their wishes respected. A not insignificant side benefit to the U.S. would be that a local forum could quickly expose any official profiteering with U.S. AID goods before he could retreat to the protection of Saigon. More important yet, leaders would begin to emerge who had been tested in democratic procedures and politics.

This is the root of the problem. We Americans have wasted all the years since the revolution against Diem by not fostering local democracy in areas that were secure. Instead, we have allowed the Vietnamese corps commanders and their subordinates to become further entrenched as local war lords. The tread-lightly, legalistic policy of Washington in Vietnam exasperates no one more than it does the pro-American Vietnamese, because it has allowed the wrong kind of people to prosper. Many of my Vietnamese acquaintances have made it plain that they expect the Americans to steer their nation politically and they do not understand why such guidance is not forthcoming. "We can't solve our problems, and we know it," declared a prominent lawyer to me. "You've got to decide what you want for Vietnam and then make us do it."

This statement reflects a fundamental trust by South Vienamese that the U.S. intentions are ultimately to benefit the people. Yet the fact of the matter seems to be that Washington really regards the Vietnamese population as unready to manage its own political affairs. And thus, the exercise of the election appears designed to mete out as little democracy as possible.

Such an attitude overlooks the lessons learned from last year's elections for provincial advisory councils. In most cases, the councils were immediately relegated to impotence by the Saigon-appointed provincial officials. But where that couldn't be done, as in the province of Gia Dinh immediately surrounding Saigon, this tentative experiment in democracy worked surprisingly well. The Gia Dinh advisory council, for example, blocked an attempt by a wealthy woman to further enrich herself by taking over, with official sanction, a vital bus line. In this case the pedicab drivers and taxi drivers who led the fight had the experience—unique for Vietnamese—of standing up against authority and prevailing on legal grounds.

There is, of course, real danger that at the national level, democracy in Vietnam might dissolve into chaos resembling that of France's Fourth Republic. But at the local level—where it would do the most good—it might be an outstanding success.

It could, indeed, build the bulwark against Communism that no number of schools, toilets, roads and factories can ever do. For if the deserving people of Vietnam were finally convinced of the feasibility of democracy by their own small successes, South Vietnam might finally become a real country. Then, as a top Roman Catholic lay leader has commented, "the Viet Cong would at last be facing a nation." And the U.S. might be far closer to successfully concluding one of the most worthy and most ambitious international ventures it has ever attempted.

Mr. CLARK. Mr. President, this most provocative and interesting article points out what many of us have said on the floor of the Senate many times: that the war in Vietnam will not be won by military means. It will be won or it will be lost or it will be a draw as a result of a political settlement.

Speaking of the many Americans we have in Vietnam, Mr. Martin said:

To them it appears that their Vietnamese allies show an alarming and remarkable indifference to the war.

The article further states:

Desertions from the Vietnamese army so far this year already total 61,000—the equivalent of 15 battalions.

The article points out that the South Vietnamese army is becoming less and less effective every day, so much so that there is now talk of the American Army undertaking the mission of the South Vietnamese army, first to conquer, and then to pacify the Mekong Delta.

If we are to do that—and I do not know whether we are or not, but the newspaper reports that it is under serious consideration—this will, I believe, mark the almost complete withdrawal from combat of the South Vietnamese army and the turning of the war into an exclusively American war—a situation which I very much deplore.

Mr. President, I ask unanimous consent that an article entitled "How Many Bridges Were There? Intensified Bombing Shaken Off by Hanoi," written by Ward Just, and published in the Washington Post of September 20, 1966, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INTENSIFIED BOMBING SHAKEN OFF BY HANOI—HOW MANY BRIDGES WERE THERE?

(By Ward Just)

SAIGON, September 19.—American pilots flew 117 missions over North Vietnam yesterday, hitting storage areas, bridges, railroads, trucks and roads. The bombing of the north is intensifying, often now exceeding 130 missions per day up to the record 171 missions one day last week.

A "mission may include anywhere from one to five aircraft, and the cumulative number over North Vietnam is greater now than at the peak of the air bombing during the Korean war. American military authorities have available about 1200 fixed-wing aircraft in Southeast Asia, from bases both in South Vietnam and in Thailand and from the Navy's three aircraft carriers on station in the South China Sea.

Each day, military briefers here release pilot reports of targets hit. Some of the definitions are vague ("staging areas") and others commonplace (road segments), and most have become routine—trucks, barges, POL (petroleum, oil, lubricants) storage areas.

The totals boggle the imagination. Literally thousands of trucks, barges, bridges and the like have been destroyed since the United States resumed bombing last Jan. 31. In the fortnight between Aug. 20 and Sept. 3, American military spokesmen announced that 344 trucks, 133 bridges, 481 barges, 133 railroad cars, and two locomotives have been destroyed.

As each day the bridges in North Vietnam came falling down, a journalist was moved to inquire how many bridges there were in North Vietnam. How many could there be if they were being destroyed at the rate of 133 a week?

It turned out that no one knew how many bridges there were in North Vietnam, only that the North Vietnamese were amazingly adept at repairing damaged ones. Military officials here point out that it is exceedingly difficult to knock down a bridge with a bomb. The hit must be direct and explode on the bridge itself. Often the bombs go through the bridge and explode relatively harmlessly underneath it.

OFTEN INACCURATE

Briefers here are careful to quote "pilot reports" in assembling information. These reports, which are visual, are often not accurate, due to the understandable tension of the moment and the fact that as one bomb hits, the debris obscures the area and the accuracy of the following bombs can only be guessed at.

In doubting the accuracy of pilot report, skeptics usually point to the celebrated Uongbi power station six miles north of Haiphong, Uongbi has been hit no fewer than six times, and each time reported "destroyed" or "damaged." But until the sixth raid the lamps remained on all over Haiphong. Now, military authorities say, the station is silenced, the lamps—or many of them—out.

What has interested many observers here is not the targets which are hit, but those which are not. These include the four major airfields of North Vietnam, including the largest, Phuyen, north of Hanoi, industrial complexes, including textile and chemical plants, hydro-electric power plants and the huge dam near Kepha, in northern North Vietnam.

The Hanoi regime has more than 100 Migs at its disposal, and these are kept at Phuyen, and at Kienan and Catbi airfields, both near Hanoi. The air war is growing greater over North Vietnam, yet there is no move to bomb the airfields (save, for some inexplicable reasons, the small field near Dienbienphu).

Two reasons are given, first, that the American pilots have more than proven their ability to deal with the Migs (19 shot down to date), second, that to destroy the airfields in North Vietnam might force the Hanoi regime to fly its planes from fields in Communist China, an arrangement which would present manifold political and military difficulties.

There are other military targets in Hanoi and Haiphong which are deemed too close to heavily-populated civilian centers. The dam is not viewed as a military target, and the Administration apparently does not have the stomach to smash what is called, with some exaggeration, the North Vietnamese "industrial establishment."

There are two types of bombing raids over the North, the strike and the armed reconnaissance ("armed recce"), and when the bombings began in earnest in February, 1965, almost all of the attacks were of the strike variety, with 30 to 40 aircraft hitting a preplanned target.

Now nearly all the attacks are armed recce, where a pilot has a target but approaches it in the spirit of a last resort. The pre-planned targets, given the terms of engagement in the North, are now very few. The POL areas, for example, are 60 to 70 per cent destroyed, and the POL that remains has been dispersed in 55-gallon drums in the cities.

SEEK OPPORTUNITIES

Most pilots now seek targets of opportunity, the truck convoy, barge train, pontoon bridge, possible Sam missile site. The big, fat targets like the POL storage areas are now all gone.

A third to a half of all missions in North Vietnam are now south of Vinh, in the panhandle north of the 17th parallel dividing North and South, and involve the interdiction of lines of communication—roads, bridges, barges.

Every day there is radar bombing in the Mugia Pass, one of the openings to the Ho Chi Minh trails leading to South Vietnam through Laos. There are often ten missions a day into the Demilitarized Zone along the 17th parallel, some of them B-52 strikes, hitting at fortifications and suspected staging areas.

It all requires enormous amounts of explosives: It took 11 missions by 40 airplanes last week to destroy a 50-car freight train near Hanoi. It was traveling on a track frequently and devastatingly hit by bombers, and yet it was still able to function, in part.

PRICE IS RISING

For this, the price is rising. Pilots are facing fire said to be as heavy as anything the Germans produced during World War II. In a single day not long ago, American pilots sighted 22 of the surface-to-air Sam missiles. The trick is to fly not too high (where the Sams are most effective) and not too low (where the ground fire from automatic weapons is most effective), but somewhere in a very small belt in between.

A total of 376 American aircraft have been lost in the North since February 1965. Many of the pilots have been recovered by the extraordinary efforts of the search and rescue helicopters, but many have not.

As for what good it has all done, military authorities here are cautious. The bombing has halted neither the infiltration of men or supplies. What it has done is made it immensely more difficult for the North Vietnamese to do now what they were doing before with ease.

Mr. CLARK. Mr. Just points out that if we add up the statistics which have been furnished the American people about the number of bridges which have been destroyed, the number of railroad cars which have been knocked out of commission, and the number of highways which have become inoperable, we find that the total amounts to about ten times the number of bridges, railway cars, and highways in Vietnam.

There is something wrong with the information we are being given, and I personally deplore very much the daily and, I think, the barbarous custom of reporting how many Vietcong were killed the preceding day. We find that the total over the years is astronomical.

We then find that, despite this wholesale slaughter, the Vietcong have more men under arms in South Vietnam now than they did a year ago. The same is true with regard to the North Vietnamese.

Both the search and destroy policy, and the bombing of the north, and of the south—where all too often we bomb our own people and destroy villages and kill helpless villagers—do not appear to be having any impact.

I speak as a neophyte, not as a military expert, but I have seen very little justification in the newspapers of the effectiveness of the bombings.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an article entitled "Big Step-Up in War Seen After November 8," written by Murrey Marder from Saigon, and published in the Washington Post of September 14, 1966.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BIG STEP-UP IN WAR SEEN AFTER NOVEMBER 8

(By Murrey Marder)

SAIGON, September 13.—A major, across-the-board expansion of the American war of effort in Vietnam is now regarded here to be doubly certain to take place after the November elections in the United States.

Plans have long been in the making for a considerable increase in the input of American fighting and reconstruction personnel with the acceleration becoming more evident by autumn.

By the reckoning in Saigon, these plans have gained important psychological reinforcement in the United States by the highly successful outcome of Sunday's election here.

American officials here were obliged to learn long ago that the level of their activity turned on the Johnson Administration's assessment of what was politically tolerable in the United States.

That level of American political acceptability is now expected to rise, facilitating the expansion of forces that officials here regard as necessary to their task.

Well-informed sources in South Vietnam expect a green light from Washington that will expand virtually every kind of American activity. The size of American forces engaged in both "spoiling" and search and destroy fighting and those available for clear and hold operations will be increased as will the economic, political and psychological aid required to expand the size and effectiveness of pacification and reconstruction work.

STRINGENT BAN

At the most authoritative levels here there is a stringent ban on discussion of future force requirements as a result of woeful past repercussions on that supersensitive issue.

But when the objectives are outlined they appear to point unmistakably toward between a 50 per cent and a 100 per cent increase in the more than 300,000 American troops already here.

Talk of any visible prospect for negotiations to end the war at this stage is wholly dismissed by even the officials here most inclined toward a political solution.

Instead, the direction of planning at this end is focused entirely on a great intensification of pressure on the Communist forces during the coming year. Only after the enemy has been pounded heavily and continually on all fronts, according to the minority who can even envision a negotiated end to the war, will there be any chance of bargaining on terms the United States might accept.

While satisfaction is widely expressed with the military progress so far, that is counterbalanced by two readily admitted factors:

While "spoiling" attacks have upset numerous intended enemy offenses, the most difficult military task of rooting out and destroying large enemy concentrations is still ahead. So is the bulk of the fundamental work needed to establish true security and stability in a wide area under effective control of the Saigon government.

POLITICAL-MILITARY CONFLICT

There is no illusion here that turning out a vote count of more than four million ballots on Sunday means that the back of the struggle has been broken. Now, more than ever, military and political officials are gearing up to pursue this political-military conflict with heightened force.

One American source assessed the situation today in what has become the current favorite formulation. He said the word to be stressed in Vietnam is not so much stability as evolution. South Vietnam, he said, is not going to be stabilized in the American sense of the word for a long time to come.

Mr. CLARK. Mr. President, God grant that that may not be true.

All this may seem rather remote from the nomination of Mr. Bowie. Perhaps it is.

As one Senator, I merely want to call attention to the trend which has taken us further and further away from initiatives toward peace and closer and closer to the day when our Government will come to the American people and say: "War is inevitable. We have done all we could. It was not enough. Gird up your loins. Batten down your hatches. World war No. 3 is just around the corner."

Mr. President, I yield the floor.

Mr. SYMINGTON. Mr. President, on July 11 this year, the President of the United States sent up to the Senate the name of Dr. Robert R. Bowie to be counselor of the State Department.

At present Dr. Bowie is professor of international relations and director of the Center for International Affairs at Harvard University.

He has had a rather extraordinary career. He is a graduate of Princeton University, receiving a bachelor of arts degree in 1931.

His law degree was earned at Harvard University in 1934.

Following a period in which he engaged in the private practice of law, he became assistant director of the office of the Maryland Legislative Council and thereafter, assistant attorney general of Maryland. In 1942, he entered the U.S. Army and was highly decorated for meritorious action during his period of service.

He has the Legion of Merit with an oak leaf cluster.

In 1945, after leaving the Army, he returned to Harvard as a law professor.

In 1948 he became director of the task force regulatory commission, Committee on Reorganization of the Federal Government.

In 1949 he was appointed consultant at the Department of State.

In 1950 he was appointed a Foreign Service reserve officer, chief of office of general counsel in Frankfort on the Main, Germany.

In 1951 he was a consultant to the U.S. High Commissioner for Germany.

In 1953 he was named a member of the planning board of the National Security Council, director of the Policy Planning Staff in State.

In 1955 he was Assistant Secretary of State for Policy Planning. On February 7, 1956, he was nominated by President Eisenhower to be Assistant Secretary of State. He appeared before the Committee on Foreign Relations under the chairmanship of the late, great Senator George, and testified at considerable length. Many of the present members of the Committee on Foreign Relations interrogated him at that time.

Mr. President, I ask unanimous consent that that much of the testimony of February 7, 1956, be inserted at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

NOMINATION OF ROBERT R. BOWIE

The CHAIRMAN. Are there any questions, gentlemen?

Senator GREEN. What parts of the world are you especially familiar with?

Mr. BOWIE. I am primarily familiar with Europe. As a student, and afterward, I traveled a good bit in Europe. I have been out in the Far East and in south Asia, but I am not as familiar with that area. I never lived there.

FUNCTION OF POLICY PLANNING STAFF

Senator GREEN. In the State Department, has your work been particularly with Europe?

Mr. BOWIE. No, sir. It is general. The Policy Planning Staff is responsible for, in effect, assessing the adequacy of the general line of our policy. It is not supposed to get into the details or the specific day-to-day issues, but rather to attempt to look at our basic policy in perspective and to try to anticipate the problems which are likely to develop, and try to assess the adequacy of the policy with respect to the different regions and the interrelationship between the policy in the different regions.

It is essentially an advisory staff. It does not have any operational responsibility. It has no responsibility to give orders to anybody. It reports to the Secretary, and it acts as an adviser to him.

Senator GREEN. Whom do you advise besides the Secretary himself?

Mr. BOWIE. The Under Secretary.

And I serve on the Planning Board of the NSC, where the material is prepared for the consideration of the National Security Council.

Senator SPARKMAN. Is that your present position, or is that the one to which you are appointed?

Mr. BOWIE. Both.

Senator SPARKMAN. That is right; you are serving already, are you not?

Mr. BOWIE. Yes, sir.

Senator SPARKMAN. In a recess appointment.

Mr. BOWIE. Well, I actually was appointed and started serving in May, I think it was, of 1953, and then the Secretary requested the creation of an additional Assistant Secretaryship last summer, and appointed me to fill that as a recess appointment.

Senator SPARKMAN. But to do the same work?

Mr. BOWIE. The same work; yes, sir.

The CHAIRMAN. Any questions, Senator Wiley?

Senator WILEY. No. I might have a few later. I understand Senator Knowland has some.

The CHAIRMAN, Senator HICKENLOOPER, do you have any questions?

Senator HICKENLOOPER. I will defer to Senator Knowland.

ASSIGNMENT IN GERMANY

Senator KNOWLAND. Mr. Bowie, could you tell us just what was your assignment in Germany, and what time period was covered? You mentioned that the first 3 years you were in Washington, and then, as I understood, a year or so in Germany.

Mr. BOWIE. I was in Germany twice, sir. I was there a year with General Clay.

Senator KNOWLAND. When was that?

Mr. BOWIE. About April 1945, until, I think it was, around March 1946, pretty nearly a year.

Senator MANSFIELD. Were you in the Army at the time?

Mr. BOWIE. I was in the Army at the time. I was—well, General Clay called me a "special assistant." I was sort of a handyman to do whatever jobs he passed me to do.

Senator KNOWLAND. Was it legal work, or just general?

Mr. BOWIE. No; that was just general work.

The second time, I was there with Mr. McCloy as a legal adviser.

Senator KNOWLAND. I see.

COMPULSORY REPATRIATION TO COMMUNIST STATES

At that time, did you take any position relative to the return of the Soviet citizens, or former soldiers, whom the Soviet Union was trying to get back?

Mr. BOWIE. I do not remember having any occasion, sir, to take a position, because as I recall it, this was governed by directives from Washington.

If you want my reaction to it, I was rather shocked at the fact we were using force to cause the return of people to the Soviet Union, but I had nothing to do with the policy.

Senator KNOWLAND. I see.

Were any memos written at the time, in your capacity, to either General Clay or to Mr. McCloy, on that subject?

Mr. BOWIE. Well, you see, sir my two periods of service were separate It was after the war, right after the war that I was there with General Clay. It was 1950–51 that I was there with Mr. McCloy. I do not recall, sir, any memorandum on that subject.

Senator KNOWLAND. While the directive may have been a Washington directive, I was wondering whether the Americans who were in Germany, having seen, as you well know, the protests and even the suicides that were being committed by the Soviet people who did not want to go back, had attempted to get a change in the directives from Washington, and whether any memoranda had been prepared giving the facts to Washington of this tremendous reaction on the part of the Russians that were being returned against their will?

Mr. BOWIE. That, sir, was not within the area of my responsibility.

Senator KNOWLAND. I see.

Mr. BOWIE. I have no personal recollection. On the other hand, I would feel sure there must have been reports to Washington by General Clay.

Senator KNOWLAND. But there were none to your knowledge, at least?

Mr. BOWIE. Not that I presently recall, sir.

COMPOSITION OF POLICY PLANNING BOARD

Senator KNOWLAND. Could you tell us how many members are there on the Policy Planning Board?

Mr. BOWIE. You are speaking within the State Department?

Senator KNOWLAND. Within the State Department first.

Mr. BOWIE. Well, it varies a little. Around 8, sir; around 8 or 9.

Senator KNOWLAND. Who are the present members, outside of yourself?

Mr. BOWIE. There is Mr. Fuller——

Senator KNOWLAND. Could you designate whom he is with? Do they come from different sections of the State Department?

Mr. BOWIE. No, sir; they are designated to this staff.

Senator KNOWLAND. I see.

Mr. BOWIE. As members of the staff.

Senator KNOWLAND. I see.

Mr. BOWIE. Charles Stelle, William Leonhart, Bert Mathews, Henry Owen, Richard Davis, Harry Schwartz, Carlton Savage.

Senator MANSFIELD. That is eight.

Mr. BOWIE. I think that is all.

Senator KNOWLAND. Are they selected by you, as Chairman of the Board, by the Secretary, or in some other way?

Mr. BOWIE. It is my job to find appropriate people, but before appointing them I always check with the Secretary.

Senator KNOWLAND. But the recommendation as to membership on the Board is normally yours?

Mr. BOWIE. Yes. There may be recommendations from other sources, which I will then consider and report on to the Secretary.

Senator KNOWLAND. On this other Board that you serve on with the National Security Council, how many constitute that planning staff?

Mr. BOWIE. Well, sir, I could not give you precisely; it is something on the order of 10, 10 or 11.

Senator KNOWLAND. Are they selected by the several departments, such as the Department of Defense and Department of State?

Mr. BOWIE. Yes; and they are designated by the President on the nomination of the various departments.

OPERATIONS OF POLICY PLANNING BOARD

Senator KNOWLAND. Going back to your Policy Planning Board in the State Department, could you give us a little something regarding its operations? Does it initiate recommendations? Do planning papers come down from the Secretary to the Board for study? Do they come from the various sections, such as the European Section, the Far Eastern Section, the Middle Eastern Section, to you, and then up to the Secretary? Could you give us a little indication as to how your Board actually functions?

Mr. BOWIE. Well, it operates in really each of the different ways that you have indicated.

Frequently the Secretary will ask us to study something and make a report to him. Sometimes we will initiate studies of our own. Some studies are a result of things which are on the agenda of the NSC Planning Board.

Other matters may involve joint work between the Policy Planning Staff and one of the geographical bureaus. Frequently we may have to comment on a draft speech of the Secretary, or something like that.

That, in general, is the way things originate.

Senator KNOWLAND. But the Board would then handle all matters of policy. It would not make much difference whether it affected South America, Europe, Asia, or any place in the world, as long as it deals with the foreign policy of our country. Is that substantially correct?

Mr. BOWIE. Yes, sir. The only point I would make is, when you say "handle," I don't want to give the wrong impression. We are free to advise with respect to any of these matters.

Senator KNOWLAND. No. I understand.

Mr. BOWIE. Yes, sir.

Senator KNOWLAND. Is the same thing true of matters coming before the United Nations?

Mr. BOWIE. These tend to be more channeled in the U.N. Section, headed by Mr. Wilcox. But I wouldn't suggest that we are not free, if we wish to make suggestions and comments in this area. But, by and large, those matters tend to be handled within the Department pretty completely by the U.N. Section.

Senator KNOWLAND. Now, specifically directing our attention to the recent so-called package deal involving the admission of Outer Mongolia and certain of the satellite states to the United Nations, did that come to the attention of the Policy Planning Staff?

Mr. BOWIE. Only as information. We didn't have any part in that.

Senator KNOWLAND. The Policy Planning Staff made no recommendation of any kind?

Mr. BOWIE. No, sir.

Senator KNOWLAND. Either that we vote affirmatively, or that we abstain?

Mr. BOWIE. No, sir. That was handled, as I said, primarily through the U.N. and through the top officers of the Department.

ADMISSION OF COMMUNIST CHINA TO THE U.N.

Senator KNOWLAND. Has the matter relative to the admission of Communist China into the United Nations come before the Policy Planning Board?

Mr. BOWIE. Not as a separate subject, sir. But inevitably in the work on the papers for the NSC Planning Board, the question of policy toward Communist China has been involved, of course.

Senator KNOWLAND. Could you indicate to the committee what your own views are relative to the admission of Communist China into the United Nations?

Mr. BOWIE. Yes, sir.

I have never advocated the admission of Communist China to the United Nations. It seems to me this is a matter which should be dealt with solely in terms of the advancing of United States interests. And as I see it at the present time, and under present conditions, United States interests would not be advanced by the admission of Communist China.

Senator KNOWLAND. What are the conditions which you believe should exist before you would be favorably disposed to the admission of Communist China? Has that been the subject of decision?

Mr. BOWIE. No, sir. We have not tried to anticipate the precise conditions under which a different point of view would be justified.

Senator KNOWLAND. Would the same answer hold for the recognition of Communist China by the Government of the United States?

Mr. BOWIE. Yes.

LEGAL STATUS OF FORMOSA

Senator KNOWLAND. What is your viewpoint relative to the legal status of the island of Formosa at the present time?

Mr. BOWIE. My responsibility, sir, is not in the legal field. What do you mean by the——

Senator KNOWLAND. Has there been a decision by your Board as to whether Formosa might be placed under trusteeship of the United Nations Organization eventually?

Mr. BOWIE. In our analysis we are dealing essentially with the question of what is the United States interest in this matter. We are quite clear it is in our interest to see to it that Formosa remains outside of the Communist control and in the hands of a free government which is friendly to the United States.

Senator KNOWLAND. Has there been a decision relative to the legal status of the offshore islands?

Mr. BOWIE. Well, I think, sir, my position is a little awkward here, because I have been serving in this position for 2½ years. I want very much to give you frankly my views, my own personal views. But the Secretary asked me to tell the committee, if the problem came up, that he had requested me not to discuss any advice which I might have given, or any of the activities of the National Security Council or of the Planning Board.

As I see it—your question was really, what recommendations had been made. I don't feel, under his instructions, I can answer that. If you wish to ask me about my personal views, I would be glad to try to do that.

Senator KNOWLAND. I will not press that point.

The CHAIRMAN. Senator Knowland, the Senate meets at 11 o'clock. Do you want us to proceed now, or ask Mr. Bowie to make himself available here at a little later hour?

Senator KNOWLAND. I would suggest 3 o'clock.

(Whereupon, at 11 a.m., the committee recessed, to reconvene at 3 p.m. of the same day.)

AFTERNOON SESSION

(The committee reconvened at 3:10 p.m. Present: Senators George (chairman), Green, MANSFIELD, Barkley, Wiley, HICKENLOOPER, Knowland, and AIKEN.

Senator GREEN (presiding). Mr. Bowie, welcome back.

Senator Knowland was questioning you when we adjourned and interrupted his questioning. We can go on from where we left off.

Senator Knowland, if you will proceed.

USE OF VETO TO KEEP RED CHINA OUT OF THE U. N.

Senator KNOWLAND. Continuing where we were this morning, I would like to ask if you could give the committee your views relative to the use of the veto by the Government of the United States and its representative at the United Nations, if a veto were necessary to prevent the admission of Communist China into that organization?

Mr. BOWIE. Sir, I really don't have any useful views on this. I have not really examined into the question. I know there is a difference of opinion among various people as to whether this is the kind of issue that we can use the veto on.

I simply have not checked into it, myself, this is not the kind of thing which would be in my responsibility; in fact, I never looked into it.

Senator KNOWLAND. The Policy Planning Board does not advise the Secretary of the Department of State on matters of this substance and importance?

Mr. BOWIE. It does not attempt, sir, to deal with the legal right to use the veto. That is dealt with by the Legal Division.

Senator KNOWLAND. Assuming there was no question on the legal right—I have heard arguments both ways on it, as undoubtedly you have—would the policy of using the veto normally come before your Board?

Mr. BOWIE. I can guess—I can only say, sir, so far we have not dealt with this issue. But, in all honestly, I should guess if this kind of issue became relevant, in practical terms, we might very well get into it.

Senator KNOWLAND. But you, at least, do I understand, have never advocated that this country should not use a veto if it came to that?

Mr. BOWIE. No, sir. I have never had occasion to deal with the subject.

Senator KNOWLAND. Have you taken a position on whether or not it would be advisable for this Government, through its Secretary of State, to meet with the Foreign Secretary of Communist China? If not, are there any conditions under which you think that that would be desirable?

Mr. BOWIE. I have never had occasion to take any position on the first part of your question.

Frankly, sir, this is another one of those cases where, if I were ever going to have to deal with it, I would have to deal with it in terms that seemed to me under all the circumstances to be in our interest.

I have never tried to formulate in the abstract any set of conditions which would seem to me to be necessary in order to make that in our interest; but I could not, in all candor, say that I would always oppose, no matter what the circumstances——

Senator KNOWLAND. I am not suggesting that either you would or should do that. I am merely trying to develop whether, up to this point, you have expressed yourself as being favorable to such a meeting, and whether you have suggested certain conditions precedent which should be carried out before the Secretary of State met with the Foreign Minister of the alleged government of Communist China.

Mr. BOWIE. No; I never have.

POSSIBILITIES OF TWO CHINAS

Senator KNOWLAND. Have you ever expressed yourself as to whether you believe it is feasible to have two Chinas represented in the United Nations? Would you care to indicate to the committee what your views on that subject are?

Mr. BOWIE. Well, if you wish me to express my personal approach to a problem like that, it would be this: As I said to you, I do not think that it is in our interest to have Communist China in the U.N. at the present time and under present conditions.

If, however, I felt that circumstances were going to develop in such a way that we might have the choice between having a one-China solution with Communist China as the only China, and having the possibility, on the other hand, of preserving the status of Formosa as a member of the U.N., even though Communist China came in, my own preference would be for the second solution.

Senator KNOWLAND. Of course, that is where the question of the legality of the veto and, if that were solved, the policy question of the use of the veto might come into the picture.

Mr. BOWIE. Yes, sir.

My understanding is, the problem of the veto would not arise with respect to, say, the General Assembly.

Senator KNOWLAND. Except that the question might come before the Security Council where it would be subject to a veto.

Mr. BOWIE. Well, I repeat, I am getting into an area which I have not investigated, but it was my impression that the General Assembly, if it chose, could seat a member, or not, according to its own decision.

Senator KNOWLAND. Well, that is the theory of one group who have suggested that it might be possible to bypass the Security Council. But there is another substantial body of opinion that feels you cannot so bypass the Security Council if it is indeed a substantive matter; and, of course, I think a very strong case might be made that the admission of Communist China is certainly a matter of some substance.

EFFECT OF VANDENBERG RESOLUTION ON USE OF VETOES ON MEMBERSHIP QUESTIONS

Proceeding on the veto situation, have you ever held the viewpoint that the passage of the Vandenberg resolution, relative to the use of the veto on the admission of new members, foreclosed the use of the veto by the United States?

Mr. BOWIE. Well, again, sir, this is not really within my general area. I have always felt that the problem of whether or not China took the seat was not essentially the admission of a new member, but the question of the credentials of a particular member; but this is not something on which my views would be primarily sought. I mean, this is a field in which Mr. Phleger, of the Legal Division, would be a person who would be expected to advise.

Senator KNOWLAND. My understanding of the Vandenberg resolution—and I had some discussions with Senator Vandenberg at the time—was that the United States would be

prepared to give up its veto on the admission of new members, provided all other nations would give up their use of the veto on the admission of new members. The intent was not unilaterally to disarm the United States in this area, while leaving the Soviet Union fully armed to exercise the veto. I think it was an effort to get a quid pro quo. We would be prepared to give up the veto in this particular case, if the other nations having the right to exercise it did also. So, since there was some discussion at the time of the package deal that the Vandenberg resolution would foreclose use of the veto by the United States, I did a little research on the background of the Vandenberg resolution.

POSSIBILITY OF RED CHINA RENOUNCING USE OF FORCE IN FORMOSA STRAIT

Has it been your viewpoint that we might be able to get from Communist China a valid renunciation of force in the area of the Formosa Straits?

Mr. BOWIE. Well, it has seemed to me worth trying, and it has seemed to me the only way to determine it was to see what, in fact, they did.

I was skeptical that it would succeed.

Senator KNOWLAND. Would you feel that it would be possible to advise the committee as to whether there has been any progress made in getting the Chinese Communists at the Geneva meetings to renounce the use of force?

Mr. BOWIE. Well, sir, you have seen what was published in the papers. I would prefer that you address that question to the Secretary, because he has personally been handling the direction of those negotiations.

TRADE IN STRATEGIC MATERIALS WITH RED CHINA

Senator KNOWLAND. What have been your views relative to the opening up of trade in strategic materials with Communist China?

Mr. BOWIE. Well, my view is that we should certainly not make available strategic materials to Communist China.

You know, the definition of what is a "strategic material" is not always agreed to by everybody. It has seemed to me in connection with the question of complete embargo, we had to weigh on the one hand the damage which we were able to do to China, and on the other hand, the possible damage to our allies through the insistence on the complete embargo. And it seems to me that the principle was to try to strike a balance there so that the level of restrictions is one which serves the net interests of the free world.

Senator KNOWLAND. Could you give the committee a thumbnail sketch, at least, of what your general views are as to what strategic materials would be?

Mr. BOWIE. I don't think so, sir. This is a highly technical subject, and I have not been engaged in the efforts to settle on the lists or to define the commodities.

This is really an area in which there are specialists who attempt to analyze the value to China and the value of trade by our allies, and I just do not feel competent, I would not feel competent, to express a judgment on any particular commodity without having expert advice.

POLICY PLANNING BOARD CONSIDERATION OF RED CHINA TRADE

Senator KNOWLAND. One may agree or disagree, but certainly the question of trade in strategic materials with Communist China, in the light of the circumstances in the Far East, is a very important question. They have been declared the aggressor in Korea.

Many people, at least some in our Government, I think, feel that the Chinese Reds are in violation of the terms of the Korean armistice, and have been making threats to take the offshore islands and Formosa by force of arms. They have been trespassing some in Southeast Asia. So it becomes a matter of high policy.

Would that subject not go to the Policy Planning Board of which you are the Chairman?

Mr. BOWIE. The general question of the approach to this problem is one with which we have dealt in the past, and would expect to deal in the future; and I tried to state the principle or the basis upon which my own approach would be based, namely, that we should try to establish a level which will restrict Communist China as much as possible without undue costs in its effects on our allies, in particular Japan, and countries like Malaya.

I would have to say, though, sir, that in the effort to set the general lines of policy, it has not been our task, and we could not possibly discharge it if it were, to analyze the specific effects of trade in particular items.

We only attempt to make recommendations, really, regarding what we think is the proper approach in balancing the various considerations involved in this problem.

There are people, specialists, who analyze for the Department and for Commerce, and for Defense, the significance of particular items to China and the importance of trade in particular items to allied countries.

Senator KNOWLAND. The Department of State, and the Policy Planning Board—it is assumed, perhaps, wrongly—keep abreast of the actions which Congress has taken from time to time in regard to matters affecting foreign policy. I refer particularly to two unanimous votes by both the House and the Senate against the admission of Communist China into the United Nations. I refer also to the provisions of the Battle Act, controlling the shipment of strategic materials to Communist countries and to the Far East.

I assume you are familiar with the fact that a committee under the chairmanship of Senator MCCLELLAN is now making a rather full inquiry into the shipments of strategic materials to Communist China.

Mr. BOWIE. I was not familiar with the last point, sir.

Senator KNOWLAND. But in any event, up to the present time, at least, it has not been your position that strategic shipments should be allowed to go to Communist China?

Mr. BOWIE. On the contrary, I think we should maintain a level of control which is compatible with the total interests of the free world.

Senator KNOWLAND. Of course, that gets to be, I am quite willing to agree, a matter of judgment on which honest men can have honest differences of opinion.

Mr. BOWIE. That is right.

Senator KNOWLAND. I can remember long before I came to the Senate, as a newspaperman, writing some editorials highly critical of the shipment of scrap iron and oil to the Japanese war lords in 1940 and 1941, almost up to the eve of Pearl Harbor, and some of it came back at us on the morning of December 7.

I think one of the concerns of the McClellan committee, of which I am not a member, and others who have gone into it, is that at the very time when there is still no peace treaty for the Chinese aggression in Korea, and when Chou En-lai, on behalf of the Chinese Communist regime, is making threats to take Formosa by force of arms, which would be contrary to our national policy, as you pointed out, there might be in fact a loosening of the shipments of strategic materials which we might find being used against American forces in that part of the world. I assume the Department is fully alive to the seriousness of that matter.

Mr. BOWIE. I believe so, sir.

Allies trade in strategic materials with Communists

Senator KNOWLAND. Have you made any recommendation on loosening the trade restrictions on strategic materials among some of our associates in the Pacific, such as Japan?

Would that come within the purview of your Policy Planning Board?

Mr. BOWIE. I am afraid perhaps this question suggests that I may have misunderstood the tenor of your previous question. If your previous question was addressed to the issue of whether or not the United States should relax its controls on United States trade with Communist China, I see no reason why we should relax them at all at this time. It seems to me obvious that our economy can easily withstand the restrictions such as now imposed.

I apparently misunderstood. I thought you were talking in the previous question about the problem of the controls of allies under the Battle Act.

Senator KNOWLAND. I was referring to both, as a matter of fact.

Mr. BOWIE. I see.

I thought I covered pretty much my view on controls in the answer to what I understood to be the previous question. Namely, it seems to me, in taking full account of the undesirability of building up China's military capability, we still have to take account of the impact on countries like Japan, of certain forms of restrictions.

I am not talking about, really, any munitions or anything of that sort, but there are—the Japanese, at least, strongly believe there are forms of trade which they can engage in which do not have, as they see it, relative strategic significance.

DETERMINATION OF CONTROLS ON STRATEGIC MATERIALS

Senator KNOWLAND Let's get a little specific along that line.

Would steel rails fit into that category?

Mr. BOWIE. Well, sir, I just must repeat, I have no competence and I make no pretense of competence in judging particular items. The point I am making does not bear on particular items. It is a question, really, of whether there are any commodities which Japan might be able to trade in, nonmilitary, completely nonmilitary or not necessarily of any military significance, where the loosening of the control would give benefits to Japan which would outweigh the disadvantages which might result in terms of strengthening China.

All I am suggesting, really, sir, is that I do think that in connection with something like the restrictions on trade with China, you have to take account not only of the damage you do to China, but of the costs in terms of the damage you may do to your allies, like Japan, and to countries like Malaya.

I think that it is an equation which we must try to balance, giving full weight to the point you make, and at the same time trying to estimate whether the damage to your allies or to the other free world countries, from the maintenance of the particular level, is greater than the amount of injury you may do to China.

Senator KNOWLAND. I think trade in strategic materials is a matter which ultimately, either in the foreign aid program or by some other means, the Congress itself may be deeply interested in.

You are chairman, as I understand it, of a Board which will advise the Secretary of State on high policies of the Government in the field of foreign relations, and you are before the Senate for the first time for confirmation, to which our consent is required by the Constitution.

DEFINITION OF STRATEGIC MATERIAL

Regardless of the fact that you may not in the first instance draw up the list of strategic materials, which I fully understand because you have technical experts doing it, when it gets up to the point whether only guns, war

planes, and ammunition are strategic materials, or whether steel rails, locomotives, boxcars, and trucks by which an otherwise immobile army might move down to the area opposite the Formosa Straits are strategic materials, it becomes a high matter of policy, whether you are filling that job or whether somebody else is filling it, and your concepts of those questions are relevant.

I would like to explore with you as to whether or not you would classify such things as locomotives, steel rails, trucks, airplane engines as being strategic materials, as you generally understand the term, or whether you limit the term to military equipment of the type of tanks and guns and combat planes.

Mr. BOWIE. The answer to the second part of that is "No." I think nobody suggests that we are only talking about military equipment.

I think it is generally agreed that we are talking about things which would increase the military potential.

Certainly the list—and I certainly am not familiar with this in detail, but as I understand it, the list which applies to the Soviet Union includes a good many things over and above military items.

Nobody I have ever heard on the problem, foreigners or Americans, has suggested the idea of reducing the list against China so that it would not include all the items which are included against the Soviet Union. It is really a question only of whether or not there are items which would be of such importance to countries like Japan, and that could be considered to be of less importance to a country like Communist China in terms of its warmaking potential, so that the balance should be struck to allow trade in some of those items.

I am sorry, sir, but I do not have the knowledge or the competence to permit me to say what items those would be.

One factor which makes it very difficult is, of course, that China today can get a good many of these items which can be imported by the Soviet Union, that is, that are not included on the Soviet list, by transshipment from the Soviet Union. In these cases where the China list exceeds the Soviet list, it is not mainly a question of being able to deny them to China.

It is primarily a case of imposing additional burdens on China by making them pay the costs of transshipment, and so on.

Now, these issues involve very difficult problems of economic analysis and of judgment as to the actual significance for China of particular items. I am not talking about military items. Everybody agrees on that. Nor am I talking, really, about the items which relate to the military base of China.

But certainly there are items where there is room for dispute or discussion as to whether, on balance, the harmful impact on our allies is greater than the net advantage you get from denying them to China.

CONTROLS ON TRADE OF FREE-WORLD NATIONS

Senator KNOWLAND. But you will agree, will you not, that it does not do very much good for the United States to foreclose shipments to Communist China if those same items, or substantially the same items, flow to China as though through a sieve through our allies? All we are doing in that case is to deny American business and labor a chance to participate in the trade which we are in fact encouraging and abetting our associates to undertake.

Mr. BOWIE. But it still seems to me there might be a case to be made for this position, because the justification, to which I referred, would be the damaging impact on our allies of denying them this opportunity for trade.

Certainly the United States does not need this opportunity, and to the extent that you open the trade up to our people you only lessen the benefit which may go to the people on whose account you are trying to balance the equation.

The second thing is, again, I am no expert, but I have been told that in many ways the most important thing to China might well be the opening up of the United States market for disposition of some of its commodities. So you may very well be able to exercise considerable control over China by depriving it of the United States market.

So that I would not agree, therefore, that even if one decided that it was desirable to allow the CHICOM list to be modified to permit trade between, say, Japan and China in some items, which are not thought to be of strategic significance, that would necessarily justify a similar relaxation of United States control.

NO CONSIDERATION OF U.N. PACKAGE DEAL BY PLANNING BOARD

Senator KNOWLAND. Did I understand you to say in one of your answers to a question this morning that the question of the package deal relative to admission of Outer Mongolia and the satellite states to the U.N. had never come up for discussion in the Policy Planning Board of which you are a member?

Mr. BOWIE. That is my best recollection, sir. Certainly we did not have any real role in the decisions which were taken at that time.

Senator KNOWLAND. I see.

Do I understand that the recommendation, if there was a recommendation, to the Secretary and to Ambassador Lodge and the United States delegation to the U.N. would have come up from the division dealing with United Nations affairs of which Mr. Wilcox is presently the head, or at least the man in charge?

Mr. BOWIE. That would be the normal course, sir.

Now, I cannot speak from personal knowledge as to whether that was the actual course.

Senator KNOWLAND. But in any event, you, yourself, made no recommendation whether we should use the veto or whether we should abstain, on the first package deal which included Outer Mongolia, and the second package deal which included the satellite states minus Outer Mongolia, which was adopted with the United States abstaining.

Mr. BOWIE. That is my recollection, sir.

Senator KNOWLAND. I have no other questions at the present time.

Senator MANSFIELD. Mr. Chairman.

The CHAIRMAN. Senator MANSFIELD.

Senator MANSFIELD. Mr. Secretary, in this matter of Japanese trade with China, is it not true that even during the course of the Korean war, General MacArthur allowed a certain amount of trade to be carried on between those two countries?

Mr. BOWIE. Well, I can't speak from personal knowledge, sir, but that may well be. I do not know.

Senator MANSFIELD. You have no knowledge of it?

Mr. BOWIE. No.

FUNCTION OF POLICY PLANNING STAFF

Senator MANSFIELD. What, for the record, is the title of the department which you head?

Mr. BOWIE. You mean the Policy Planning Staff?

Senator MANSFIELD. Yes. Is it your job to make assumptions and to try to come up with answers to questions which you and your staff think may arise throughout various parts of the world?

Mr. BOWIE. Yes, sir.

Senator MANSFIELD. When you make these assumptions, and arrive at possible answers, who makes the final decision?

Mr. BOWIE. The Secretary of State.

DEPARTMENT OF COMMERCE ROLE IN DETERMINATION OF TRADE CONTROLS

Senator MANSFIELD. In the matter of trade, does the Department of Commerce, through its Foreign Trade Division or some such similar organization, play a more important part vis-a-vis embargoes, boycotts, and the like, than does the Policy Planning Staff of the State Department?

Mr. BOWIE. There is no question about that, sir. Yes.

Senator MANSFIELD. What individual is in charge of that particular division in the Department of Commerce?

Mr. BOWIE. Well, I cannot speak to that from personal knowledge. I have seen various individuals from time to time, but I don't know who has charge of it.

Senator MANSFIELD. There is no individual from the Department of Commerce in this particular field who serves with you on the NSC?

Mr. BOWIE. No. From time to time when an issue dealing with the general approach to trade controls arises, a representative of Commerce will come to the Planning Board and present their point of view or give a briefing or otherwise deal with it, but there is no regular member of the Commerce Department sitting.

RESPONSIBILITIES OF PRESIDENT AND SECRETARY OF STATE FOR FOREIGN RELATIONS

Senator MANSFIELD. Mr. Bowie, under the Constitution, is it not the responsibility and the obligation of the President of the United States either to recognize or to withdraw recognition from countries?

Mr. BOWIE. That is my understanding, sir.

Senator MANSFIELD. In that respect, I assume he is usually advised by the Secretary of State, who of course is his agent in the conduct of foreign policy.

Mr. BOWIE. I would assume so.

Senator MANSFIELD. And would it not be true that the same assumption would apply to our position on the admission of new countries to the United Nations? In that particular instance, I gathered from what you have said in answer to Senator Knowland's questions, that this would very likely be discussed, not only with the Secretary of State, but also with the bureau within the State Department having to do with United Nations affairs.

Mr. BOWIE. And I am sure many other parts of the Department, as well as the U.N. Division. I mean, the regional bureaus and others.

Senator MANSFIELD. That is all, Mr. Chairman.

The CHAIRMAN. Any further questions?

Senator WILEY. Mr. Chairman, I want to ask a few questions.

I am sorry that I missed the examination by Senator Knowland.

This is a very interesting phase of our Government that we have gotten into here. Let us assume a concrete case.

You are the Chairman of the Policy Planning Staff?

Mr. BOWIE. Yes.

LOW PLANNING STAFF WORKS

Senator WILEY. Your function, given a certain set of world facts, is to come up with certain recommendations to the State Department; correct?

Mr. BOWIE. To the Secretary of State.

Senator WILEY. Yes; the Secretary of State. And he, of course, would then make them to the Chief Executive.

Now then, let us take, for the sake of illustration, Cyprus. There we have a situation in which our Ally, the United Kingdom, is having considerable trouble not only with the Greeks, but with the Turks. The British consider Cyprus a very valuable defensive rampart for the Empire. Do we consider in relation to such cases, above everything else,

the question of the self-preservation of the American people and the Republic? Is that not the basic idea or principle that we have to think about?

Mr. BOWIE. Yes, sir. Certainly in our thinking, we start from the question of what is in the United States national interest; and then we try to analyze how particular sets of circumstances, particular situations, bear on that interest. And as in the case you have indicated, unfortunately, many times we have conflicting situations and have to strike a balance between the necessity of maintaining our defensive posture and alliances in relation to Britain on the one hand, with the problem of trying to maintain our traditional support for self-government on the other; and it is, over and over, a problem of trying to strike a balance which we conceive to be in the United States national interest on the basis of these different considerations.

May I make one other comment here. I want to leave the right impression as to the relative importance of this job. I do not want in any way to suggest that it is not an important job. I think it is. But it would be a grave mistake if you thought that the Secretary of State was getting policy recommendations only from the Policy Planning Staff.

Each of the regional offices, as to its own area, and the functional offices like the Economic Division, the U. N. Division, the Legal Division, all participate in the policymaking function.

Senator BARKLEY. Together, or separately?

Mr. BOWIE. Well, both, sir. We may come up with joint proposals, or we may sharply conflict among ourselves as to what we recommend, and then it is up to the Secretary to conclude what he thinks is the proper answer.

The only point I want to make, sir, is that I think our function is an important one, but it is not to try to make recommendations on every problem, because there are just too many problems, and we have only got a staff of about 8 or 9 people. Our task is to try to pick out those areas or those problems which seem to us likely to have a long-run effect, and where the decisions may be more important for the general direction of United States policy, and to try to assess the adequacy of our policy as a whole, for the circumstances that we face.

But in terms of the actual policymaking within the Department, ours is only one part, and it is complemented or it complements the recommendations and studies by each of the regional divisions and by the other functional divisions.

GLOBAL FACTORS CONSIDERED IN MAKING RECOMMENDATIONS

Senator WILEY. May I carry on with a specific situation, because these things interest me and because I feel that too many of us get what you might call a localized view in a contracted globe?

Let us go to Cyprus again. All you are doing is to try to anticipate what is best for the future for the Government of the United States and our allies; is that right?

Mr. BOWIE. Yes, sir.

Senator WILEY. But all those facts have to be considered.

Mr. BOWIE. Yes, sir.

Senator WILEY. And in considering them, you do not consider only the local facts? You consider the situation in Africa, and over in the Far East. They are related matters; is that right?

Mr. BOWIE. Yes, sir.

Senator WILEY. I guess all you do is do what the rest of us are trying to do, which is to see the light around the corner of tomorrow, and it is a pretty dark corner.

Have I got a picture now of your activity?

Mr. BOWIE. Yes, sir.

Senator WILEY. You have not any decision to make.

Mr. BOWIE. No, sir.

Senator WILEY. You just recommend.

Mr. BOWIE. Yes.

Senator WILEY. All of us have in our offices persons whom we call in and ask for their judgment on a certain thing.

Mr. BOWIE. Yes, sir. I think the purpose of the Policy Planning Staff when it was created was to try to bring a little more perspective into the policymaking processes, both on the impact of actions in different areas, the point you were making about the interrelation of so many things we do; and second, to try to look a little further ahead in trying to anticipate what would be the results of particular policies, and what problems we may have to face as a result of developing tendencies or trends.

I think if we make a specific or separate or different contribution, it is so far as we are able to bring a little wider geographic point of view than some of the geographic bureaus, and I intend no criticism of them; and also bring a somewhat little longer range view in terms of time.

In both cases, the effort is to project a little wider perspective into the making of our policy.

FUNCTIONS OF REGIONAL BUREAUS OF STATE DEPARTMENT

Senator BARKLEY. You speak of these regions. You have down there a division or bureau on European affairs?

Mr. BOWIE. European Affairs, and Latin America, and Near East.

Senator BARKLEY. How many of those bureaus are there?

Mr. BOWIE. We have four principal regions.

Senator BARKLEY. If any problems arise in any one of those regions, you ask the head of that division down there to look into it and to come up with some suggestion to your Planning Bureau in regard to that region?

Mr. BOWIE. Well, or we may work with him in trying to——

Senator BARKLEY. He may come in and sit with you?

Mr. BOWIE. Yes.

Senator BARKLEY. And discuss those things in that region.

Mr. BOWIE. Yes.

Senator BARKLEY. But there may be things in that region which also affect another region, so you work along with all these regional divisions to try to come to an overall conclusion as to what you recommend to the Secretary of State?

Mr. BOWIE. Yes, sir.

Again, I want to emphasize that each of these regional divisions, of course, has direct access to the Secretary, and can present its point of view, so we are not any bottleneck or in any way foreclose the presentation of different points of view.

But we do attempt, as you say, to try to see whether we can take account of the different points of view and try to strike a reasonable balance.

Senator KNOWLAND. Do you make use of various universities in certain area studies in your Policy Planning Board?

Mr. BOWIE. We have not commissioned any, but various studies are made by a whole group of different agencies, and we try to take advantage of them.

Senator KNOWLAND. Do you consult with experts outside of the Department when you have a particularly knotty problem?

Mr. BOWIE. We have not done as much of this outside the Government, as I think would be desirable. I simply have not been able, in terms of time, to work out as much of this as I think would be useful.

Senator KNOWLAND. In the field of far eastern affairs, for example, does the Policy Planning Board consult or has it consulted with Mr. Owen Lattimore on far eastern problems?

Mr. BOWIE. No.

Senator KNOWLAND. In going back to the problem of the return of the former Soviet citizens from Germany, you said you had no part in that decision and that it had come from Washington. Your personal reaction was rather a shocked one that people had been forced to return and that there were so many suicides.

MORGENTHAU PLAN

Did you deal with the so-called Morgenthau plan? Was that in your province when you were there with General Clay and Mr. McCloy?

Mr. BOWIE. I had no connection, sir, with the policy toward Germany until General Clay asked me to go with him in about March of 1945, and I know nothing about the Morgenthau plan, as such, except what I read in the newspapers or subsequently read about it.

We were governed by a JCS document, I think it was 1067, which had been prepared in Washington by the Departments of State, War, and I guess Navy. So I had never had any contact with the Morgenthau plan, unless you mean that JCS 1067 had features which you would consider resulted from the Morgenthau plan.

Senator KNOWLAND. You had nothing to do with the preparation of JCS 1067 when you were at the Pentagon before going——

Mr. BOWIE. No, sir. I think I was at the Pentagon simply to be briefed for about 2 weeks, before leaving for Germany in 1945. When I had been at the Pentagon before, I was working entirely on procurement matters.

Senator KNOWLAND. I see.

Mr. BOWIE. Before the assignment in Germany, General Clay took me over with him to the Office of War Mobilization, under Mr. Byrnes, for about 3 months, I think it was from December of 1944, until about February or March 1945, and then General Clay was designated to go to Germany. He asked me to go with him, and I had about 2 weeks or so, maybe a little more or less, back in the Pentagon, simply being briefed about the work which had been done.

I think JCS 1067 was then in preparation, but I had no part in its preparation.

Senator KNOWLAND. I have no further questions, Mr. Chairman.

The CHAIRMAN. Any further questions by any member?

FULL-TIME NATURE OF ASSIGNMENT

Senator AIKEN. I have been trying to follow the discussion since I got here, and find out just what Mr. Bowie's job is.

How much time does it take? Is it full time?

Mr. BOWIE. All the time I have got, sir. I get to the office at 8 and leave about 7 or 7:30.

Senator KNOWLAND. Like a Senator's hours.

Senator AIKEN. A professor of law at Harvard, too?

Mr. BOWIE. I am not a professor of law at Harvard, too.

Senator AIKEN. It says since 1945.

Mr. BOWIE. Yes, sir; but I was on leave of absence when I came down here.

Senator AIKEN. That is what I wanted to find out.

Mr. BOWIE. And last year, since the university has a strict rule that it will not grant leaves of absence for more than 2 years, and at the request of the Secretary, I resigned as professor of law at Harvard.

Senator AIKEN. This is a full-time job?

Mr. BOWIE. That is right.

Senator AIKEN. And as I read this description here, I gather it is sort of a brain trust of the State Department that advises the Secretary.

Mr. BOWIE. Well, it attempts to advise the Secretary, sir, and as I said, perhaps before you got in, it is engaged in an effort to look at our policies as a whole, and to get perspective on them in terms of areas and in terms of time, and to criticize them as to their adequacy and to try to foresee problems.

TYPE OF MATTERS STUDIED BY POLICY PLANNING STAFF

Senator AIKEN. For instance, did you have any part in the decision not to extend greater military assistance to the French in North Vietnam a year or so ago, or was that purely a military decision?

Mr. BOWIE. I am not sure, sir, of the decision to which you refer. I am concerned, however, that we are getting into the area which I was asked by the Secretary not to get into, namely, the discussion of actual deliberations in the executive branch.

Senator AIKEN. Well, in deciding whether to extend greater military assistance to Dien Bien Phu and the French in North Vietnam, was your Policy Committee concerned in that?

Mr. BOWIE. Well, sir, we were concerned very much in the general problem of how to salvage the situation in South Vietnam.

Senator AIKEN. In North Vietnam, that is where the decision was made not to——

Mr. BOWIE. I misspoke myself. I mean in Vietnam.

Senator AIKEN. Not to contribute greater armed forces and not to become involved in there in a military sense. Do you consider matters like that?

Mr. BOWIE. As I said, sir, before you came, or I guess it was this morning—the Secretary asked me to tell the committee that he had instructed me not to discuss the handling of actual decisions within the executive branch. This kind of question, sir, is one kind of question which we do consider.

Senator AIKEN. We know there was a difference of opinion as to whether we should put armed forces on the Asiatic mainland in greater numbers than in an advisory way.

You would not want to say whether you, in your Policy Committee, considered the action a year ago when the President asked the Congress to back him up in handling the crisis in the straits near Formosa? Would you consider things like that?

Mr. BOWIE. Yes, sir; we would consider that type of thing.

Senator KNOWLAND. I wonder whether it would be helpful, keeping in mind the instructions from the Secretary of State you came up here with, which I certainly think are proper ones, and without getting into the recommendations of the Policy Planning Board if you could indicate for the enlightenment of the committee the types of recommendations submitted in the last couple of months.

For instance, would they deal with trade, the Geneva meetings which were held, both at the summit and the subsequent Foreign Ministers meeting, or the Formosa question? What types of issues come up?

Mr. BOWIE. I will try to answer that, sir, within the framework I have been instructed.

For example, we participated in preparations for the discussions at the summit meetings, and for the Foreign Ministers meeting. As you can imagine, that covers a whole range of subjects.

We have worked on the subject of disarmament, which is under study by Mr. Stassen, and we have participated in the Department on that subject.

Senator KNOWLAND. Does he make use of your Policy Planning Board?

Mr. BOWIE. Not directly, sir. Our advice is given to the Secretary of State. Actually, Mr. Stassen requested that a person be supplied for his staff from the Department of State, and one of my men was actually made available, but he is on loan.

Senator KNOWLAND. I see.

Mr. BOWIE. We have, for the Planning Board, the NSC Planning Board, been working on a review of the basic national security policy paper which attempts to set the general framework of our policy.

We have worked on papers for specific areas, such as the general policy toward Yugoslavia. We have worked on matters related to the talks with Eden, and some of the problems which were connected with that.

We have from time to time, either by commenting or otherwise, participated in work on such matters as major policy speeches of the Secretary, the State Department contribution to the state of the Union message, and that type of thing.

In general, since our resources are limited, we try to avoid becoming involved in the day-to-day decisions. We try to confine ourselves to those things which seem to have a broader significance.

It is not always easy or possible to do that, but we try to do it.

We worked recently, also, on the problem of an international agency for peaceful uses of atomic energy.

Many of these things are done in cooperation with or in conjunction with other parts of the Department. So I do not mean to imply that we are the sole people in the Department dealing with these things which I have enumerated.

Senator KNOWLAND. Yes; that answers my question.

Senator WILEY. You are a diagnostician of the facts and the conditions as you see them. If the patient is sick, you try to get at the sickness and you make your suggestion on the remedy, but you do not prescribe it.

Mr. BOWIE. That is right, sir.

Senator WILEY. All right.

The CHAIRMAN. If there are no further questions, Mr. Bowie, we thank you very much, sir, for coming down here.

Mr. BOWIE. Thank you, sir.

Mr. SYMINGTON. Mr. President, at that time many letters were put in the RECORD praising the accomplishments up to that point of Dr. Bowie. There was one letter against him, which I think it would be in order to read at this point:

SENATOR LYNDON JOHNSON,
Senate Office Building,
Washington, D.C.

DEAR SIR: My wishes are that you do all in your power to see that Mr. Robert Bowie is not appointed Assistant Secretary of State.

Reason for this is that Mr. Bowie favors the continuation of the United Nations and the placing of the United States under a world government.

Respectfully,

BRUCE DUNN.

Mr. President, as everybody knows, some of the major positions in the State Department presently are not occupied.

On July 11, the President of the United States sent to the Senate the name of Dr. Bowie to be Counselor of the State Department. Over a month later, the Senate Committee on Foreign Relations took the matter up, Dr. Bowie appeared and was questioned at considerable length by the committee on August 16. The questioners included the chairman of the committee, Senator FULBRIGHT, Senator GORE, Senator CHURCH, Senator CLARK, Senator PELL, Senator CASE, and myself.

I ask unanimous consent that most of that testimony, on Tuesday, August 16, be inserted at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

NOMINATION OF ROBERT R. BOWIE, OF MASSACHUSETTS, TO BE COUNSELOR OF THE DEPARTMENT OF STATE, TUESDAY, AUGUST 16, 1966

The CHAIRMAN. Mr. Bowie, will you, for the record, state briefly the background of your experience. You have been associated with the Government before I believe?

STATEMENT OF ROBERT R. BOWIE, OF MASSACHUSETTS, NOMINEE TO BE COUNSELOR OF THE DEPARTMENT OF STATE

Mr. BOWIE. I was educated at Princeton, and at the Harvard Law School. I practiced law from 1934 to 1942 in Maryland and served there as an assistant attorney general. Then I went into the Army for 4 years and served in the Pentagon, in procurement legal work. After the war for a year (1945–46) I was still in the Army with General Clay who was Deputy Military Governor in Germany. Then I went to the Harvard Law School to teach as a professor of law, until 1950, and then for 2 years I was in Germany with Mr. McCloy, 1950 and 1951, as his legal counsel and adviser. Then I went briefly back to law school, and in 1953 I came down to the State Department as the head of the Policy Planning Staff where I remained until August 1957. Since 1957 I have been at Harvard as the director of the Center for International Affairs.

The CHAIRMAN. You were in the State Department from 1953 to 1957?

Mr. BOWIE. Yes, sir.

The CHAIRMAN. And you were Director of the Policy Planning Staff, all during that period?

Mr. BOWIE. Yes, sir.

The CHAIRMAN. That was during the period of Secretary Dulles, I believe?

Mr. BOWIE. Yes, sir.

Agreement with policies of Secretaries of State

The CHAIRMAN. Is it fair to say that during this period you would not have occupied such an important position if you had not agreed fundamentally with Secretary Dulles? Does your willingness to return to the Department in an equally important position under Secretary Rusk mean that you see little difference between the policies of Mr. Rusk and Mr. Dulles? Or have you changed your policies?

Mr. BOWIE. Well, I think I would have to answer the question first by rephrasing it, sir.

My conception of the role of a Government official is a man who tries independently to give the best advice he can. When Mr. Dulles, whom I had never known, asked me to come down and head the Policy Planning Staff, I told him that I would only be interested in doing so if he wanted someone who was independent and prepared to speak his mind. He said that was perfectly satisfactory, that was what he wanted.

My conception of the role of Policy Planning Staff was mainly as a critic of policy, a group within the Government whose function was constantly to reappraise and ask questions and to make proposals. And that is the way I tried to conduct the office.

So that obviously meant that part of the time I was in disagreement with the policies which were followed.

My feeling was that I was entitled to remain as long as I felt I was getting a fair hearing for my views, and an opportunity to state what I thought.

I had that opportunity through the period which I was there. It does not mean my views were always adopted, by any means.

Similarly, if I come into the Department now, I would expect to play the same kind of role. I would expect to be my own man,

and to speak my mind on policies, and to remain only as long as it seemed useful to perform that kind of role.

Obviously I feel that the general direction of our policy since 1945 or 1947 is one which I have supported. I served under Mr. Truman. I thought his policies were sound. I served under the Eisenhower administration, and generally thought the broad lines of the policy were wise or sensible, and similarly I think broadly speaking the general lines of the policy now are sensible. That doesn't necessarily mean agreement with certain aspects under any of these administrations.

Comparison of present Far East policy with that of Eisenhower

The CHAIRMAN. Do you feel that our present foreign policy, particularly in the Far East, is consistent with that of General Eisenhower?

Mr. BOWIE. My goodness, sir. The situation today is 15 years removed, or 12 years removed from what I saw then. It seems to me the situation is very different than it was then.

As I understood the policy then, it was that it was necessary to contain China, and to try to build up other elements in the non-Communist part of the Far East. It seems to me basically that is the strategy today. I think that is a necessary strategy.

The CHAIRMAN. You see no difference in the Eisenhower policy in 1954 and 1955, and our policy now?

Mr. BOWIE. I didn't say that, sir.

The CHAIRMAN. What do you say? I thought you meant that the policies were consistent.

Mr. BOWIE. What I said, sir, was that it seemed to me that General Eisenhower's policy, as I understood it, was to try to see that China did not dominate the area, and do what was necessary to deter it from doing so, and second to try to build up Japan and the other areas around China, by more positive kinds of action, with the hope that they would gradually be able to redress the balance in the Far East. In that sense, the sense of the basic goals, it seems to me there is a continuity.

U.S. consideration of sending troops for French effort in Vietnam

The CHAIRMAN. President Eisenhower was not willing to respond with troops when he was requested to do so in southeast Asia, was he? He turned down that request from the French, did he not?

Mr. BOWIE. The French never requested it under terms that he was prepared to contemplate, as I recall it.

The CHAIRMAN. That is an equivocal answer. You say "under terms." Did the French request troops at all?

Mr. BOWIE. I don't remember that they did, sir.

The CHAIRMAN. Let us put it this way. Sending troops was discussed and was considered, wasn't it?

Mr. BOWIE. Yes, sir. The United States would not consider bringing any forces into the area as long as the character of the operation was such as to seem to be an effort to reimpose a French colonial regime.

The CHAIRMAN. Would you repeat that, please? I lost you for a moment.

Mr. BOWIE. In the discussions in the U.S. Government, one of the basic points was that the United States would not associate itself with the French effort as long as that was politically not on the basis of really bringing about an independent Vietnam, but had overtones of restoring a French domination in the area.

Senator CHURCH. Mr. Chairman, may I ask a question at this point?

The CHAIRMAN. Yes, indeed.

U.S. assistance to French effort in Vietnam

Senator CHURCH. I don't quite understand your response to the chairman's question, because we had financed or help finance the French effort for some time prior, had we not?

Mr. BOWIE. Yes, sir.

Senator CHURCH. Knowing that the effort had overtones of maintaining French colonial control in Vietnam, didn't we put in $1½ to $2 billion?

Mr. BOWIE. Yes, sir.

Senator CHURCH. Did you approve of that?

Mr. BOWIE. Yes, I did. I thought that it was sort of a last ditch kind of effort.

Senator CHURCH. You thought this was a place where French colonialism should be sustained by force?

Mr. BOWIE. No; it was the choice among alternatives.

Senator CHURCH. That is all.

The CHAIRMAN. Senator HICKENLOOPER, do you wish to ask any question?

Senator HICKENLOOPER. No questions.

Concept of an integrated Europe

Senator CHURCH. Mr. Bowie, in October of 1963, you wrote an article in Foreign Affairs, entitled "Tensions Within the Alliance."

You wrote:

"In the United States in the efforts to organize the West, the position of Britain and its policies since 1950 has on the whole been a disruptive factor. Britain did not share the concept of an integrated Europe."

And in the same article, you then went on to say, with respect to France, "whereas the strains which we have been discussing are largely inherent in the attempt to construct an integrated Europe, and in a partnership, General de Gaulle's policies challenge the very concept itself."

Now, if Britain and France are opposed to our concept of an integrated Europe, as these quotations would seem to suggest, is the concept practical?

Mr. BOWIE. Well, it seems to me you have to go back a litle further. It is not merely our concept. The concept originated with Schuman in 1950, and it was a French concept. It was based on the idea that Europe could not play the kind of part that it wanted to on the basis of the separate nation states, and second, that Europe could only be effectively made into some kind of a unit on a basis of essential equality among the participants. And the great step of Schuman, which I think will make him a place in history, was that he saw this point 5 years after the war, and was prepared to go forward on the basis of the Schuman plan toward a construction which was essentially designed to bring the European states together, bury the old rivalries, and to try to escape from nationalism.

Senator CHURCH. You are refering specifically to the Coal and Steel Community and the Common Market?

Mr. BOWIE. Yes.

Senator CHURCH. Looking beyond that——

Mr. BOWIE. Just a second. May I just finish the thought?

Senator CHURCH. Surely. Take all the time you want.

Mr. BOWIE. My feeling is that the British position has all along not been helpful, and there are a great many British people who agree, I should suppose, today, that you would find a majority of informed British opinion would feel that the British position has not been wise, and would like to see it changed.

Secondly, you will find a great many Frenchmen who do not feel that the policy of De Gaulle is in the French interests. So I don't feel myself that it is a fair summary to say that we are trying to push onto the Europeans a policy which is not theirs. The fact is that the European policy has been ambiguous, because despite De Gaulle's position they have gone forward, in fits and starts, perhaps, with the Common Market, and with the construction of the European Community in some degree to a considerable extent under pressures—in the recent crisis, for instance—of internal domestic French forces—French industry, the French unions, French agriculture.

So it seems to me that looking at Europe as an organic affair, which seems to me the right way to look at it, it would not be true to say that the attitude, so to speak, of France and Britain as entities or as political organisms is anywhere near as clear as was implied in the question.

Evolvement of the Europeanization process

Senator CHURCH. How would you envision the continuing evolvement of the process that you have referred to, looking ahead for Western Europe?

Mr. BOWIE. Well, I don't know—nobody knows—what the outcome will be.

Senator CHURCH. What would be your view?

Mr. BOWIE. But my own picture is that you have now a sort of contest going on—not in a personal sense, but in the sense of forces—between the forces which are making for some kind of European entity—and in saying that, I don't have any very clear picture of the shape of it, the form of it. I think a blueprint of it is a great mistake. But when I say an entity, I mean something which won't obviously supersede the nation states of Europe—they are going to be there for years—but will perhaps provide some way they can act as an entity in mobilizing resources, taking decisions, acting in foreign and economic affairs. It seems to me there are some very deep-rooted forces at work in that direction. And I think the way in which the Common Market crises have been surmounted, putting in place of the main elements of the agricultural policy, that is evidence of this. I think the London Economist was right about 2 or 3 weeks ago when it said that this putting in place of the agricultural policy would make the thing in that sense irreversible.

Senator CHURCH. That is the Common Market?

Mr. BOWIE. Yes. Now, I don't think there is any automatic step from that to a political entity. But I think it lays the foundation from which leaders can take that step if they so desire.

On the other hand, you have the forces of nationalism, which it seems to me—this is my main criticism of the present French policy—that it is reverting into nationalist policy, which has been so tragic in Europe, and I think will be tragic again, if that is the dominant force.

Is there a middle ground between supranationalism and militant nationalism?

Senator CHURCH. What troubles me with this either/or argument, which is very familiar in presentations we hear from the Department on the question of Europe, is that it seems always to be couched in these terms—that, either Europe moves toward a form of supranationalism, on the one hand, or, it reverts to the pattern of militant nationalism that plagued Europe prior to the two World Wars, on the other.

Isn't there a middle ground possible between these two alternatives, which the Europeans might work out, that would prove satisfactory to them, and to us?

Mr. BOWIE. Well, as I said, sir, I wouldn't for a minute say that I see the future with clarity. I only say that it does seem to me that Europe—the European attitudes, as I size them up, are these. They do not feel satisfied with simply not having any real role in the world, of being overwhelmed by American power, of being in the shadow, so to speak, of our enormous power. And if they really mean to rectify this, and if they

really mean, for instance, to overcome things like the technological lag which worries them a great deal, and other things, which really depend on large markets, and large markets as you know well aren't just removing tariffs—they require really having a national policy, a regional policy. That means some kind of a governmental activity. Indeed, the agricultural policy is going to require governmental activity on a regional scale. There is no other way to manage it. And the same is true of any economic policy. We know that from our own experience.

Now, I think it is too bad to use phrases like supranationalism, because this has gotten identified with a particular structure. I don't know what the structure will be. I simply say the function has got to be performed if the Europeans want what they say they want. And the function is to provide some way by which they can indeed manage certain affairs as an entity—the economic affairs, the agricultural affairs, probably some way of conducting a foreign policy, and some way probably of playing their part in defense.

Now, I don't say this is going to happen within the next 6, 8, 10 years; I don't know when it will happen. But I see no way by which separate states of the sort that De Gaulle seems to contemplate, could possibly achieve these ends. Maybe they will not achieve them. And I don't say that then Europe will again go up in flames as in the Hitler period. I don't think it will.

Will Europe revert to patterns of past?

Senator CHURCH. Would you contemplate, given the progress that has already been made toward effective economic integration, through the Common Market, that it is likely that Europe will in fact revert to the old patterns of the past?

Mr. BOWIE. My personal belief is, and it is based on views, not of myself, but of friends in Europe—I have lots of friends that I try to keep in touch with, including French and others—is that these people believe that in some fashion Europe will find its way to become an entity and that means in the sense I am using it; that is to say, something which is able to make decisions, mobilize resources, and take action, as some kind of a unit. And this means getting well beyond the kind of national independence which is the current French policy as I see it. I think I am describing a middle ground.

Senator CHURCH. My question was: Do you think, given the progress already made, that there is any real likelihood that Europe is going to revert to the highly nationalistic and excessively militant habits of the past?

Mr. BOWIE. I don't think myself that it is likely that you will see in the near future the kind of thing like Hitler. I don't see the makings of it. But if you mean that you don't see the possibility that Europe could revert to a set of nations which were engaged in rivalries, which were engaged in competition with one another, which were essentially canceling out their influence in European and world affairs, I don't think this is out of the question. Indeed I think if De Gaulle remains long enough, it is conceivable this may happen.

I think—but I still don't think it is the probable outcome. I think the probable outcome is moving toward some kind of a European entity of some sort.

Senator CHURCH. I think that we are probably more in agreement than we are in disagreement.

Mr. BOWIE. That delights me, sir.

European problem should be settled by Europeans

Senator CHURCH. I say this, because of the way you have answered my questions. I think you have laid emphasis upon the need for us to recognize that this is primarily a European problem, and that the Europeans must find an answer satisfactory to them, and that it would be a mistake for us to be too dogmatic, or to insist too much upon any particular blueprint that we think would be best for them.

Is that a fair statement of what your view would be?

Mr. BOWIE. Yes, sir; with only this perhaps—and I don't think this is a difference, but I would add this, I think that we have no need to apologize for expressing an interest in what happens in Europe. We have, after all, participated in two wars, we have quite a lot of people killed because of the structure of Europe.

Senator CHURCH. Of course, I would agree with that. But I think we should not try to put a blueprint forward; we shouldn't say this is the only way to do it.

European resistance to multilateral force

Let me explain why I am disturbed about this. When I was in Europe in May, trying to get a feel for present trends in the outlook of Europeans, I encountered many complaints about what some highly placed Europeans seemed to feel were high pressure tactics used by the United States in our campaign to sell the MLF scheme. The State Department feels that no such tactics were used, and has said so. But this clearly is not the impression I gathered from talking to many Europeans. They felt that such tactics had been used. Since there seemed to be very little European support for the MLF, I felt that we had caused serious strains within the alliance which were unnecessary. For this reason, I wanted to question you on your concept of how far the United States should go in insisting upon our particular solutions to problems, when there is very substantial European resistance to these solutions.

Mr. BOWIE. Well, sir, I think that it depends on the problem. As I say, I don't think we need apologize for having views that some solutions are better than other solutions, and trying to work them out. On the other hand, it seems to me quite foolish not to realize that at this stage in history, the Europeans are going to be the ones who settle the structure of Europe. But I think it is important to realize that when you say "the Europeans," it is very misleading, because there are not "the Europeans." There are different groups of Europeans with different views. What reactions and impressions you get depends very largely on whom you talk to.

Did U.S. use pressure to sell MLF proposal?

Senator CHURCH. Do you believe that high-pressure tactics were used to sell the MLF?

Mr. BOWIE. I don't know intimately what was in fact done. I think that you would find that—I think this. In general terms you have got in every one of these countries some people who favor certain courses of action, you have other people who favor other courses of action. If you see the Atlantic area as I see it, everybody is mixing in everybody else's politics. Europeans are constantly trying to affect our politics, as we are constantly trying to affect their politics, internal politics. That is the nature of the relationship which has grown up.

Now, insofar as you are simply trying to strengthen the hands of one group as against another group, I see no reason why we shouldn't be involved. If we try to push things on the Europeans for which there is no support in Europe, then I think we are just being foolish, because they are bound to be ineffective. But I think you will find, sir, there are divergent views within the European countries, just as there are here, and the Europeans are constantly trying to strengthen what they think are good views here, by the way in which they manage public statements and declarations—if you look at the way in which Mr. Erhard, Mr. Wilson, or Mr. de Gaulle are constantly trying to affect our domestic politics. And I say that is the nature of the relationship we are in. That is the way life is. And I think we are engaged in the same kind of process in Europe. I don't see any escape from it.

Senator CHURCH. Well, of course I think you are right. I don't think anyone on this committee would argue with that proposition.

But the nature of the controversy over the MLF is a little different. It is a question of whether we were wise, in the first place to propose the MLF, and secondly, whether we were too insistent on getting it after it became evident that there was such strong resistance to it in Europe.

Nominee's attitude toward MLF proposal

Now, you were very favorably disposed toward the MLF proposal, were you not?

Mr. BOWIE. Well, sir, my original connection with this general idea of collective force was in a report I made in 1960 to Mr. Herter. You may not recall, but NATO decided in 1960 they should have a program for a decade. Mr. Herter asked me in the summer of 1960, or spring of 1960, to prepare a report. I prepared a report dealing with all the different tasks that it seemed to me the Atlantic nations would face over the next decade, including the problem of the developing countries, their own relations, relations with the Soviet Union, military strategies and so on. The nuclear proposal was merely one, as I considered it, at least, small segment of a larger program designed to knit relations within the alliance on a basis that would lead toward organized Atlantic relations.

I certainly don't want to be in the position of discussing in detail in a public meeting matters after that. But I certainly wouldn't want to be in a position of endorsing fully the way in which it was handled. For one example—I have no hesitancy here since I have already said it in print—I feel that to propose something like a collective force on the one hand, and then go ahead with the Nassau agreement on the other, this wasn't a consistent policy. One of the purposes of the MLF was to provide a collective solution instead of national solutions for nuclear sharing. And if you went ahead and built up the national British force, that would cut across the collective concept and strengthen the position of those who don't want to have an MLF or any other kind of collective force.

But that isn't to say there were not a great many people who thought it would be wiser for Britain to get out of a national force and join some kind of a collective force. That basic notion, it seems to me, still has validity. I think the problem is still there. The problem is, as I see it, how do you get a relationship within Europe in which there isn't the use of this atomic capability as a device for asserting primacy, either on the part of the French or the British, as against other members of the European community, and second, how you give the Europeans a more effective voice in the nuclear deterrent. Those are real problems. The idea of having some collective solution so as to ultimately lead away from national forces, also seems to me to have validity.

Now, the particular form is not so important in my view as the idea that national forces are a mistake, they are divisive, they are bound to be competitive, they will not lead us in the direction of an organized Europe or organized Atlantic community. And that is my basic notion.

Are U.S. actions nationalist?

Senator CHURCH. Would you apply that to the United States, too? That is to say, would it apply to our own national nuclear force and our sovereign power over it?

Mr. BOWIE. My feeling, sir, is that we are at a stage in which unless you look at these things in quite a long-term dimension, you cannot see them validly. I think we are in a very important historic stage here of transformation of relations. It would be a mis-

take, I think for the United States tomorrow essentially to try to give a committee control of the American capability. But if you are talking about the long haul, the relations between us and Europe, it seems to me during the long pull, Europe is either going to have some kind of a capacity for participation in its own defense, or it is going to share in real terms in our own capability. I don't see how, if Europe does move the way we both think if may, toward some kind of entity, that it is going to be content to be merely under our umbrella. But this is talking in terms of decades, or at least a decade. You are not talking about tomorrow.

Nuclear sharing solution for Europe

Senator CHURCH. Right. Given the present situation in Europe, and the decisions we now must make—and this will be my last question, Mr. Chairman—in regard to the nuclear-sharing problem, would you be inclined to favor a continuing effort to immediately secure some form of "hardware" solution, or would you think that trying now to find a solution along the lines of the consultative arrangement contemplated by the McNamara committee would represent the better course of action?

Mr. BOWIE. You might be interested to know, sir, in my report of 1960, I proposed we should first start with trying a consulting arrangement to see whether this would satisfy the Europeans. Only later would I have moved to some kind of collective force if necessary. So naturally I am in favor of doing all you can through a consultative group.

But I would be less than candid if I did not say in the long run I don't think this will be found satisfactory. But I don't think at all that the situation is right now to press for some form of collective answer at this moment.

Senator CHURCH. Yes. I think I agree with that.

Are sovereign nations apt to relinquish control over nuclear weapons?

One final question.

Assuming that we are both right in thinking that the Europeans will work toward increased cohesiveness in the years ahead, would you think that a central control over nuclear weapons would be one of the next things that national governments might relinquish to a developing central authority, or one of the last things that national governments might be inclined to relinquish?

Mr. BOWIE. I think that depends really very much on essentially French policy.

I think myself that if, for instance—if there had not been the Nassau agreement, that you might very well have seen the British moving toward acceptance of some kind of collective solution relatively earlier.

In any event, it seems to me—sorry I have lost the thread of the question.

Senator CHURCH. That is all right. I think you have already answered it. It was speculative.

The question I asked was, whether, given the attachment of governments to their sovereign rights, whether the relinquishment of sovereign control over a life-and-death matter like nuclear weapons might not be one of the last things that governments would yield, rather than one of the first, in this evolutionary movement.

Mr. BOWIE. It may well be, sir. On the other hand, there is a wide difference of opinion as to whether or not in Europe, among Europeans, as to whether, in fact, they have any sovereign control at this point of this life and death matter. If a person takes seriously the national forces as if they were really an independent capacity to wage war, then he looks at it another way.

Senator CHURCH. But even if it is only a trigger, it might be a very important one.

Mr. BOWIE. Yes.

Senator CHURCH. That is to say a trigger on our force or some other force.

Mr. BOWIE. If you are talking about, say, the present French Government, I think they would be a very long time in relinquishing that.

Senator CHURCH. Thank you very much.

The CHAIRMAN. Senator GORE?

Eisenhower's decision against sending troops to southeast Asia

Senator GORE. Professor Bowie, reference was made earlier today to the decision of President Eisenhower against the commitment of combat troops in southeast Asia. This decision was made, I believe, at the time you were an official of the State Department. Would you be able to recall to the committee your views of that question at the time; and second, your recommendation to Secretary Dulles at that time?

Mr. BOWIE. Mr. Chairman, I would like to get some advice as to the proprieties of testifying about these kinds of confidential relations in public session. I have no hesitancy talking about it with you in executive session, but I enjoyed at that point a confidential relation, and I don't want in any way to be lacking in candor with the committee. But on the other hand I don't know that I feel that it is proper to discuss these discussions within an administration or one's advice in a confidential capacity in public session. I would like your advice as to what are the proprieties. My own instinct is that it is doubtful.

Senator GORE. Mr. Chairman, I, too, would yield to the opinion of the chairman in this regard. But I would like to suggest, before the chairman rules, that some of the participants of that period, now 12 years ago, have written books about it. Professor Bowie is before this committee for confirmation to a very high post. So far as I am concerned, he is a very estimable gentleman. I shall view the confirmation in light of the great tragedy in which we and many others are involved in southeast Asia. It would seem that if he reached a conclusion in that regard, which could be a point of departure, to discuss our initial involvement there, let us solicit his views on it.

Mr. BOWIE. My only question, sir, is not whether I should try to answer your question, but whether I should try to do so in executive session.

Senator GORE. I, too, submit that to the chairman.

Senator CLARK. Before the chairman rules, may I make a short statement which may have some bearing on your ruling.

I, too, have a very high regard for Mr. Bowie's integrity and ability and expert knowledge of all aspects of foreign affairs. I know him well, and I have regard for him. I have a great many questions I want to ask him about his views on various aspects of foreign policy. It may well be that a good many of them should be asked in executive session. I don't know that that would necessarily deter Senator GORE from suggesting that the present question is entirely an appropriate one to ask in open session. But I personally don't see how we can get through the hearing this morning, because I have several hours of examination.

The CHAIRMAN. No one is trying to rush the committee. This is a very important assignment.

Nominee's attitude toward U.S. involvement in Vietnam

It is hard for me, Mr. Bowie, to see that there is any matter of security involved at this late date concerning your attitude at that time. You may feel that you are violating a confidence with the Secretary of State. As I said, much has been written about this matter by various people involved at the time. There may be some aspect of it which the Secretary confided in you which you would not want to reveal. I don't know that there is any way we can influence your judgment about that.

What I think the Senator wants to know—and I am very curious myself—is what is your general attitude toward our Government's involvement in the situation in southeast Asia, then and now. It is not irrelevant to know what your attitude was at that time. We recently held hearings on the situation in Vietnam. We had General Gavin, who was intimately concerned with this decision, I believe, as the head of planning for General Ridgway. You were there at the time. You are familiar with General Ridgway's recommendation, are you not?

Mr. BOWIE. Yes, sir.

Troop decision is now a matter of public record

The CHAIRMAN. You probably participated in the meetings. This is a matter of public record. And it is a matter that we have discussed here. I don't know that there is any way we can bring pressure on you to answer if you don't wish to. It is merely a matter of great interest to us as to what you wish to say.

Senator SYMINGTON. Mr. Chairman, I respectfully disassociate myself from that observation.

The CHAIRMAN. What observation?

Senator SYMINGTON. The witness has said he would be glad to testify in executive session. He is not withholding anything. He is simply asking whether the Chair feels it is proper for him to testify on this matter in open session, or in executive session. That is not withholding information.

The CHAIRMAN. I withdraw the way my statement was put. I think the Senator is quite right. I didn't mean to say he was withholding information. What I was trying to get at is that the question is whether to send U.S. troops to aid the French in Vietnam has been a matter of such great interest, about which books have been written, that I don't see any reason for a reluctance to discuss it in public. The judgment of this committee always has to be reinforced by the Senate. I had not anticipated any such question. It never occurred to me that a discussion of matters that took place that long ago would raise the question of security. If it raises a matter of your personal relations with Secretary Dulles, then I don't wish to embarrass anyone. But there has been long discussion pro and con about the wisdom of that decision at that time.

We all have a great respect for Mr. Bowie's integrity. I trust his judgment. If he says he thinks that a matter of this kind shouldn't be discussed, that he is unwilling to discuss it in public session, I think we have to abide by his judgment and pursue the matter in private session. However, I don't see why it cannot be discussed in public session.

Mr. BOWIE. Well, sir, if we are going to have an executive session, I would be more comfortable if I could have a full opportunity to express whatever views I have, either off the record or in executive session.

The CHAIRMAN. You mean to discuss events at that time?

Mr. BOWIE. Yes, sir. It has nothing to do with security.

The CHAIRMAN. What does it have to do with?

Mr. BOWIE. It was a confidential relationship which I enjoyed with the Secretary, and which it seems to me—I don't have in front of me all the records. I am going to have to testify from memory of 13 years ago.

The CHAIRMAN. I can understand that. If a fact is at all vague, you are at perfect liberty to say that you cannot recall.

Mr. BOWIE. I don't want in any way to withhold any information from the committee. But I would feel more comfortable trying to do it in executive session, sir.

The CHAIRMAN. I agree we would all be more comfortable if all of this were in executive session.

I don't wish to make too big a point of it. But it seems to me that our policies in this area are especially significant at this time. It is still a very important subject—how our vital interests are involved in southeast Asia now. And it was at that time as well it seems to me.

Mr. BOWIE. Let me just say in general that my feeling was that our interests were involved in southeast Asia, that I favored the support which we gave to the French, not because I liked the way the French effort was being conducted or not because I particularly liked the political basis on which it was being handled, but simply because it seemed to me that it was important, that if possible this area not be lost. It seemed to me then, it seems to me now——

The CHAIRMAN. What do you mean by "lost"?

Mr. BOWIE. Well, dominated by what are now the Vietcong and the North Vietnamese.

Senator GORE. Mr. Chairman, in view of the witness' preference for an executive session, and in view of the fact that the sole purpose of my question is to determine my position with respect to his confirmation, I defer to his wishes. I withdraw the question. I will submit such questions in executive session.

The CHAIRMAN. You don't wish to ask any more?

Senator GORE. Not under the circumstances.

The CHAIRMAN. Senator SYMINGTON?

Senator SYMINGTON. Thank you, Mr. Chairman.

Praise for background of witness

Mr. Bowie, I cannot imagine anybody having more experience than that which you bring to this position. It has been my privilege to serve in this town under five Presidents. Some may not agree, but I think all five made some mistakes.

The question of the past is a serious problem, especially if one remembers that old quotation of those who forget history being forced to repeat it.

I have known of you and your family for many years. I think it very fine, with the problems this Nation faces in the world today, that a man with your background—although you probably have made a few mistakes yourself—has agreed to take on the job. Foreign policy, many people often forget, is directed by the President of the United States, and perhaps at times, depending on conditions and personalities, delegated to the Secretary of State.

I can remember not too long ago, when a director of the policy planning staff was cut out of the herd and an effort was made to destroy him. I am impressed as to your qualifications by the fact you have been a director of the policy planning staff, an Assistant Secretary of State for policy planning, a professor of law at one of our great universities, at the present time a professor of international relations and director of the Center for International Affairs, and have been highly decorated by your country for meritorious service.

I am worried about slots in the Department of State not being filled. The fact you have written articles, and expressed your opinion, and made studies and reports on these matters, means to me that you are in an extraordinarily good position to advise the Secretary of State, and his assistants, and the President of the United States on policy.

So even though you may have done some things in the past which turned out to be wrong, that has happened to other people in government, on both sides—in the legislative and the executive, and also in the judiciary.

To me it is your experience that counts more than anything else.

Who suggested you take this position at this time?

Mr. BOWIE. Well, Mr. Ball, Mr. Rusk, and President Johnson.

Senator SYMINGTON. The President of the United States, the Secretary of State and the Under Secretary of State have all asked you to come down here and help them with the problems they have today with respect to our position in the world; is that correct?

Mr. BOWIE. Yes, sir.

Senator SYMINGTON. Well, I am sure in your background we will find some things we do not agree with, and I am also sure that if you were candid with us, as I'm sure you would be, in executive session you would say perhaps you yourself have made a mistake or two.

But again, I congratulate you on being willing to come back into this jungle to work for the position of the United States in the world. I want to tell you this morning that I fully intend to vote for you for confirmation; and in my opinion that will be the position of an overwhelming majority of the U.S. Senate.

Mr. BOWIE. Thank you very much, sir.

Senator SYMINGTON. Thank you, Mr. Chairman.

The CHAIRMAN. Senator CASE?

Senator CASE. Thank you, Mr. Chairman.

Can the United States revert to an isolationist policy?

A predecessor of yours in this post, George Kennan, was down before the committee last spring. He testified in a very profound and interesting way about a good many things. In the course of a colloquy that I had with him, I asked him his conception of the role of a great power in the free world today. He very frankly said that he was coming to be increasingly an isolationist—that is almost an exact statement of what he said. What is your feeling about this?

Mr. BOWIE. Well, I am afraid it is quite far removed from that sir.

Senator CASE. I think you are quite aware of what he said.

Mr. BOWIE. In general I remember. My feeling, sir, is this. I feel that we are in a period in history in which technology and science and various economic and other forces are pulling us all together whether we like it or not.

As the world has come out of the postwar, immediate postwar period, it seems to me that the degree of dominance or predominance of countries like the United States has necessarily declined, and it is a good thing.

But it seems to me we have to be concerned with the efforts to work out some kind of more viable order, international order, and that the problem is to do this by ways which engage the interests of other people, not trying to dominate them or not trying to tell them what they must do, but to find ways in which their interests and ours are parallel or similar, and then to try to work out ways, institutional procedures, and others, for trying to meet them.

It seems to me this is true whether you look at our relations with Europe, whether you look at our relations with the less developed countries, or whether you look at our relations with the Communist world. Each of these poses definite kinds of problems. Each requires us to find ways in which we can create some kind of a framework for action which will assure our own continued safety from the nuclear weapons, and from the disorders of the underdeveloped world, and from any continuing expansionist efforts on the part of the Communists—but we must approach it in a much more positive way, trying to create some sort of framework within which the positive aims of these different peoples can be met in a manner which will promote stability, promote growth, promote security.

So I don't see how we can disengage or revert to an isolationist kind of a policy. It just does not seem to me consistent with the role which history has thrust upon us.

In saying that, I don't feel either that we should think that we can call the tune all over the world, or that we can be the ones to prescribe all the answers, or require other people to do our bidding. It seems to me the trick is to find ways in which we evoke cooperative efforts in all these problems.

Senator CASE. Well, of course, I didn't talk with Mr. Kennan long enough to develop this, or find out his thinking on this. I didn't get the impression that he thought this was necessarily an ideal situation but rather was a matter of prudent judgment—that is to say, what was feasible.

Other nations must help carry the load

Isn't there great danger that the course we are involved in, for example, in Vietnam, may lead us to the position in which we are carrying the whole load. As a matter of tactics, isn't it necessary for us to be willing to say to the other countries of the world in Europe, in the Far East, in Africa, in Latin America, if you will—we are willing to help, but you have got to share and carry the load in your area, the main load?

Now, we have said this in words, but we are not doing it in fact in South Vietnam. And I happen to favor the objectives we are trying to follow in South Vietnam. If we can carry it out I want to see it done. I am not satisfied that it is very close to success or even is feasible, because among other things is this very natural human willingness of individuals and nations to let the other guy carry the load if he will.

Now, I wish you would comment a little bit on that.

Mr. BOWIE. Let me comment on the general point.

I agree, sir—what I tried to say perhaps inadequately—

Senator CASE. I don't think anything you said was inconsistent with this.

Mr. BOWIE. What we must do is find ways in which we do evoke a more cooperative kind of relationship. It seems to me, for example, that this means in Europe that we have got to accept the fact that the Europeans are going to have to carry a considerable part of their own load about their destiny and their relations and their structure, and so on.

It seems to me, I am pleased to say, under Mr. Bell, the AID I think moved very much in the direction that the only kind of effective aid was aid which reinforced self-help, which reinforced the actions by the local people themselves to try to develop. It seems to me quite clear that nobody can develop a country from the outside. What outside assistance can do is to help significantly in creating the conditions under which local efforts can be more likely to succeed. And I think that all around, we have got to try to make that the picture of the world that we are trying to develop, and we are trying to work toward.

Now, it is a fact, however, that in certain fields, like the military field, there isn't anybody else, any other country which at this point in time is in a position to take the part of the load which potentially, certainly, an area like Europe ought to be able to carry. And therefore in this period you have to see whether or not you can encourage or persuade some of these other countries which do have a potential to carry a better share of the load.

Senator CASE. All right.

Support for U.S. position in Vietnam

How about South Vietnam? I take it you would not be taking this job on unless you

were in general support of the administration?

Mr. BOWIE. Yes, sir, I feel so.

Senator CASE. Even though you are not responsible for our position.

Mr. BOWIE. Let me be very clear I have never had any recent responsibility at all for this, and I only know about it from the newspapers. But my own basic feeling is that we cannot afford to simply withdraw from South Vietnam, we cannot afford to—on the other hand, I strongly favor the efforts to work out some kind of negotiated solution. I do think we must be on guard lest this preempt too much of our attention and focus. But I don't see any escape from the necessity of not walking away from it, and not merely for the effects in Vietnam, but for the effects elsewhere. In the spring I made a trip to the Far East, Japan, India, and I am struck by the fact that many of those people are split personalities. They are uneasy about the situation in South Vietnam, but equally uneasy that we should walk away from it. And so I don't think there is any doubt that if we gave the impression that we could be pushed out of Vietnam, it would have very profoundly damaging effects in much of Asia, and also I think elsewhere. So I think we are caught in the very awkward position which I would hope and pray we will find a way, by negotiation hopefully, to settle the thing as soon as possible.

* * * * *

Committee procedure

Senator CLARK. Mr. Chairman, I would ask the chairman to enforce the 10-minute rule on me. I have so many questions that I know I will never get through with them.

The CHAIRMAN. We don't follow that rule, except when the circumstances indicate.

Senator CLARK. Let me say, to the three members of the committee still here, if at any time you desire to ask questions, please ask me to yield and I will be only too glad to do so.

The CHAIRMAN. In view of the late hour, I think we will not get to Mr. Schaetzel this morning. And I must go to the Capitol.

I am sure Mr. Bowie will be glad to come back again. We will be seeing a good deal of him. We might as well get acquainted now as later. We will have to set another date. You will be available for another date, won't you?

Mr. BOWIE. Yes.

Senator CASE. Couldn't we confirm him now and have him back, Mr. Chairman?

The CHAIRMAN. With that understanding, you may proceed as long as you like.

Senator CLARK. How long does the Chairman intend to sit?

The CHAIRMAN. I must leave at 12 for the Capitol. If you wish to continue for a few minutes, you may. If not, you may adjourn when you like, and we will have a later meeting arranged by the staff at Mr. Bowie's convenience.

Senator CLARK. I understand all committees have permission to sit this morning until the conclusion of the morning hour, is that correct?

The CHAIRMAN. That is correct.

Senator CLARK. I wonder if there has been any extension of the time we may sit.

The CHAIRMAN. It doesn't matter when you are only questioning. We are not taking votes.

Senator CLARK. I must get to the floor. Mr. Bowie, let me say again the high regard in which I hold you as an individual. I would concur with all the nice things Senator SYMINGTON said about you, except the last sentence. With respect to that I would reserve my own position on confirmation.

Political affiliation of nominee

Do you consider yourself a Republican or a Democrat?

Mr. BOWIE. I am an Independent, sir. I was registered in Maryland as a Democrat. Since I moved to Massachusetts, I am registered as an Independent. When I came down first about the job with Mr. Dulles—as I said, I had never met him before. When Bedell Smith who was Under Secretary, took me in, I said "There are two things you ought to know, sir. One is I am registered as a Democrat and the other is that I am rather cantankerous, and express my views rather forcefully." He said, "On the first, I don't care if you voted for Eisenhower," which I had, and on the second he said, "I want that." So I would consider myself as essentially an independent, but a bona fide independent, because I think if I went back from the time I first voted and tabulated the various candidates for President for whom I voted, it would come out about even. A little bit more on the Democratic side.

Senator CLARK. I assume, and contradict me if I am wrong, that you did not vote for Mr. Goldwater?

Mr. BOWIE. I certainly did not.

Office of Counselor of State Department

Senator CLARK. Now, I will make a short preliminary statement and then ask you a question. It is my understanding that some time ago, when Mr. Rostow was appointed the chairman of the Policy Planning Staff, the office of counselor for the State Department was abolished, is that right?

Mr. BOWIE. I am not too familiar with that. My understanding was the two were merged.

Senator CLARK. Yes, but I think there was only one individual, Mr. Rostow, carried both responsibilities, is that correct?

Mr. BOWIE. That is my understanding.

Senator CLARK. It is now my understanding that Mr. Henry Owen, a career Foreign Service officer, has been made the chairman of the Policy Planning Staff, is that right?

Mr. BOWIE. That is my understanding.

Senator CLARK. It is also my understanding—and don't answer this if you don't feel inclined to—that he is one of the principal protagonists in the State Department of the MLF. Are you in a position to answer that?

Mr. BOWIE. He was certainly in favor of it.

Senator CLARK. That is good enough.

Now, do you know why the office of counselor was split off from the office of chairman of the Planning Staff?

Mr. BOWIE. No; I don't, sir.

Senator CLARK. No explanation was made to you as to why this office was reinstituted when you talked with Secretary Rusk and Secretary Ball and President Johnson?

Mr. BOWIE. No, sir. What was said to me was that historically or traditionally these had been two separate functions, and that—I think it was about 1961 when Mr. Rostow was named, they had wished to economize on one assistant secretaryship, and so had combined the director of policy planning, which had been made an assistant secretary in 1956, with the counselor's job in order to pick up an extra assistant secretary. And that they were reverting to what has been the situation when I actually took the job in 1953, which was that the director of the Policy Planning Staff had never been an assistant secretary.

Nominee's attitude toward views of Mr. Rostow

Senator CLARK. Now, you and Mr. Rostow know each other pretty well, don't you?

Mr. BOWIE. Yes.

Senator CLARK. He was at MIT when you were at Harvard?

Mr. BOWIE. Yes.

Senator CLARK. Are you generally speaking familiar with his views on foreign policy?

Mr. BOWIE. I would prefer he express his own views on foreign policy, sir. What do you mean?

Senator CLARK. You have not discussed them with him?

Mr. BOWIE. Of course—on many topics. But I would not want to try to characterize them.

Senator CLARK. Let me tell you what I am getting at, and see whether you think you can help me or not. Let me say also that any time I ask a question that you think would be better answered in executive session, please don't hesitate to say so. I do not wish to press you for answers which you think would be better taken up in executive session.

My overall impression is that since the assassination of President Kennedy, both the White House, and to a substantially lesser extent the State Department, because they have not made very many new appointments, have increasingly come under the guidance of individuals who are skeptical about moves for cooperation and peace, and tend to give the President advice which, if I were to say is belligerent, I would be overstating the case, but which nonetheless indicate a very real skepticism of efforts toward international cooperation across the world, and that this point of view could well be epitomized by the views of that extremely able and dedicated and knowledgeable American, Mr. Rostow. And what I am trying to find out is whether you generally speaking, and philosophically, are sympathetic to the views which Mr. Rostow has quite candidly expressed.

Mr. BOWIE. I would be glad to answer any question about my views. But when you ask me whether my views correspond with somebody else's views, and I don't know what you have in your mind about what particular views—he has expressed views on quite a lot of subjects—I would rather testify about my own views, and let you you decide how much they parallel his.

Senator CLARK. I intend to ask you in some detail about your own views. I thought we might take a shortcut. But I realize the dangers of guilt by association. I certainly don't want to expose you to that possibility.

Senator CASE. Will the Senator yield?

Put another way, I expect the question is: are you a hardliner?

Senator CLARK. Yes. I think I want to know before we get through whether he is a hawk or dove. He may turn out to be an owl for all I know.

Mr. BOWIE. Why don't you ask me questions which you think will shed light on this. I don't try to characterize myself that way. I try to think about concrete problems as best I can, get as much information as I can get, arrive at a judgment knowing that it is full of human frailty, but nevertheless that you have to arrive at it. And there I am. I am delighted to tell you my views on any number of problems, and you can decide what I am in terms of slogans.

Senator CASE. May I make one other suggestion? I am running for office. This is always a good experience. It means you rethink. It pricks the pompousness. It also requires a person not only to distill his views, but to try to expound where he stands, and give guidance as well as answer questions.

Now, your job, of course, is to answer questions for the Government later. But your job now is to try and tell us and tell the world where you stand. And I want only to get to the bottom of your views, as does the Senator from Pennsylvania, both for our guidance in our vote on your confirmation, and in our dealing with the broad problems that we all face.

Senator CLARK. Before you reply, let me say to you, sir, that I have every intention of following your advice, and I do intend at some length to develop your views. But I thought it might be useful, and possibly a shortcut, since you and Mr. Rostow are not unknown to each other, to ask you to express a general feeling as to whether you are in accord with his views or not. But I am certainly willing to withdraw it. Now, if you care to say something, fine.

Views of Marshall Shulman

Mr. BOWIE. All I was going to say, sir, was that I share the view of Marshall Shulman, who wrote an interesting book called "Beyond the Cold War." His basic point was that he felt shorthands like "hard" and "soft" policy were more misleading than helpful. I feel that way, too. I feel that we are really in a situation in which a good deal more nuance is required than those kinds of words suggest. I don't think personally that "hard liner" is a very helpful way to summarize the kind of policy which I think we need to pursue. It seems to me that all over the world we need a policy which embodies much more nuance than that, much more shading, indeed much more combining of differing approaches. My view, for instance, on how to approach the whole Soviet, Eastern European world is that we are going to have to combine two elements. We are going to have to combine the element of dissuasion, of deterrents, with the element of trying to promote cooperation. What do you call that? I don't know. It seems to me that a policy that is wise is going to have two elements, dual elements, which to a superficial view look as if they are inconsistent. I don't think they are at all. It seems to me they are necessary components of an adequate policy. I think this is true in many many parts of the world today. We are in a period of very major change, in which we are trying to influence to the limited degree we can the way in which change occurs. In doing so, we have got to have carrot and stick in many situations—toward the underdeveloped world, the Soviet Union, China.

So I am not trying to escape anything, I am just trying to be accurate about what my views are.

Problems of those who run for public office

Senator CLARK. I agree with everything you say. But as Senator CASE said, he 'n up for reelection; I am not. I may be 2 years from now, I may not. When the chips are down, those of us who go to the people for confirmation of our position, for reelection, we have to take sides, we have to decide which way to vote. We have to decide whether we, on the whole, support the President's foreign policy or don't. And in the act of doing that, we are awfully apt to fall into cliches—hawk and dove, hard line, soft line. You will have to indulge us. You have never had the privilege of running for public office. You are now being asked to move into a very high position in the Federal Government, and I suppose we bring some of our semantics into this examination.

Senator CASE. For example, you have to answer the question—do you favor raising the number of American troops in Vietnam from 285,000 to 400,000?

Senator CLARK. We have to vote on that.

Senator CASE. You have to answer this on the radio and on television and to the public. "Well, suppose if you favor that, would you go to 700,000? Where do you draw the line?"

Senator CLARK. Do you support the MLF or don't you?

Senator CASE. That is right. And we need help in answering these questions, not only to the satisfaction of the public but to our own satisfaction, and in meeting our own responsibilities.

Senator CLARK. Mr. Chairman, I ask your indulgence for about 30 seconds. I have a message here.

Mr. Chairman, I am told a critical vote to report out the minimum wage bill is due. I need only be gone for 1 minute. Will the Senator indulge me?

The CHAIRMAN. You go ahead.

Senator CLARK. I will be right back.

The CHAIRMAN. I will fill in the gap.

Revolution in Yugoslavia

I don't wish to change the train of thought too abruptly, but I wonder if you would care to comment upon stories I have been reading, particularly one this morning, on Yugoslavia. Did you read the story this morning by Anatole Shub on Yugoslavia?

Mr. BOWIE. No, sir.

The CHAIRMAN. It is very interesting. As you know, he is the correspondent for the Washington Post.

What is important is the tremendous revolution going on in Yugoslavia. You are familiar with that?

Mr. BOWIE. Generally, sir.

The CHAIRMAN. Would you care to comment on it?

Mr. BOWIE. I think it is very significant, sir, and very interesting. As far as I can see, Yugoslavia really is in the vanguard of the evolution that is going on in much of Eastern Europe. And I gather there is quite a lot of ferment in many directions, in the management of the economy, the role of the party, the degree of scope for the intellectuals, and that the movement is very marked.

This sort of thing there will perhaps transmit itself gradually to some of the other Eastern European countries, where there is also some ferment, but nowhere near as far reaching, and then perhaps in some degree also to the Soviet Union. We may see a series of transmissions of this experience and these attitudes to other countries.

The CHAIRMAN. If that is your hope, why doesn't this country encourage the movement more than it does?

Mr. BOWIE. What sort of thing, sir, do you have in mind, trade?

Most-favored-nation clause with Yugoslavia

The CHAIRMAN. Our Government only a couple of years ago repealed the most-favored-nation clause with Yugoslavia, and it took an awful lot of work and pain and trouble to reinstate it. Do you remember that?

Mr. BOWIE. No; I don't remember that.

The CHAIRMAN. Yes. It was repealed in the Trade Expansion Act. I was away, and I think others were caught unaware. The repealer originated in the House Ways and Means Committee. This is one of the reasons Ambassador Kennan gave for his resignation, that he could not work with the U.S. Government—these are my words—a Government that performs in this fashion. Here he was trying to cultivate and to promote what you said was your hope, and then the Congress took what I call a negative attitude.

As a matter of fact, I think our actions have been very neutral, if not negative. We have paid lipservice to East-West trade, and to better relations, but we have really done very little.

Do you agree with that?

Mr. BOWIE. I don't agree, sir, that we have done very little. It seems to me that the amount of exchange, movement of people, is very considerable. We get a fair number of people through our Harvard center.

The CHAIRMAN. You probably get all there is, don't you?

Mr. BOWIE. I don't know about that. We get as many as we can.

The CHAIRMAN. Well, I think our efforts have been very limited.

Eastern Europe is an area I am very interested in—the improvement of relations with these countries and the possibility of the evolution away from communism, which you referred to.

Mr. BOWIE. Am I wrong in thinking that Congress has not been eager to provide the basis for the trade?

The CHAIRMAN. I think you are right. It was Congress that initiated the action I just referred to. And it is Congress that is refusing to move on the consular treaty. I may say that this has been influenced to a substantial degree by members of the executive, particularly Mr. J. Edgar Hoover. You are aware of that, are you not?

Mr. BOWIE. Yes, sir. I read the newspapers.

The CHAIRMAN. I thought so.

I was just taking up the time. You go ahead.

Senator CLARK. Mr. Chairman, I would like to yield to Senator PELL, who hasn't had a chance to question.

The CHAIRMAN. Fine. You go ahead. I must go to the floor now.

Senator CLARK. Mr. Chairman, with your permission I would like to adjourn the session reasonably soon.

The CHAIRMAN. That is all right, whenever you wish. Mr. Bowie, the staff will get in touch with you to arrange a mutually convenient time for another meeting.

Senator CLARK. I ask the staff now to give me a call, because I want very much to be here. I have some conflicting engagements. So let's find a time in the reasonably near future.

The CHAIRMAN. Mr. Lowenstein will consult with you.

Senator CLARK. Senator PELL.

Senator PELL. Mr. Bowie, I have not been at the hearing. I have looked through your biography. I have followed your career through the years with considerable interest.

Nominee's reasons for leaving State Department in 1957

I have one question which I believe has not been asked. And that is, when you left the Department in 1957, did you leave with disaffection for the Dulles foreign policy? Did you leave because of the desire to return to the academic life? What was your basic reason for leaving?

Mr. BOWIE. There were several, sir.

As I think I said before you came into the room, my conception of a role like this is that as a staff man, you are entitled to ask to be heard, and that you must—that is a right. That after you are heard, then it is up to the person that you are advising to make the decision, and you must take it as he makes it, but at some point you must decide whether or not the number of times at bat plus the number of hits scored is worth the effort and whether or not you have worn out your welcome. Any man who holds high office, who puts up with a man, as a staff man, who is critical, tries to be forceful, must at some point get tired of hearing critical comments. So I would not deny that by the time mid-1957 had been reached I felt that perhaps the time had come to leave. This wasn't due to disenchantment with any particular policy, nor was it a resignation in huff, or anything of the sort. My relations with Mr. Dulles afterward were friendly until his death.

Secondly, I have a strong feeling that after a certain number of years, a person in one of these jobs essentially uses up his intellectual capital. I was getting to the point where I had dug into positions on many things, and felt perhaps it was wiser to go back into academic life. I always assumed I could be most useful in a career which combined a considerable amount of public service with a considerable amount of private life. And that is what I have tried to do since about 1939.

And so it was entirely consistent with this that at some point I should conclude that it was time to go to the other field. And then the opportunity which was offered by Harvard to create a Center for International Affairs was a very interesting one from my point of view. It seemed to me that there was a real role that could be played by a research institution like that contemplated. And so I was very much tempted to go into it. I have enjoyed very much the 9 years I have spent in that effort.

Again, this was consistent with my feeling that the movement back and forth, intellectually, and of people, between the universities and private life, and the Government, plays a very useful and creative role.

So I would not want to give the impression that I resigned, because of some explicit disagreement. I did not. But for the various reasons I have given, I concluded that the time had come to go back to Harvard.

Senator PELL. Thank you very much.

Nominee's conception of counselor position

Senator CLARK. Mr. Bowie, I would like to turn your mind back to the job for which you have been nominated, and ask you whether you would tell us, not only your own concept of the role and function of the counselor of the State Department, as the office has now been re-created, but also what conversations, within the limits of executive privilege, you had with the Secretary and the Under Secretary or the President which would define what they expect you to do?

Mr. BOWIE. Well, as you know, sir, it is a job which does not have any administrative responsibility.

Senator CLARK. It is a staff job?

Mr. BOWIE. It is a staff job. My understanding, as the matter was presented to me, was that the Secretary wanted somebody who would be an additional person in the top levels of the Department, not in the administration of it, but in the policymaking side of it, and expected the job to be not confined to any particular region, or any particular field, but to be a general advisory kind of function.

Senator CLARK. Will you have personnel serving under you?

Mr. BOWIE. As far as I know, I will only have two or three people, just to be legmen and that kind of thing. I will not have staff such as I had when I was on the Policy Planning Staff, where I had a staff of 10 people, highly qualified, expert individuals.

Senator CLARK. Would you expect to attend the Secretary's daily staff meetings?

Mr. BOWIE. That is my understanding, sir.

Senator CLARK. With the Under Secretary, the Deputy Under Secretary of the Department, who is there in an administrative capacity. I don't know of anybody else, do you?

Mr. BOWIE. As I understand it, it is a small group. I don't know exactly who is in it. But my understanding was that I would be within this group.

Counselor's relationship to the Secretary of State

Senator CLARK. And would you feel that your relationship with the Secretary in terms of policy advice would be roughly on a par with that of the two Under Secretaries? In other words, what do you see your role in the hierarchy to be?

Mr. BOWIE. Well, my experience, sir, is that you have to earn your role in the sense that it depends very much—this kind of job depends very much on the kind of relation which you develop with the Secretary. Now, I have known Mr. Rusk over a period of years as head of the Rockefeller Foundation, and since. I believe that he has certain respect for me or wouldn't have asked me. I am proceeding on the assumption that I will work out a relationship of trust and confidence which will make it possible to have my views listened to, and from time to time even accepted.

I have assumed that I would have access essentially to the Secretary, the Under Secretary.

Senator CLARK. Not through any intermediary?

Mr. BOWIE. No, directly.

Counselor's relationship with policy planning staff

Senator CLARK. How do you visualize your relationship with Mr. Owen and the other members of the Policy Planning Staff?

Mr. BOWIE. Well, my expectation is that a person in this position will have to draw on all resources of the Department—the regional bureaus, the functional secretaries, the Policy Planning Staff. And I would expect to utilize those in the sense not of being entitled to direct anybody to do anything, but to request studies and utilize the output of these and the intelligence organization of the Department, and the regional bureaus.

Senator CLARK. I can understand that. But I am deeply interested in the Policy Planning Staff, because your office has just been split off from it. It was attached to it at one time. What I am interested in finding out is whether in terms of hierarchical responsibility for the formulation of policy, you would consider Mr. Owen and his colleagues on the same level in terms of the relationship of the Secretary, or would you consider them to some extent a staff agency to which problems were referred by you to Under Secretaries, and the Secretary? Do you consider yourself on a par with the Assistant Secretaries?

Mr. BOWIE. Well, I don't know what relations the current present head of the policy planning staff has or will develop with the Secretary or the future Under Secretary. I I cannot possibly testify as to that.

As to my own relation, I would expect to, as you put it—I certainly have no authority or responsibility over the Policy Planning Staff as the job was explained to me. But I would hope to have——

Senator CLARK. The benefit of their advice?

Mr. BOWIE. Yes—available as one of the sources of study and advice among many which would be coming up from the Department, so to speak.

Senator CLARK. Wouldn't you have, regarding short-range policy as well as long range, a particularly intimate relationship with the Policy Planning Staff?

Mr. BOWIE. Well, I would expect frankly to get very close relations with, say, Lincoln Gordon in the Latin American Affairs, or the head of the other regional bureaus, too.

I don't understand, sir. I hope, yes, to have very close working relationships with each of these.

Senator CLARK. And with the Policy Planning Staff?

Mr. BOWIE. Including the Policy Planning Staff.

Counselor's relationship with the White House staff

Senator CLARK. What is your concept of your relationship with the White House staff, and your relationship with the President?

Mr. BOWIE. I don't assume that a person who is a subordinate of the Secretary would normally have direct access to the White House or to the President.

Senator CLARK. But you would expect to be taken in from time to time on matters in your matter of cognizance?

Mr. BOWIE. What I was going to say was I would expect the Secretary would include me, as he would include other of his chief advisers, in particular things on which they had been working. And I would be disappointed if I didn't at least participate in that sense. But I would not expect to have any independent access.

Has Mr. Rostow taken over Mr. Bundy's position?

Senator CLARK. I think I am accurate in saying while our mutual friend, Mr. McGeorge Bundy, was at the White House, he was the President's principal adviser in the field of foreign policy. It is a little obscure I think at the moment as to whether any one individual has succeeded Mr. Bundy in that area, or whether two or three individuals split up the staff responsibility for foreign policy at the White House level. But there have at least been some statements in the news that Mr. Rostow has moved into Mr. Bundy's spot. I guess my first question is, Do you think that is an accurate statement or not, from what you know?

Mr. BOWIE. This really goes beyond my competence; I don't know what——

Counselor's relationship with Mr. Rostow

Senator CLARK. Would you not think it likely, that in your new job, you would be dealing frequently on matters of policy with Mr. Rostow?

Mr. BOWIE. Well, I don't know how it works, sir. On the basis of my prior experience, I would not expect that. I would have thought that I would work primarily with the Secretary, and where the Secretary wished me to do so, with him, with the President, or whoever was acting for the President. I would not think it was very good organization having staff people work directly, independently, and separately.

Senator CLARK. Have you talked to Mr. Bundy about his experiences in the White House?

Mr. BOWIE. Since he left; no, sir.

Senator CLARK. It is my rather firm impression that while he was there—I have enormous regard for his ability—there were a great many problems in the general area of foreign policy, and foreign policy operations, which were screened through Mr. Bundy, who to some extent at least was the chief of staff for the President on foreign affairs.

Now, if I am wrong in that, I would be glad to have you tell me. And I also think—if to a very substantial extent Mr. Rostow was moved into that spot, and accordingly the State Department, not only through the Secretary, but through the Under Secretary, and through you if you are confirmed, would be dealing on a almost daily basis with Mr. Rostow. Or do you disagree with that?

Mr. BOWIE. You are asking me, sir, something I cannot answer really. But my guess would be of course that insofar as the Secretary might ask me to handle things for him, I might very well have to be dealing with the White House staff including Mr. Rostow. But I thought you were asking a different question, and maybe I misunderstood. I thought you were asking about independent relations.

Senator CLARK. No; I am talking about your official relationship. You have answered it. You say you don't know. I don't know; I am guessing. I think your guess it pretty close to mine.

It seems to me, Mr. Bowie, this is a good place to stop. With your permission we will recess the committee subject to the call of the Chair.

(Whereupon, at 12:15 p.m., the committee was adjourned, to reconvene subject to the call of the Chair.)

Mr. CLARK. Mr. President, will the Senator yield?

Mr. SYMINGTON. I would rather complete my statement, if I may, and then I shall be glad to yield.

On another day, August 23, Dr. Bowie again was interrogated by the Senate Committee on Foreign Relations. This time he was questioned from 5 minutes after 2 until 5 minutes after 6. I ask unanimous consent that a large portion of that testimony be inserted at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

NOMINATION OF ROBERT R. BOWIE OF MASSACHUSETTS, TO BE COUNSELOR OF THE DEPARTMENT OF STATE—RESUMED—TUESDAY, AUGUST 23, 1966

Senator CLARK. The committee will be in session.

Chairman FULBRIGHT is presently making his opening statement on the floor of the Senate in support of the Peace Corps bill. He

hopes to come down here as soon as he is able, and has asked me to preside at the hearing until either he, or someone else who has more seniority than I, can show up.

At the last hearing, Mr. Bowie, I was questioning you about your understanding of what your relationships would be with other members of the State Department and White House staff. I think we had disposed of that, at least to my satisfaction. I wonder, however, if there is anything else that you would care to add, having had a chance to think over our colloquy.

STATEMENT OF ROBERT R. BOWIE, OF MASSACHUSETTS, NOMINEE TO BE COUNSELOR OF THE DEPARTMENT OF STATE—RESUMED

Mr. BOWIE. I don't believe so, sir.

Senator CLARK. I gave you at the conclusion of the last hearing some of the documents which I had intended to question you about. I believe you had them reproduced and returned the originals to me. I hope this will help expedite this session.

Extent of difference between Rusk and Dulles foreign policies

At the last session the chairman indicated that he was concerned that you had served under Secretary of State Dulles, and presumably been generally responsive to his philosophy with respect to American foreign policy. You, I thought, had an excellent answer, that you didn't always agree with Secretary Dulles, but that you didn't disagree with him often enough to make you feel you should resign. I would like to ask you to respond to the question to what extent, if at all, you think that American foreign policy differs to any significant degree today under Secretary of State Rusk as opposed to that under Secretary of State Dulles.

Before you answer, the implication of the chairman's question was that there isn't any significant difference.

Mr. BOWIE. Well, I really do find it pretty hard to take the whole range of American foreign policy in two substantial periods of time and compare them. But my own feeling would be that in their basic elements both are seeking to create a viable world—to prevent aggressive expansion and domination of others, on the one hand, and to foster cooperative relations where possible, on the other hand, by the efforts to assist the developing countries in their modernizing, to foster Atlantic solidarity and European unity, to produce a stable situation in the Far East; and to develop better relations with the communist world.

If you are talking on lines as broad as that, of course, there is continuity for the period of Truman, Eisenhower, Kennedy, and Johnson, it seems to me. But if you get into more fine-grained analysis, if you compare the beginnings of the Eisenhower administration with the end of the Eisenhower administration you find great differences of emphasis, and to my mind, if you look at our policy in a historic sense, it has been gradually unfolding and developing in response to changing conditions through the whole 20 years. But in its basics, it seems to me, there is a continuity about it through all the administrations. That is the way I see it.

Senator CLARK. The chairman suggested in his question, that you see little difference, between the policies of Mr. Rusk and those of Mr. Dulles. I wonder if you do see any significant difference. I don't, myself.

Mr. BOWIE. Well, it seems to me, sir, that it really in part depends on what stage you compare, say, under Dulles. Dulles was there for, what was it, 7 years?

U.S. foreign policy under Eisenhower administration

Senator CLARK. Let's take it from the time just before the end of the period when Mr. Dulles became incapacitated; his last view.

Mr. BOWIE. It seems to me the important view was the President's view in each case as I saw the formation of foreign policy. In the Eisenhower administration, the final authority was held by the President. He had great confidence and placed great trust in Mr. Dulles, but he did by no means give him carte blanche.

As I saw the policies of the Eisenhower administration, say, the last year or so I was there, I would have said that there was a conscious effort to explore ways of reaching better relations with the Soviet Union in a wide variety of ways of which the visit of Khrushchev to this country was only the most dramatic.

I would have said that there was a determination at the same time to resist any expansion by force or subversion from whatever quarter. There was clearly a growing concern for the underdeveloped countries, and the need for increasing amounts of assistance to them. There was a real concern with trying to find approaches to disarmament. You remember the appointment of Harold Stassen and all that range of activities which was designed to see whether there was any way to move forward in that respect. I should suppose that you could certainly find parallels to each of those lines of policy in the present administration.

If you take the general atmosphere of, say, 1957 as compared to 1966, or 1956 as compared to 1966, there seems to me to have been inevitably an earlier stage in the movement toward more constructive kinds of actions in the 1956 period than there are now. I think there is an awareness that the range of things that we have to be working at includes quite a variety of constructive things which need to be done with the hope of moving toward a viable international order which would have a place in it for the differing countries, with different backgrounds, different interests, and different purposes.

In a thumbnail sketch that is the best I can do.

Senator CLARK. Did you remain in the Department after Christian Herter became Secretary of State?

Mr. BOWIE. No, sir, I left in August 1957.

Did Secretary Dulles repudiate Mr. Stassen's disarmament agreement?

Senator CLARK. You made reference to Governor Stassen.

Would you comment on this observation? It is generally thought, I believe, that Mr. Stassen had a meaningful and significant arms control and disarmament agreement within our grasp in London, and that his views were repudiated by Secretary Dulles. Is that not your recollection?

Mr. BOWIE. No, sir, that is not. This is one on which I think I have a fair recollection because I was very much concerned in 1954, 1955, 1956, with the whole disarmament problem. As director of the Policy Planning Staff, I tried to get this subject treated in a serious way, and I think I was as much responsible as anybody for the naming of a person in the White House to be active in this field, not that I chose Mr. Stassen, but that I pushed hard to get the naming of somebody who would have this as his principal responsibility working out of the White House.

I certainly wouldn't say that Mr. Stassen and Mr. Dulles got on well, I don't think they did, but I don't think that Mr. Stassen had any agreement within his grasp which was prevented by Mr. Dulles.

Secretary Dulles' views on disarmament measures

Senator CLARK. Do you believe that Mr. Dulles thought that major measures of arms control and disarmament in an agreement with the Soviet Union were feasible in his tenure of office?

Mr. BOWIE. My impression was that Mr. Dulles was skeptical of the possibilities of any such agreement. I think his skepticism partly flowed from the fact that his brother Allen had worked on the whole field of disarmament in the thirties in the League of Nations and had, I think, become pretty discouraged with the possibilities of working out an agreement in that setting.

Second, I think Mr. Dulles was not persuaded that the Soviets at that stage were interested in any agreement on disarmament. I think he felt that if anything was to be achieved it would require further evolution in Soviet attitudes before any agreement became feasible. So, I think it would be fair to say that he was skeptical as to the possibilities. But it is also true, I think, that he was the one ultimately who got the appointment of a White House man on disarmament, it was his recommendation. And so I think the other side of the coin is that he was quite prepared to see serious exploration of the possibilities by someone who certainly was deeply committed to this, as a feasible undertaking.

Senator CLARK. Senator SPARKMAN?

Mr. Stassen's disarmament proposals

Senator SPARKMAN. May I break in here and ask a question? I want to go back to the answer you gave preceding this last question. I am not sure I understand it fully.

Did you say that, in your opinion, Stassen never had within sight a disarmament program, or what did you say?

Mr. BOWIE. No, sir, he had a set of proposals. As a matter of fact a number of those proposals had been worked out in the Policy Planning Staff before he even took office. It was my conviction that he did not have within his grasp an agreement with the Soviets, that is what I said.

Senator SPARKMAN. I wanted to hear what you said. Yes.

Conflicting press reports of Mr. Stassen's progress

Senator CLARK. That answer, of course, is in some conflict to what has been reported in the press.

Mr. BOWIE. You, sir, asked for my recollection and that is what I tried to give you.

Senator CLARK. You agree, though, that the press reports indicated that he did not have an agreement?

Mr. BOWIE. You mean the press reports at the time?

Senator CLARK. Yes.

Mr. BOWIE. The press reports at the time, sir, were in part inspired by Mr Stassen.

Senator CLARK. So you think Mr. Stassen was disloyal to his——

Mr. BOWIE. I didn't say that, sir. He was an optimistic man who thought he was making headway and felt that he would increase his chances of making headway to the extent that it looked as if he had some momentum, that is my honest view.

Senator CLARK. You don't think he had any momentum?

Mr. BOWIE. I don't think there was an agreement within his grasp, is what I thought you asked me.

Senator CLARK. Senator SYMINGTON has a statement he wants to make.

Senator SYMINGTON. Thank you, Mr. Chairman.

Statement of Senator Symington

Mr. Bowie, I express my appreciation of your willingness to come down here to Washington. We have a conference with the House on the defense bill. So I can't stay, and asked Senator CLARK and Senator SPARKMAN if they would be good enough to let me make a statement.

Again many of us here are glad to see you back. If my memory serves me correctly, Senator Knowland gave you a pretty rough time in a hearing some years ago on the grounds you were perhaps a little too much on the liberal side; so I am glad to see some

people feel perhaps you are a little on the conservative side.

I am grateful to my friend from Pennsylvania for yielding so I could again express my confidence in you, and also explain why it is not possible for me to be here longer.

Mr. BOWIE. Thank you very much, Senator.

Senator CLARK. Thank you, Senator SYMINGTON.

Senator SYMINGTON. Thank you, Mr. Chairman.

Skepticism about arms control agreements

Senator CLARK. To return to the subject of the views of Secretary Dulles on arms control and disarmament, I think I correctly understood you to say that you thought he was skeptical of the feasibility of entering into meaningful arms control and disarmament agreements. Is that correct?

Mr. BOWIE. That is right.

Senator CLARK. Were you then skeptical, and are you now?

Mr. BOWIE. Well, sir, my feeling then was best expressed by what I did. I inherited a situation in which our position was that we were for, essentially for, total and complete disarmament and the Pentagon was opposed to our deviating from that at all.

A disarmament program is only lately official U.S. policy

Senator CLARK. May I interrupt you to return to the subject again? It was my understanding, and correct me if I am wrong, that there never was a public statement of America's willingness to sign an appropriate and clearly guarded treaty of general and complete disarmament until after Mr. Dulles left the State Department and Secretary Herter took over. My own recollection is pretty clear, and I think it is accurate, because I had a feeling of great rapport with Mr. Herter which I did not have with Mr. Dulles. I talked to him about this shortly after he took office and he was delighted to find I was prepared to advise the President that it should be American policy to advocate general and complete disarmament which he, I thought, did with great courage.

He didn't get too much support from President Eisenhower, but he certainly wasn't turned down. It wasn't until President Kennedy came in that it became the official policy of the U.S. Government in public statement. Perhaps you would like to comment?

Mr. BOWIE. All I can say is that our official position, I don't know whether it was public or not, I thought it was, was essentially one in favor of a very far reaching program of complete disarmament.

Senator CLARK. How early was this?

Mr. BOWIE. This must have been 1953. And frankly, the Pentagon was the one that was opposed to moving from the position.

Senator CLARK. It is rather amusing that the roles now seem to be reversed, Secretary McNamara seems to be more ready for arms control and disarmament than Secretary Rusk.

Mr. BOWIE. In my position in the Policy Planning Staff, I felt that it was important to see whether or not progress could be made in this field. It was perfectly clear from the experience up to then that the line which was being taken was not going to yield to any agreement, and so we began to explore what possible smaller steps there might be, what partial measures might be feasible, for trying to get going, to test out whether or not the Soviets were at all interested in even, any form of trying to limit the arms race.

We developed a series, I don't remember them now, but things like cutoff of fissionable material production and controls of delivery of vehicles and things of that sort as partial steps, partial measures which would be worth exploring with sufficient kinds of safeguards, to see whether or not there was anything that could be done. There was a little committee which was composed, as I recall it, of Secretary Dulles, of the Secretary of Defense, I suppose maybe of Allen Dulles, I don't remember for sure which was supposed to come up with recommendations. The difficulty of getting this committee really to address these problems with sufficient attention because of the other claims on their time, was what ultimately led me to conclude that if this subject was going to be pursued with the kind of attention which I thought it deserved we had better have somebody whose only job it was to explore this area. That is the basis on which ultimately Mr. Stassen was appointed. I repeat, I didn't recommend Mr. Stassen but I recommended that such a post be created, and indeed, this little committee finally made the proposal as I remember, to the President that that be done.

The reason, therefore, for moving toward partial steps was a sincere interest in trying to see whether there was anything possible.

Senator CLARK. On your part?

Mr. BOWIE. On the part of the Government because the Government was what finally did it.

Nominee's view of U.S. disarmament proposals

Senator CLARK. Yes, but I am interested in your view.

Mr. BOWIE. Well, personally, yes. The Policy Planning Staff devoted quite a lot of effort to developing positions, papers, proposals which ultimately were made available to Mr. Stassen.

Senator CLARK. What are your present views, Mr. Bowie, as to the desirability of the United States taking a greater initiative in terms of attempting to reach arms control and disarmament agreements?

Mr. BOWIE. I don't know what greater initiative we could take, frankly. It seems to me we have had—since the appointment of Mr. Foster, of the ACDA, that we have had a considerable number of very dedicated people working on this subject. I think William Foster and Adrian Fisher are very sincerely interested in this subject, and are able people. They have a large staff working on it. They have been almost continuously in negotiations with the Soviets, so that as far as giving attention to it, I don't see how you could increase that.

Senator CLARK. I quite agree with your appraisal of those gentlemen. In my own view, they have been constantly curtailed in what they could do, to some extent by the Defense Department, but to a greater extent by the State Department.

I regret, as I told you earlier, I must leave and will try to be back at 3:05. I am very apologetic.

Current discussion very helpful

Senator SPARKMAN. I will say this. This is a very interesting discussion we are having, and I think it may prove to be a very valuable one. I don't know that we ever had a time when we had a review of this situation and the conditions in the way that you are giving it now. I think it will be very helpful.

I wish I could stay here throughout the discussion but I must leave also. So, the only thing I know to do is just to call a recess until the chairman comes or until Senator CLARK returns.

Mr. BOWIE. All right, sir.

(Short recess.)

Should the United States propose further disarmament steps?

Senator CLARK (presiding). I ask you to comment, Mr. Bowie, on my suggestion that the arms control and disarmament executives, Mr. Foster, Mr. Fisher, Mr. Bunn, would, if left to their own devices, propose substantially less rigorous restriction on both a nonproliferation treaty and a complete test ban. I would ask you also, not only whether you agree with the observation, but what your own views are as to whether we should not and could not go further in an effort to reach agreement, not only with the Russians, but with the neutral nations and those other nations which do not presently have a nuclear capability.

Mr. BOWIE. Well, on the question of what Mr. Foster and his associates would do if on their own I can't honestly say.

Senator CLARK. Well, I can.

Mr. BOWIE. All right, I can't. I can state my own views about nonproliferation and test ban. On the test ban I have not simply studied it enough to know in fact what would be adequate safeguards, would be adequate inspection.

Swedish challenge proposal

Senator CLARK. Are you familiar with the Swedish proposal?

Mr. BOWIE. The challenge proposal?

Senator CLARK. The challenge, plus a temporary go at it on a trial basis for perhaps 6 months, maybe a year.

Mr. BOWIE. Just offhand it would seem to me this had some merit. I simply do not feel, as I say, that I have gone into it thoroughly enough to be prepared to say if I were President I would do it. But I thought it was an ingenious idea and a possible way around the difficulty.

On the nonproliferation agreement I personally feel that the position of the Government is the right one.

Nominee's role in the MLF proposal

Senator CLARK. It was stated in the newspapers after our last hearing that you were the author of MLF.

Is there any truth in that?

Mr. BOWIE. Not strictly, sir. But probably in substance. Let me explain. At the previous session, I explained that I had written a report for Mr. Herter in the summer of 1960 on the whole range of tasks which the Atlantic nations would face over the next decade, the decade of the sixties.

In the course of that I did make some suggestions about the problem, the military problem and the nuclear problem. My recollection is that in the report I suggested a two-stage proposal in which there would first be a NATO committee which, as I recall, was to have assigned to it some American subs as a basis for its action and advice.

Senator CLARK. Mixed crews.

Mr. BOWIE. Not at that stage. The first stage, no.

In the second stage, if this was not sufficient—if this did not meet the desires of the Europeans—there was to be the possibility of a collective force which would be mixmanned.

Now, the actual form of the MLF proposal was not in all respects what I had suggested, but I don't want to try to get into the details of it, sir, because I haven't read my own report for 5 years.

Senator CLARK. I don't want you to go into detail. However, you would agree that you played a significant role in the formulation of MLF?

Mr. BOWIE. I made this proposal, sir, and at that point it was bread on the waters. As I recall it, Mr. Herter made some suggestions of this sort in December of 1960, I believe it was, and then I believe that President Kennedy in Ottawa picked up the idea in a speech he made, but I had nothing to do with it at that stage. I had nothing really to do with the formulation of the actual proposal, for the 25 surface ships.

State Department's version of the MLF

Senator CLARK. You still support the State Department's version of MLF?

Mr. BOWIE. I still feel this, sir, that the problem of how to deal with nuclear sharing is still with us. I don't think it is necessary that it be solved tomorrow. I don't see how it can be solved tomorrow. But to my mind a collective solution is far better than national forces, and the national British

force and the national French force exist, and if I could have my way, I would prefer to see some kind of joint force which these could be absorbed.

I think this would be a real contribution toward nonproliferation as I see it. If you are looking at it down the long road, the existence of these British forces and French forces are a real temptation and incitement to others to emulate them, and I think that it would be highly desirable to have some sort of a collective answer to take the place of these national forces.

Hardware solution versus consultative approach to nuclear sharing problem

Senator CLARK. I know you don't like to talk in cliches. You agreed earlier that Senator CASE and I, to a certain extent as politicians, have to talk in cliches. Would you prefer a hardware solution to the nuclear sharing problem as set forth in MLF, an option which is retained in the U.S. draft of a nonproliferation treaty, to the consultative approach which has publicly been suggested by Secretary McNamara which, in my judgment, the Russians would accept?

Mr. BOWIE. As I think I said in the last hearing, sir, I think that the McNamara approach ought to be pursued actively, and I would hope that it would mitigate the feelings of the Europeans that they don't have an adequate role in the management of the nuclear deterrent.

But I think I testified last time also that in my judgment this wouldn't ultimately remove the problem of how to deal with the British force and the French force and the temptation to have national forces.

Efforts at agreement with the Russians

Senator CLARK. My concern is with what appears to me, to be your preoccupation with Western Europe and NATO, as opposed to an effort to come to an accommodation with the Russians in an area which, to me, seems far more important than getting a NATO alliance working closely together on a multilateral force of some sort. I would like you to comment on the suggestion that we would be better advised to place a higher priority on coming to an agreement with the Russians on the relatively minor matters in dispute between us at Geneva, than to support the position of the West German Government.

Mr. BOWIE. I think this is broader, sir, than just Western Europe. I was in Japan and India this spring, and the attitude in very informed and intelligent quarters in both those countries toward proliferation is quite clearly affected by the existence of the British and French forces. The Japanese particularly resent the idea of having a treaty which would freeze the continuation of the French and British force and attempt to freeze them out of having any similar force, and the same attitude as far as I could discover was also fairly common in India.

In both cases their feeling was that they were exposed to the threat of the Chinese nuclear capability, that the nonproliferation treaty would do nothing to cope with that threat, and they didn't see why they should be frozen into a have-not status when the British and the French were on the other side and were really insisting on the necessities of retaining theirs and nothing would be done to remove the Chinese threat or mitigate it at all. I don't think that the problem is a strictly European one; certainly my interest in it is broader than that.

Senator Clark's disarmament recommendations

Senator CLARK. I have been to the Geneva Disarmament Conference a number of times. My last visit was on May 3 through 5 of this year. At that time I made a report on the then status of the 18-Nation Disarmament Conference to the Committee on Foreign Relations, including a summary of whom I talked to, what I had done, and a set of recommendations.

Have you had an opportunity to look at that?

Mr. BOWIE. No, sir.

Senator CLARK. I had a long discussion with the Indian Ambassador at Geneva. I have not talked to the Japanese but I have had reported pretty fully what their views are.

Now that you have been given a copy of the report, I will ask you to turn to page 8. I would like to ask you your reaction to the recommendations I made.

Abandonment of efforts of nuclear sharing by West Germany

As a result of my trip to Geneva—I am reading:

"I would recommend that the Foreign Relations Committee:

"1. Urge the executive branch to abandon efforts to provide for nuclear sharing by West Germany through NATO, a multilateral force, an Atlantic nuclear force, or otherwise."

Would you agree with that recommendation?

Mr. BOWIE. No, sir. I feel that the problem of proliferation has to be looked at in broader political terms. To my mind the treaty would provide only a very limited contribution to this. The Soviets quite clearly have no intention of proliferating or spreading nuclear weapons and their signature is of very limited value, it seems to me, in trying to deal with this very important problem.

To my mind the only way to deal with the problem is to deal with the motives, the reasons which cause nations to try to acquire nuclear weapons. And as I see it those reasons can be reduced to about two. One is the feeling of the need to protect their security and the other is the prestige argument.

The French and the British, in particular, have used both these arguments extensively, and their expressions of views have been picked up in many countries including Japan and India, and elsewhere. To my mind if you really hope to prevent the spread of nuclear weapons you will have to deal with the underlying political motivations, the drive which causes people in those countries to be interested in acquiring these weapons. I do not believe you are going to build a secure peace on a discriminatory basis. You are certainly on record in favor of the rule of law and techniques of law, but you would be the first, I am sure, to agree that you don't achieve a stable law if you have a highly discriminatory situation in which some people feel that they are being deprived and other people are being given special privileges. Now, that is in fact the way a good many people look on the situation which freezes the French, the British and the Chinese deterrents indefinitely, while attempting to prevent them from acquiring a similar degree of protection.

Frankly, I don't think you are going to build a secure peace on these kinds of bases. I think you have got to meet countries' legitimate concerns and to deal with countries on the basis of essential equality and fairness, and it does not seem to me that that is done by any system which attempts to freeze five powers with these weapons and to exclude all others for eternity from a similar situation.

Senator CLARK. I suggest in all humor you have set up a strawman and then effectively knocked it down, because perhaps due to the way I phrased the questions. I don't think any sensible man would disagree with what you said. The problem is that you have to proceed by stages in this regard, that you are not going to get the Russians to sign a nonproliferation treaty as long as you give West Germany a possible future option to get its finger on the nuclear trigger.

So, the first thing you have to do, in my judgment, is to eliminate that and hence my first recommendation.

Specifics for a nuclear nonproliferation treaty

My second recommendation was to—

"Urge the administration to support at Geneva a nuclear nonproliferation treaty which, (a) prohibits the ownership, control, or use of nuclear weapons by any nonnuclear powers and, (b) commits the nuclear powers not to assist in any way either through alliance or otherwise, directly or indirectly, any non-nuclear power in obtaining possession, control, or use of such weapons."

Now, really the most important part is this:

"The administration should also be encouraged in its efforts to obtain agreement on a freeze, subject to adequate verification, in the production of fissionable material by all nuclear powers, and arrangements for the verified mutual transfer to peaceful uses of agreed quantities of nuclear material, together with the verified mutual destruction of an agreed number of nuclear warheads."

Attitudes of nonnuclear powers toward a nonproliferation treaty

In other words, no nonnuclear power clearly is going to sign a nonproliferation treaty unless France, England, Russia, and the United States make a significant contribution to denuclearizing their own armaments as a condition to a treaty in which others would agree not to achieve them. Insofar as your views on England are concerned, having talked at some length with Lord Shalfont, there is no doubt whatever in my mind that England would cooperate wholeheartedly in that regard.

Now, you might have more trouble with France, but let's meet that when we come to it. In my opinion you won't have the slightest trouble with India and Sweden or even Japan. I suppose that is an argument on my part rather than a questioning of you. But I would like your comments on my second recommendation.

Mr. BOWIE. Well, as to the first part of it, sir, I think my original, my previous answer probably covers it.

My understanding of any kind of multilateral force that has been discussed, however, is that it would not, in fact, give any one of the participants control over the use or possession of the weapons on a national basis but rather would have the entire control joint and therefore not national.

Senator CLARK. What difference does it make from the Russian point of view whether it is joint or national?

Mr. BOWIE. It makes all the difference, sir, if they are really concerned about security, because in fact the Germans would be no more in a position to fire the weapons or to use them than they are now with the two-key system that they have, under which they have a very large number of weapons.

Senator CLARK. Well, I do not want to argue with you——

Cessation of production of fissionable material

Mr. BOWIE. On the second part of your recommendation, I think it is highly constructive and I would like to see it done, that is to say, the cessation of production of fissionable material and the transfer to peaceful uses. Actually, this was one of the proposals as I recall it, which was made in 1956 or 1955 within the Policy Planning Staff, but my understanding is that the Soviets have flatly refused to even discuss this.

Senator CLARK. I think the reason is because we are unwilling and again I do not want to argue with you, to make the change in our policy which they are quite insistent on, which is that we move to the McNamara

consultative solution instead of the Rusk-State Department hardware solution.

Continued research into methods to detect nuclear explosions

Let's have it at that and go on to number 3:

"Urge the administration to continue research into methods of distinguishing among seismic events so as to increase our ability to detect and identify underground nuclear explosions, with a view to reducing our dependence on on-site inspection or seismic devices maintained on the territory of an adversary as a guarantee against clandestine violation of a comprehensive nuclear test ban."

Mr. BOWIE. I would fully support such research myself.

Tribunals for the settlement of nuclear disputes

Senator CLARK (reading):

"4. Urge the administration to refine and clarify its draft outline of a treaty of general and complete disarmament, with particular reference to the clauses in such treaty establishing (*a*) an international disarmament organization; (*b*) an international peace force; and (*c*) additional international institutions of law, equity, mediation, and conciliation to provide tribunals for the peaceful settlement of all disputes, political as well as strictly legal, including the granting to such institutions of the power to issue decrees enforcible by the international peace force under the supervision of the international disarmament organization.

"In this regard the administration should be urged to reactivate the Committee of Western Jurists and to charge the jurists with the technical task of drafting these treaty clauses."

How do you react to that?

Mr. BOWIE. Well, sir, I feel that the—I think I tried to suggest before our recess, that to my mind the great task that we face at this point is to foster the conditions under which we can move toward the substitution of peaceful methods for force in international affairs.

Senator CLARK. What is your view as to the priorities we should give in seeking to achieve that most desirable aim?

Mr. BOWIE. Well, as I see it, if you really want to move toward law or legal methods or peaceful methods as the means of dealing with disputes, it is essential to create a sense of community, a sense of shared interests among people, among countries, which really excludes their resort to force as a method by which they deal with one another. I think the experience of ourselves and Canada is an excellent one in which, I think, the progress—it is obviously unthinkable that we should ever resort to force against each other. To me, the great challenge of what is going on in Western Europe is the effort to achieve the same kind of relationship there, the feeling of community, the interrelation of interests and groups such that it would exclude the possibility of ever having to resort to war among these countries.

I think gradually this is happening in Europe. I think it has happened or is happening between the United States and these European countries.

I think that the basis of all this has to be a sense of common interests, common kinship, readiness to treat these people, the other people, as having claims which are recognized as being just as legitimate as your own.

This is a slow process. I do not think you can do this quickly. I think it is certainly, however, the challenge of our time and, therefore, we ought to apply ourselves to trying to broaden the arena, the area, the field, in which this state of things, this set of conditions, can be achieved.

Barriers to international understanding

Now of the great barriers to this at this stage—it seems to me there are three—one is the enormous disparity between the poor countries and ours. Inevitably there is disorder and turmoil and instability in these areas and an enormous gulf between them and us. So I think one of the big challenges is to do everything in our power to help these countries to achieve greater stability and progress and to overcome gradually, and it will be awfully gradual, the enormous gap between us and them.

Second, it seems to me we have the problem of the gulf, the ideological gulf, between us and the Communist world. It seems to me there again we should be working to try to bridge this by opening up all possible avenues of cooperation.

But as I see it what we need is a dual policy, a policy which effectively blocks the possibility of expansion by any means, military, subversive, or otherwise, while combining it with the offer of cooperative relations whenever they are prepared to pursue them.

The third obstacle is obviously nationalism. We can see this is still a potent factor all over the world, even in Western Europe, where, as I said, I feel great progress has been made since the war, to try to overcome past rivalries. It still, obviously, is not an accomplished thing. There still is lots to be done. But to my mind the work toward a European community is just as much a contribution in this direction as is the work toward an Atlantic partnership.

Fundamentally, it is because of this outlook—the belief that in order to have peaceful means used in place of violence you have to create the conditions which make this feasible—that I feel that we should not sacrifice the creation of a community in the West to the efforts for symbolic agreements with the Soviets. It is not because I am opposed to agreements with the Soviets, but I simply feel in each case we ought to be working for the creation of the conditions in which peaceful relations are possible.

Senator CLARK. I notice that the next three recommendations in my report are either directed solely to the Foreign Relations Committee or, with respect to the last one, have become obsolete. The last one urged the administration to continue strong support of the Disarmament Conference at Geneva, and it is about to break up with nothing accomplished.

State Department is preoccupied with Western Europe problems

In my opinion at least half the fault is with our State Department. If you want to comment on that, I would be glad to hear it. But I do not think that it is particularly pertinent to this inquiry.

Mr. BOWIE. Thank you.

Senator CLARK. The difference between us has very little to do with whether you should be confirmed as counselor for the State Department, but I want to state it for the record in order to give you an opportunity to comment on it. That is, that I think we are preoccupied in the State Department, with respect to our European foreign policy, with shoring up the NATO alliance, with our animosity toward General de Gaulle, our preoccupation with the military aspects, to guard against what seems to me is, at the moment, almost a non-existent threat. The first priority of our foreign policy should be an effort to arrive at meaningful agreements with the Soviet Union. If you want to comment on that statement, please do, but don't feel that you have to.

Mr. BOWIE. Well, I think much of my earlier statement reflects whatever differences there are.

Senator CLARK. Yes. I think it does, too.

Priorities in nominee's foreign policy philosophy

I draw the conclusion, which may be unfair, and if you think it is unfair, please say so, that your philosophy, of foreign policy puts the first priority on Western Europe and NATO, to the exclusion of the detente with the Soviet Union: a second priority is put on our assistance to underdeveloped countries, and a third and rather low priority is on taking an initiative to come to a meaningful agreement with the Soviet Union on a wide range of subjects. Is that an unfair statement?

Mr. BOWIE. I do not think it is unfair, sir, but I do not think it entirely reflects my views.

Senator CLARK. Do you want to correct it a bit?

Mr. BOWIE. My feeling is that you cannot quite rank these things in the order of one, two, three, four. As I see them they are an interconnected group of policies which tend to reinforce one another.

For example, on the question of the cohesion of the Western countries, I personally do not see this as in conflict with efforts to arrive at better relations with the Soviet Union, but as the route to do so.

Senator CLARK. Let me interrupt to say that it clearly is in connection with the MLF, don't you think?

Mr. BOWIE. If you placed as high a value as I gather you do, sir, on a signature to a treaty, yes, but I don't—in my mind there isn't this conflict because the achievement of a signature by the Soviets on a particular treaty which commits them only to do what they are going to do regardless of the treaty, is not a great contribution to detente. I am sorry, sir, I do not want to dispute your view. I am simply trying to explain why it is that I do not see my point of view as being in conflict with the effort to arrive at better relations with the Soviets. By the same token, I believe the effort to foster stability in the underdeveloped world is a contribution to our better relations with the Soviets and with China in the long run, because as I see it, the change in Soviet policy has been a result of the change in conditions which they face in the world, in very large part. To the extent that their approach of expansion by subversion or military means or otherwise is frustrated, this is what it is that turns them inward into a reexamination of their priorities and their purposes and so. To my mind this, therefore, again, is not in conflict with the effort to improve relations with the Soviets, but is a contribution to it.

It is also, I think, important in its own right. But I would see these several activities as all being important, mutually reinforcing, and all serving the ultimate purpose of trying to create the conditions in which a more peaceful and viable order will be possible.

Efforts to achieve agreements with the Soviet Union

Senator CLARK. The purpose of this inquiry is not to develop my views but yours. I think you have made yours abundantly clear. I doubt if you would, in your new office, be advising either the Secretary or the President to place a considerably higher effort and higher priority on efforts to achieve agreements with the Soviet Union, not, as you suggest, in order to get their signature to a piece of paper, but in order to do something to ease the pretensions and to point out to the Russians the fact, which I think their best diplomats now appreciate, that their economic, social and political future lies with us and not with the outmoded views of Marx and Engels, and that they are gradually coming that way, but we are not giving them much reason to do it.

Mr. BOWIE. All I can say, sir, is that as far as I am concerned, I would try to give them every encouragement to arrive at that view.

Senator CLARK. I am delighted to hear it.

Senator PELL, do you have a question at this point?

Evolution in Communist philosophy

Senator PELL. Yes; just carrying that thought out for a moment more, I wonder whether the reason the Russians are changing is not because of changing conditions externally in the world, but because of the fact that, to misquote Marx, communism has the seeds of its own destruction and its own success. I wonder if you visualize your responsibility in our foreign policy as really being to keep the peace while communism in a sense burns itself out.

Mr. BOWIE. Well, sir, I think that what you added is one important dimension of the problem. I think the evolution within Soviet society is going on and will continue to go on. But I do think also that in terms of the way in which the leaders of the Soviet Union use their power and make their choices and conduct their foreign affairs, that the external conditions are also an extremely important factor and in many ways the factor which we can make do most to affect. We cannot really affect very much what goes on directly within the Soviet Union. That is a matter of social evolution and social change which is largely organic.

Senator PELL. Do you think we recognize the fact that when people have consumer goods and a degree of education that communism does not meet their requirements and demands?

Mr. BOWIE. Well, we start with a situation in which you have the Communist regime in power. I think that it is perfectly possible for a country, as in the case of the Soviets, to acquire more consumer goods and higher standards of living and a more complex industrial society, which is what they are doing, and still have the leadership committed for quite some time to what we would consider outmoded views of the world; and I think this is the case—there is a lag. But because there is a lag does not mean to me that it is static.

Senator PELL. No, no. But in the end governments have to be responsive to their people or they won't survive.

Mr. BOWIE. I think we see this in its own way going on in the Soviet Union.

Senator PELL. Exactly, and in Eastern Europe, as well, where the process has taken less time because the people started out with a high literacy rate and consumer goods, which was not the case in the Soviet Union. This is probably a little theoretical.

Geneva Conference on Indochina

The other question I had in mind, also in connection with Geneva, is another conference that occurred, there, one at which you were an adviser in 1954. The Geneva Conference on Indochina.

Mr. BOWIE. I was there only a brief time. I cannot remember myself how long I was there, but Mr. Dulles, as I recall it, went to the meeting and I believe I went with him, and then he came back and left, I believe, Bedell Smith there for the main negotiations. In that, am I wrong?

Senator PELL. I understood that you were a special adviser, but I realize that this may have been one of those titles.

Mr. BOWIE. Well, I think I went when Mr. Dulles went.

Senator PELL. Right.

Mr. BOWIE. But Mr. Dulles did not remain for most of the negotiations. He came back rather promptly and left in charge as I recall it either Bedell Smith or somebody else.

Change in U.S. attitude toward Geneva accords

Senator PELL. Ignoring your involvement in the conference, what has puzzled me is why the United States did not sign the agreements then; why we have more or less done our best to turn our back on those agreements and not encourage the holding of elections in 1956; and why we did not support the Geneva Accords even up to last year, 1965. Now we rather like the Geneva Accords as a basis for settlement. How do you account for this change?

Mr. BOWIE. I will have to do my best to recall. My recollection is that at the Geneva meeting the U.S. representative, and I believe it was Bedell Smith, stated that the United States would not sign the accords but that it would abide by them, so to speak; that it would do nothing to upset them or contravene them. I think that was correct.

Senator PELL. Why wouldn't they sign them? What was the reason? I should know that. It is an unfair question probably at this time.

Mr. BOWIE. I cannot remember well enough. I think as I recall it, Mr. Dulles did not want to be associated, in the sense of being a party to, the final accord. That is my recollection, but I do not remember.

Senator PELL. How do you account for our about face? Three or four years ago we were rather sniffy about the Geneva Accords and even De Gaulle's thoughts about neutralization of the area. Now we find a certain willingness to go along with the Geneva Accords.

Mr. BOWIE. As I say, my recollection was that the United States stated at Geneva that it would abide by or not contravene or live up to them—something like that—even in 1954.

Elections in South Vietnam during Diem regime

Senator PELL. Then we changed our policy a couple of years later by doing our best to hold off the election, encouraging Diem to not go ahead with the election. The dividing line between the two countries was very temporary and we were in a sense contravening the spirit of the accords by helping to create two separate countries.

Mr. BOWIE. But the South Vietnamese, as I recall, at the 1954 meeting made a reservation about their willingness to accept that part of the accord.

Senator PELL. Yes.

Mr. BOWIE. I do not think the Diem regime was at all prepared to have an election because I think they did not feel that there was any chance at all that it could be properly supervised in the north. And therefore that it would not be a fair election but that it would be a rigged election in one-half and an open election in the south and that therefore this was sure to lose.

Forthcoming elections in South Vietnam

Senator PELL. Speaking of elections, one of the requirements of an election is that everybody who is affected should be able to participate, everybody who is affected should be able to run, and the governments that participate should agree to abide by the results. But all three of these requirements are violated by the elections being undertaken at the present time. This is an aside, but how do you see this election as having much of an impact? As I recall, the Vietcong are prohibited from participating. Neutralists are prohibited from standing for office and the chief of state has said he would fight the results if they were unfavorable.

Mr. BOWIE. It is very difficult for me to visualize how you conduct an election under the conditions which must prevail in Vietnam. I do not see how you can really do it in a way which cannot fail to have many shortcomings. On the other hand, I do not feel that I know intimately the actual situation in Vietnam. I am simply saying that as a newspaper reader I find it very hard to visualize how you conduct an election under those conditions.

Senator PELL. It is a step in the right direction, but under conditions of combat I do not think we should have too much hope about the outcome.

Mr. BOWIE. I think this is very wise, but to the extent that you can have a firmer popular base than what exists in Vietnam is so much to the good. That is my feeling.

Would the United States support elections based on Geneva accords?

Senator PELL. Going back to the Geneva agreements, would you consider that, as of now, they would be acceptable accords which we would support and go along with? Would we accept the results of an election, based on them, if it could take place?

Mr. BOWIE. You mean in both parts of Vietnam?

Senator PELL. Yes.

Mr. BOWIE. Again, I find it very hard to visualize how it gets done. But if you had a wholly fair election, I do not see why we should not be prepared to abide by it.

Senator PELL. That is all the questioning I have. Thank you.

Solution to nuclear sharing problem

Senator CLARK. Let me take you on a rapid trip to the other side of the world. What do you believe is the best solution to the nuclear sharing problem in Europe in the light of our announced desire to complete a nonproliferation treaty with the Russians and other nuclear or nonnuclear powers?

What would you do?

Mr. BOWIE. Well, as I said earlier, I would certainly utilize the McNamara committee to the maximum to see whether or not this would not improve the outlook of those who have up to this point felt that they did not have a sufficient share in the nuclear deterrent. Second, I would keep open, at least, the possibility of collective solutions for the future.

Senator CLARK. Even if you were convinced that that would mean the Russians would not agree?

Mr. BOWIE. Yes.

Senator CLARK. I think that is clear enough.

Senator Church's recommendations

In May of this year, Senator CHURCH, a member of this committee, at the request of the chairman, made a rather extensive tour of Europe. It was called a study mission. He went to Brussels, Paris, London, Bonn, Berlin, and the 18-nation Disarmament Conference in Geneva. When he came back, he prepared a report for the Foreign Relations Committee which has been printed. Have you had an opportunity to see it?

Mr. BOWIE. I believe I read it, sir, but it was about the time it came out and I could not tell you now what is in it.

Recommended conduct of our relations with France

Senator CLARK. I would like your comment on whether you agree with his seven recommendations which start on page 5. I see you have a copy of the report.

"1. In the conduct of our relations with France, our manner should be firm but correct. We must avoid over-reacting to French initiatives, even though we may regard them as undesirable. In no case should we disparage the greatness of France, our oldest ally, or engage in any sort of political guerrilla war against the French Government; such tactics should be reserved for our enemies. Above all, we should resist the temptation of interjecting our voice into the

internal politics of France. Any American appeal, directed over, under or around the French President, would surely backfire."

There has been a great deal of vocal criticism of General de Gaulle, a good deal of which has emanated either directly from the State Department or in that form of public relations—which I deplore, and I suspect you do, too—the authorized leak. What do you think of Senator CHURCH's first recommendation?

Mr. BOWIE. I think in general, I would agree. In my testimony last time I indicated that it seems to me all of us are involved willy-nilly in each other's internal politics, but I certainly think that any explicit or conscious appeal to the French over the head of De Gaulle is a waste of time.

My own feeling is that we should make our policies in terms of the aims and purposes that we think serve our interests and not direct them toward individuals.

Nominee's past criticism of General de Gaulle

Senator CLARK. In October of 1963, when you were not in public office you wrote an article for Foreign Affairs entitled, "Tensions Within the Alliance." I suggest that you would not, if you took public office, be as publicly critical of General de Gaulle as you were then. Would you care to comment?

Mr. BOWIE. I hope, sir, that I will not have to carry on public discussion. That is not my role in the Government as I see it. I certainly do not retract as a private citizen anything I said in October 1963.

Senator CLARK. I do not want to prolong this discussion but I would like to have printed in the record excerpts from Mr. Bowie's article in Foreign Affairs, dated October 1963. I ask him whether he stands on those statements today, and if not, to what extent he would modify them.

Mr. BOWIE. Yes, indeed, sir.

(The excerpts follow:)

"EXCERPTS FROM 'TENSIONS WITHIN THE ALLIANCE,' ARTICLE BY ROBERT R. BOWIE, IN FOREIGN AFFAIRS, OCTOBER 1963

"In the efforts to organize the West, the position of Britain and its policy since 1950 have, on the whole, been a disruptive factor. Britain did not share the concept of an integrated Europe.

* * * * *

"Whereas the strains which we have been discussing are largely inherent in the attempt to construct an integrated Europe and an Atlantic partnership, General de Gaulle's policies challenge the very concept itself.

* * * * *

"De Gaulle's basic outlook poses an even graver danger to the new edifice in Europe. His deep faith in the nation-state as the ultimate reality could lead to undoing all that has been achieved since 1950. * * * If he persists in his course, however, he may well revive the nationalism and outmoded rivalries which so many have dedicated themselves to wipe out. * * * The outcome of De Gaulle's policy could be to demonstrate once more the bitter consequences of a misguided reversion to the past.

* * * * *

"The design of General de Gaulle would therefore negate the long-term goal of a unified Europe acting as a partner of the United States for constructive purposes. His Europe would not be an integrated community but a coalition of nations led by France. His Europe would not be a partner of the United States but as independent and separate as possible. Thus De Gaulle's policy demands a clear answer. Not to oppose his aims would be to abandon our main postwar goals.

* * * * *

"Our aim must therefore be to make sure that his concepts do not prevail: that the European Community is not subverted into an instrument of French predominance, and that a split of Europe and the United States does not jeopardize the interests of both.

* * * * *

"But this does not mean that his objectives cannot be changed. Algeria showed that he can recognize brute facts and modify his plans accordingly. The problem is to make sure that events convince him that his plans will not succeed. The United States and its European partners are not without means to influence the environment of General de Gaulle. The course he has embarked upon seems out of keeping with the basic forces of our time. The independent role he seeks will not serve the interests of Europe. Nor do the other European nations want French hegemony. Hence strong bases exist for concerted action to lead De Gaulle to recognize the necessity to revise his plans.

* * * * *

"The vital thing is to see that our actions do not enhance, but erode, the leverage of De Gaulle."

Senator CLARK. What does that mean? Do you stand by them?

Mr. BOWIE. I stand on what I had said before.

Senator CLARK. You stand by the excerpts, and you have had no occasion to change your mind since October of 1963?

Mr. BOWIE. I take it you are not asking me to parse it in detail, but the general line of it?

Senator CLARK. Yes. Generally speaking, does the position you took then with respect to General de Gaulle and our relations with France accurately reflect your present thinking?

Mr. BOWIE. Yes, sir.

Special emissary to act between Johnson and De Gaulle

Senator CLARK. Let's get back to Senator CHURCH's second recommendation, which is on page 5:

"2. It is crucial that effective communication be restored between the French and American Governments. If a summit meeting between the two Presidents is not now feasible, then consideration should be given to the appointment of a special American emissary, who would endeavor to act between President Johnson and General de Gaulle as Harry Hopkins acted between President Roosevelt and Winston Churchill. His purpose would be to reopen and develop a dialog to the point where a summit meeting between the two Presidents would seem likely to bear fruit."

Amplifying that, Senator CHURCH's view and mine, and that of a number of other members of this committee, is that we ought to be looking not only toward a detente with Russia but toward a detente with France to establishing the cordial relations which at one time existed and to give General de Gaulle all due credit for his efforts to persuade the Russians to come into the communities of Western Europe. Do you want to comment on that?

Mr. BOWIE. You mean on what you have just said or——

Senator CLARK. Well, on the Church recommendation which I think I amplified without distorting.

Mr. BOWIE. My own feeling is basically not sympathetic toward special representatives. The French have an excellent Ambassador here and I would suppose he is a very good channel.

Senator CLARK. I agree with that.

Mr. BOWIE. I think Mr. Bohlen is an able ambassador who has shown over a long career his capacity to deal professionally and unemotionally with a variety of people, including the Russians and the French. He has an excellent command of French and a very long knowledge of France and a very deep love for the French. I would suppose that there is really no lack of channels of communication.

My feeling is that the difficulty is not personal. I think it is not in keeping with General de Gaulle's stature to suggest that his policies are a result of pique or personal offense.

I think they basically reflect deep-seated views about the nature of foreign affairs and the role of France, and I do not think the problems or difficulties arise really from lack of communication. It is a difference of outlook, a difference of purposes, a difference of policies.

Senator CLARK. This committee has information to the effect that meaningful communication between our Government and the French Government has broken down. It may not be correct, but I think it is correct.

Recent Franco-Russian communique

Did you have an opportunity to read the communique which was issued in Moscow as a result of General de Gaulle's visit there, to the chiefs of the Russian Government and Communist Party?

Mr. BOWIE. I read it in the New York Times. I guess that was it.

Senator CLARK. Yes. Did you take any exception to it?

Mr. BOWIE. Oh, dear, sir, I do not remember it in sufficient detail.

Senator CLARK. I am not trying to trap you. I do not have it here, but the general purport of it was that the French and the Russians would agree to cooperate in a wide variety of areas—economic, to some extent social, cultural, and to some extent political.

I, myself, was disappointed that we hadn't made such an agreement with the Russians, which I think we could have.

De Gaulle's policy toward Russia

What do you think is wrong with General de Gaulle's policy toward Russia, if anything?

Mr. BOWIE. Well, sir, I thought that in our exchange agreements, we had sought ourselves to open up avenues of contact with the Soviet Union. I think we are a little bit inclined to lose proper perspective.

The first major steps toward opening up relations with the Soviets were American steps. They were the steps, for instance, of inviting Khrushchev to visit this country and tour it. This was 7 years ago. That was at a point when General de Gaulle's policy was exactly the opposite, and he was denouncing the U.S. efforts to work out any kind of contracts on the grounds that this was likely to result in a sellout of German interests. I do not think we are johnny-come-latelies in this effort. I think that the United States certainly under Mr. Kennedy, and I think under the present administration, has sought to widen these areas of possible contact and possible cooperation.

Senator CLARK. There isn't any doubt that that was done while President Kennedy was alive. I think he was a very constructive influence on Secretary Rusk. I gather that you are not very sympathetic to General de Gaulle's efforts to close the breach, to build new bridges, toward the Soviet Union. Maybe I am misquoting you.

Mr. BOWIE. I am sympathetic to any serious efforts to close the breach or open up avenues or to produce cooperation.

American efforts toward exchanges with the Soviet Union

Senator CLARK. Do you think we have made serious efforts since President Johnson moved into the White House, and, if so, would you name one?

Mr. BOWIE. I thought we were continuing on with the efforts toward exchanges, toward

the efforts to arrive at a consular agreement, and other things of this sort, which are about all that seem to be open. I do not get the impression that the Soviets at this particular stage are really especially eager for new arrangements with the United States.

Senator CLARK. They stated their interest in the nonproliferation treaty. They stated their interest in the comprehensive test ban treaty. They stated their interest in the consular treaty. They stated their interest in advancing East-West trade.

Mr. BOWIE. Well, on the other hand, sir, I talked just last week with a man who was in our delegation in Geneva, which was negotiating or trying to negotiate this agreement about space, and his conclusion was that the Soviets, because of the particular kinds of obstacles which they raised preferred at this stage not to reach an agreement.

Senator CLARK. This is directly contrary to the information furnished to this committee last week by Ambassador Goldberg.

Mr. BOWIE. All right.

Steps to Europeanize NATO

Senator CLARK. Let's get back to Senator CHURCH's recommendations, and I refer you to No. 3:

"If the NATO structure is to be salvaged without France, the old architects must come up with new plans or new architects must be engaged. Clearly, SHAPE should be moved to a new site in the Benelux countries and streamlined, its bulk trimmed back in adjustment to the diminished danger. The European role in SHAPE should be sharply upgraded. Since the headquarters exists for the defense of Europe, I would recommend, among the specific steps that should be taken to Europeanize NATO, the following:

"(a) Appointing a European general to serve as SACEUR, under a command arrangement which would leave control of our nuclear weapons in the hands of the President of the United States.

"(b) Moving the Military Committee of NATO out of the Pentagon and relocating it in Europe in close proximity to SHAPE and the North Atlantic Council.

"(c) Establishing a hot line communications system, linking together the heads of the NATO governments, to enable immediate consultation in case of emergency."

Would you indicate, to the extent you desire, your concurrence or dissent from that recommendation?

Mr. BOWIE. In general, I should concur. I wonder, I am not sure though that the Europeans would necessarily favor a European general at this point, but if they wished to have a European general, certainly I would see no objection.

Senator CLARK. How about the Military Committee moving?

Mr. BOWIE. I think that would be a constructive move.

Senator CLARK. How about the hot line communications system?

Mr. BOWIE. That seems long overdue.

Senator CLARK. Generally speaking, you would agree with Senator CHURCH that the European role in SHAPE should be sharply upgraded?

Mr. BOWIE. To the extent that it can be done, sir, yes.

Senator CLARK. And to this extent diminishing the American hegemony?

Mr. BOWIE. I would not express it that way, but I do think that one of the crucial things that we ought to be trying to do in modifying, reforming NATO is indeed to increase the European role.

Atlantic union proposals

Senator CLARK. Would you prefer this to what is known as the Atlantic Union solution in which the United States would continue to be closely linked to European members of NATO, with what seems to me to be the almost inevitable result that we would dominate the weaker partners?

Mr. BOWIE. Yes, that seems to me to be the weakness of most of the proposals for Atlantic Union. So far as I can judge many of our best friends in Europe simply are not prepared to accept this kind of relationship. And again this is why I feel that some sort of a European entity which can hold up its end of the stick and can in fact be a self-respecting partner is an essential element of sound relations in the Atlantic area.

Positive aspect of NATO should be in quest for peace

Senator CLARK. Let's turn to Senator CHURCH's fourth recommendation:

"Another objective in the revision of NATO should be to make the alliance outward looking, an instrument concerned not only with the negative aspects of military defense but also with the positive aspects of the quest for peace. Here, it is De Gaulle who has seized the initiative. Yet, it remains the United States, not France, which possesses the size and power to engage in meaningful negotiations in the field of East-West relations. President Johnson has spoken of the need for 'building bridges' to Eastern Europe and the Soviet Union. De Gaulle's initiative makes it more urgent that we assume our natural position of leadership in this vital endeavor."

Do you agree with that?

Mr. BOWIE. I certainly agree with the positive side of that. I do not accept fully the appraisal of the relative degrees of initiative by ourselves and the French, but that is not important.

Rupture between France and European neighbors should be avoided

Senator CLARK. The fifth recommendation reads as follows:

"With regard to European integration, the Common Market appears to be weathering its way to success. This is, by all odds, the most significant achievement in the direction of European unity since the war. The economic cement binding the six members of the Common Market together is the best guarantee against any revision in Western Europe to the rampant nationalism of the prewar period. Accordingly, in lining up 14 to 1 against France in the current dispute over the command structure of NATO, we should strive to avoid any rupture between France and her European neighbors so bitter as to propel the French toward neutralism or vengeance. As between vindicating our position in favor of an uncompromised NATO command, and jeopardizing either the underlying Western alliance or the prospects for strengthening and enlarging the Common Market, the course of prudence should be clear."

Do you agree in general with this?

Mr. BOWIE. Yes.

Nuclear sharing agreement within NATO should be reached

Senator CLARK. His sixth recommendation is:

"As for Geneva, I recommend that immediate attention be given to pumping life back into these moribund negotiations. A decision should be delayed no longer on the issue of nuclear sharing within NATO. We must make up our minds whether to give priority to binding West Germany more tightly into the remnants of the NATO organizational structure, or whether to seek further agreements with the Soviet Union in the field of nuclear arms control. If a consultative arrangement, along the lines contemplated by the McNamara committee, is settled upon with West Germany, then the day may yet be open to reach agreement with the Soviet Union on a nonproliferation treaty. I strongly recommend this course as best suited to our highest national interests. But time is fast running out at Geneva."

It has in fact now run out. You have to some extent answered this question before, but because it is easier to have the question and the answer in the record consolidated at one point, I wonder if you would mind repeating what you said?

Mr. BOWIE. As you said, sir, I tried to fully develop my reasons for reservations on this point. I think that the principal point on which I would differ would be in the belief that it is not in our highest national interests to make any arrangement which freezes the discriminatory situation in Europe and freezes the national French and British forces and excludes the possibility of later including them in some sort of a collective force.

Attention should be given to "threshold" approach

Senator CLARK. Let me read number 7.

"Respecting a comprehensive test ban, I urge that immediate attention be given to the 'threshold' approach. It would limit the ban on underground tests to explosions above an agreed size which could be detected by seismic devices without need for on-site inspections. It is possible this may prove a feasible area for enlargement of the present treaty to correspond with the advances that have been made in detection techniques."

Would you support that?

Mr. BOWIE. Yes, sir, without having, as I said, knowledge of just what kind of threshold you could establish on the basis of the scientific competence.

Military approach to banning nuclear tests

Senator CLARK. I would state briefly for the record that the Pentagon is strongly opposed to that approach, and so is the Senate Armed Services Committee. Their view is that you cannot take the slightest risk of Russian cheating and that it is vitally important to keep our nuclear expertise hard at work in research and development and underground testing lest they drift off into private industry, and that, therefore, we should not move toward a comprehensive nuclear test ban treaty unless and until there is no possibility that Russian cheating is feasible. Their view is that we should take no calculated risk on political terms. We should make this decision entirely on military terms and be assured that there is no possibility of Russian cheating.

Would you have any expression, first, on Senator CHURCH's recommendation and second, on what I have just said?

Mr. BOWIE. As I understand it, Senator CHURCH recommends that you extend the ban to cover any size test which could be detected by seismic devices.

Senator CLARK. Right.

Mr. BOWIE. So I take it that his particular recommendation is not necessarily for an all-out or total ban unless it would be feasible to detect any violations by seismic devices.

Senator CLARK. Right.

Mr. BOWIE. As I said, I favor his proposal.

Recent White House Conference on International Cooperation

Senator CLARK. I have only one more major area of inquiry. This has to do with your reaction to the recommendations of the White House Conference on International Cooperation which was held November 28 to December 1, 1965. You will recall I gave you last week a rather comprehensive speech I made on the floor of the Senate on March 29 reporting on what had happened at that Conference. I hope you have had an opportunity to at least glance over it. I would ask you first did you participate in the ICY Conference?

Mr. BOWIE. No, sir.

Senator CLARK. Did you have an opportunity to read any of the reports?

Mr. BOWIE. I read some of them and I read the summary that was made of the reports,

which I think it was in the Saturday Review a while back. I cannot remember when.

Senator CLARK. On August 4, the White House issued a release which I would ask to have printed in the record at this point. The President has named a White House committee to oversee final review of the recommendations of last fall's White House Conference.

The Chairman will be Budget Director Charles Schultze. The other members will be Mr. Walt W. Rostow, Mr. Joseph A. Califano, Jr., and Mr. Raymond D. Nasher, of Dallas, who was the Executive Director at the conference.

(The announcement referred to follows:)

"THE WHITE HOUSE,
August 4, 1966.

"The President today named a White House Committee to oversee final review of the recommendations of the White House Conference on International Cooperation.

"The Conference, held in Washington November 28 to December 1, 1965, produced some 410 recommendations. More than 5,000 citizens participated in the Conference. Following the Conference the departments and agencies reviewed those recommendations, and many have already been carried out.

"Now the President has asked a group of his top personal advisers to oversee a final review in connection with preparation of the fiscal year 1968 budget and legislative program. This Committee will be chaired by Budget Director Charles Schultze and include Special Assistants Walt W. Rostow and Joseph A. Califano, Jr.

"Raymond D. Nasher of Dallas, Tex., will also serve on this Committee. He served as Executive Director of the Conference."

I also would like to have a copy of the memorandum from the President for the heads of departments and agencies, also issued on August 4, printed in the record at this point.

(The memorandum referred to follows:)

THE WHITE HOUSE,
August 4, 1966.

MEMORANDUM FROM THE PRESIDENT FOR THE HEADS OF DEPARTMENTS AND AGENCIES

We in the United States set aside the year 1965 as International Cooperation Year (ICY) to be spent in search of new ways of cooperation among nations.

To encourage that search, I called the White House Conference on International Cooperation, which met in Washington November 28 to December 1. That Conference was built on months of preparatory work by the ICY Cabinet Committee, which I had earlier formed, and the National Citizens' Commission. At the Conference itself some 5,000 Americans took part in discussing the reports of 30 panels of the National Citizens' Commission.

Now we in the Government are well advanced in following up many of these recommendations. In fact, a number of them are already before the Congress. Others are headed that way or are under review for other forms of implementation. A few we have found unworkable now. But all must enjoy the constructive review which the Secretary of State, the Vice President, and I promised.

To finish that review, I am appointing a White House committee this summer to oversee the final analysis in the context of preparing the FY 1968 Budget and legislative program. The Director, Bureau of the Budget, will serve as Chairman. He will be assisted by my Special Assistants, Mr. Rostow and Mr. Califano, and a private individual who was active in the work of the Conference. I ask you all to cooperate fully with them.

When the committee has finished its review, the Director, Bureau of the Budget, will give me a final report. Meanwhile, I have asked it to send to the National Citizens' Commission and each Chairman of a Citizens' Panel and appropriate letter outlining its plans for the review.

Equally important products of the Conference were the new channels of cooperation opened between experts in and out of government. I am determined that our government in its normal course of business continue to take advantage of the best thinking among our citizens. Therefore, I request each of you to encourage each Government Committee Chairman in your department or agency to carry on whatever contact with his citizen counterpart helpfully enlarges the scope of our own thinking. I am also asking the White House committee to report on the degree to which it has been possible to make this sort of contact a continuing and useful part of your regular business.

(S) LYNDON B. JOHNSON.

White House committee to oversee ICY recommendations

Senator CLARK. To summarize what is in it, the President says, that to conclude the recommendations of the Conference, he is appointing a White House committee this summer to oversee the final analysis of these recommendations in the context of preparing the fiscal year 1968 budget and legislative program. The Director of the Budget who is to be the chairman, will give the President a final report when the committee has finished its review. The President says, and I quote,

"Equally important products of the Conference were the new channels of cooperation opened between experts in and out of government. I am determined that our Government in its normal course of business continue to take advantage of the best thinking among our citizens. Therefore, I request each of you to encourage each Government Committee Chairman in your department or agency to carry on whatever contact with his citizen counterpart helpfully enlarges the scope of our own thinking. I am also asking the White House committee to report on the degree to which it has been possible to make this sort of a contact a continuing and useful part of your regular business."

I take it you would support that stand of the President, would you not?

Mr. BOWIE. Yes, sir.

The cause of peace most important pursuit

Senator CLARK. With respect to the speech at the opening of the Conference, which was delivered for the President by the Vice President, which I would like inserted in the record. I ask you whether you concur with the sentiments he expressed?

(The statement referred to follows:)

"INTERNATIONAL COOPERATION, A NECESSITY OF OUR AGE

"(Statement by President Johnson, read by Vice President HUMPHREY at the opening plenary session of the White House Conference on International Cooperation on November 29, White House press release, Austin, Tex.)

"I have called this Conference for one reason: I am determined that the United States shall actively engage its best minds and boldest spirits in the quest for a new order of world cooperation.

"This Nation recognizes that international cooperation is not merely a lofty deal. It is a fact of life, a necessity of our age.

"The General Assembly of the United Nations has designated this year International Cooperation Year, and by proclamation of its President and resolution of its Congress, the United States rededicated itself in 1965 to the ideal and practice of international cooperation.

"Throughout its history, by word and deed, this Nation has always demonstrated its understanding of the wisdom of cooperative efforts to solve world problems. And we know that a great nation remains great because it remembers that it can always do better.

"I believe this Conference will show us specific ways to do better. I have directed the agencies of our Government to participate in your deliberations and to study your recommendations with a view to immediate action.

"Together we seek—

"New ways to raise the world's millions up from poverty;

"New policies to conserve and develop the world's resources;

"New methods to rid the world of destructive disease;

"New means to increase commerce between nations;

"New safeguards against the overriding danger of war;

"New avenues to world peace.

"This Conference is a town meeting of leaders of the Nation. Its purpose is peace and cooperation.

"Let us raise our sights to the limits of this goal.

"And let us free our imaginations to the tireless pursuit of this high ideal."

Mr. BOWIE. Yes, indeed.

Senator CLARK. And would you also agree with the President when he later said:

"The problem of attaining peace is by far the most important problem we face. It is the assignment of the century for each of you, and if we fail in that assignment, everything will come to naught."

You would agree with that, wouldn't you?

Mr. BOWIE. Yes, I would.

Senator CLARK. I am asking these questions because in my opinion there are an awful lot of people in the Government, probably a good many more in the Congress who do not agree with that at all. I think it is important for anybody who is going to be the counselor for the State Department to look at the pursuit of peace as the most important task on the agenda.

Mr. BOWIE. I tried earlier, sir, in rather more detail to explain my feeling that this was the important task and the necessity of trying to create conditions for a viable and peaceful order, for a just peace.

Senator CLARK. You did indeed, but we are making a record here which I think will be useful later.

(Senator CLARK's speech, hereinafter referred to, appears in the appendix.)

Recommendations of Conference on International Cooperation

I think if you will follow along with me in my speech, we can say that you have already expressed your views on nonproliferation treaty, and, on a comprehensive test ban treaty. I do not know that you have given your views on the control of fissionable material, but I would assume that, and I will ask to have the material printed under No. 3 in the record, I would assume that you would concur with those 10 recommendations, would you not?

Mr. BOWIE. Well, the only one I do not feel at all sure about—it seems to me gets us much beyond this item of control of fissionable materials—is No. 10. Certainly, I am not clear in my own mind as to whether the International Atomic Energy Agency is the best way to move toward the creation of a disarmament organization or not. I simply haven't thought about it.

Senator CLARK. You do not necessarily oppose it?

Mr. BOWIE. No, I just simply have not given it any thought.

Nuclear-free zones

Senator CLARK. The next is short and I will read the "nuclear-free zones" and ask you whether you concur in this recommendation of the ICY Conference.

"The United States should encourage the development of nuclear-free zones in Latin America, Africa, and the Near East, beginning with United States-Soviet treaty—"

Assuming one can be negotiated—"establishing a zone of nuclear and conventional arms limitation under U.N. inspection in the Bering Straits and including comparable areas in Alaska and Siberia."

That recommendation comes from Jerome Wiesner's Committee on Arms Control and Disarmament. We had pretty good luck with the Antarctic Treaty and maybe the cold areas of the world would be a place to attempt to start with this type of United States-Soviet cooperation.

Can we have your comment on that?

Mr. BOWIE. Well, I would not feel that I had thought enough about it to know whether there are unforeseen hookers, but I certainly would be sympathetic with exploring it. This sort of thing actually was one of the kinds of things that you will remember Mr. Stassen sought to explore at the time of his incumbency.

Senator CLARK. We did actually get an Antarctic Treaty which has worked fairly well.

Mr. BOWIE. Yes.

Reduction and limitation on the deployment of strategic hardware

Senator CLARK. Now, No. 5, "The Reduction and Limitation on the Deployment of Strategic Hardware." I am reading:

"To limit and reduce strategic delivery capabilities, the United States should seek agreement with the Soviet Union and, if feasible, with the other nuclear powers on the following sequence:

"First. A moratorium of at least 3 years on the deployment of antiballistic missile—ABM—systems.

"Second. A freeze on the number of strategic delivery vehicles.

Third. A reduction in total numbers amounting to one-third of each party's medium- and long-range delivery vehicles, beginning with the destruction of obsolete stocks."

Would you support an effort by the United States to achieve that result?

Mr. BOWIE. I was under the impression that the second and third of these had been a part of U.S. policy. I assume that each of the proposals assumes a system of adequate inspection or safeguards although it does not mention it?

Senator CLARK. You are correct, and you would support Nos. 2 and 3?

Mr. BOWIE. And I would certainly be prepared to explore even the first one. But I simply do not know to what extent you can—I mean I would want to know what system of inspection and safeguards you had in mind.

Senator CLARK. Of course.

You are on safe ground in supporting No. 1 because Secretary McNamara and President Johnson fully support a moratorium on the deployment of antiballistic missile systems. But the Senate of the United States and the House of Representatives, under the urging of their Armed Services Committees, have put money into the military defense budget which neither the Secretary of Defense nor the President asked for, which would permit the preparation for deployment of such a system. But I take it you would go along with the President and the Secretary of Defense?

Mr. BOWIE. Yes, I would on this point.

Curbing conventional arms races

Senator CLARK. "Curbing Conventional Arms Races." The recommendation of the Conference was that—

"The United States should seek to have controls established over the traffic in arms by (*a*) major-power agreement to refrain from introduction of sophisticated weapons; (*b*) regional nonacquisition agreements; (*c*) U.N.-supervised agreements regarding sale and acquisition; (*d*) the establishment of a U.N. monitoring system to record the traffic in arms."

I point out that the Soviet Union has been a bad actor in this regard particularly in selling arms to the Middle East. We, however, have not been far behind.

The Pentagon is rather proud of the amount of money they make each year by selling obsolete American arms to various nations of the Middle East. What are your views on that recommendation?

Mr. BOWIE. Well, let me just say that in general I would certainly favor efforts to avoid the diversion of resources, particularly, by less developed areas, into arms races. Second, I would be glad to see anything which would reduce the competitive efforts by the United States or U.S.S.R. or others to sell or dispose of weapons for whatever purposes. But, third, I have hesitancy about simply imposing a joint United States-Soviet hegemony on what the needs of these countries are. If they—I think they should be also free to reach judgments as to what they need for their own security. So I would not be sympathetic toward, necessarily toward, agreements which would look as if we were trying to coerce them in ways which they felt were against their own security interests.

Senator CLARK. Only a few days ago the President urged all the Latin American nations to substantially curtail their military expenditures. The foreign aid bill for this year, as it passed the Senate, cut $100 million out of the furnishing of military assistance, largely arms, to our clients, the underdeveloped countries. Wouldn't you be prepared to go so far as to say that you would urge the negotiation of area disarmament in the conventional field and would support our efforts to seek agreement with the Soviet Union to reach such area agreements.

Mr. BOWIE. As I said, sir; in the first part of my answer, I strongly favor anything which will reduce the amounts of resources which these countries divert into armaments. I think this is all to the good. It makes that much more available for their development and other needs. All I meant by my reservation is that I am skeptical not of trying to encourage them to do this, but in coercing them. I am not saying that is intended, I am not sure. I simply do not want to——

Senator CLARK. You do not coerce another nation when you refuse to sell arms to it as a result of an agreement with the Soviet Union that neither of you sell arms, do you?

Mr. BOWIE. No. It depends, however, on whether or not any one of these is disadvantaged as a result. I repeat, I think we have to let their countries have the same privilege we have of determining what in the final analysis they need.

Senator CLARK. But that does not answer the question as to whether having made up their minds, they should find a ready market for the purchase of lethal weapons to kill their neighbors with, does it?

Mr. BOWIE. No, but if, for example, to take an example, the Israelis find themselves in the position that they feel that they are at the mercy of armaments already in the hands of others, then it seems to me one has to consider how you can avoid this kind of race and at the same time not put any one of these countries at the mercy of others.

Senator CLARK. I suggest that you are not really being responsive to my question, which is whether you agree with item 6.

Mr. BOWIE. Well, I am sorry, sir; I tried to. I said that I favored attempting to keep to the minimum the expenditures of these countries on armaments by any legitimate means.

Senator CLARK. Including major power agreements to refrain from the introduction of sophisticated weapons?

Mr. BOWIE. Well, as I said, sir; I think that you would have to also take account of what may be imbalances or situations in which one of these countries would feel that it was left at the mercy of others. But insofar as you can avoid United States-Russian or other great power competition in the sale of these kinds of weapons or in promoting their introduction. I am sympathetic.

Senator CLARK. If that is the way you want to leave the record, that is all right with me.

I am going to skip No. 7 because I think we have covered it.

Nonaggression pact between NATO and Warsaw Pact

I had better read this and then ask you seriatim your views. You realize, of course, that everything I am reading to you is a specific recommendation of one or more of the committees of the White House Conference of the International Cooperation Year. This is not Senator CLARK expressing his own views; this is Senator CLARK trying to find out whether or not you agree with the recommendations of the White House Conference. I will read:

"To further reduce tensions in Europe and move toward settlement of the outstanding East-West differences:

"First. The United States working with its allies, should seek a nonaggression pact between NATO and the Warsaw Pact Organization."

Parenthetically, that is the recommendation of the Wiesner Committee on Arms Control and Disarmament, which included among its membership Roswell Gilpatric, the former Deputy Secretary of Defense.

Would you agree with that recommendation?

Mr. BOWIE. I have never seen, sir, what it adds to the U.N. commitment not to resort to force in the conduct of one's international policies. I do not think NATO has any intention of engaging in aggression, and its members are all pledged not to use force for any such purpose.

Senator CLARK. I think that emphasizes a rather important difference of view between you and the recommendations of the ICY. Their view was that a high priority should be placed on trying to bring NATO and the Eastern European nations represented in the Warsaw Pact together; that while a nonaggression pact might not have much legal impact, it would be a most important psychological gesture toward a relaxation of tensions and, therefore, well worth being explored by our Government, the initiative to be taken by us.

I take it from the tone of your answer, and I do not want to be unfair to you, that you would put little emphasis on this.

Mr. BOWIE. As I have said, sir, it seems to me to add nothing to existing commitments.

Reduction of troops in Europe as a step toward German reunification

Senator CLARK (reading).

"Second. The United States should explore arms control, related security provisions, and other measures which would help lead to German reunification; and in this connection, the possibilities for balanced reductions of United States and Soviet troops and weapons in Central Europe should be examined."

Would you concur with that recommendation?

Mr. BOWIE. I certainly have no objections to exploring the problem.

Senator CLARK. I think I would like to give you an opportunity to disagree with me if you think I am misstating your position. My difficulty is that I think your approach to all of these matters is essentially negative, as indeed I think is that of most of the hierarchy in the State Department today, and probably was that of the State Department in the days of Mr. Dulles. While you have no

objection to some of these measures, you view them with some skepticism and you are not particularly interested in having the State Department take further initiatives. Am I being unfair?

Mr. BOWIE. Sir, I am sure you do not mean to be unfair. I do not think that it is a proper summary of my views.

I thought that in the previous discussion I had outlined what I considered to be a completely affirmative approach to the problems of our period. I have tried to indicate why I feel the United States and the other, particularly the Atlantic countries, which have so many resources, and are so central, should be playing an active, constructive role all over the world, and trying to lay the foundations and trying to create the conditions for a peaceful world order.

Senator CLARK. Let us leave it that way.

Mr. BOWIE. If this were done, it seems to me we would be engaged in a vast range of constructive activities, and would be alert to find all possible ways in which we could answer these affirmative claims.

Senator CLARK. Let us leave it that way. [Reading:]

Efforts toward a confederation of East and West Germany

"Third. The United States should give consideration in consultation with other nations to a series of arrangements between West and East Germany covering such matters as trade and the movement of persons, which could lead ultimately to some kind of confederation of East and West Germany."

Then I will read the following paragraph:

"I regret that the State Department has recently expressed its opposition to all three of these last suggestions, on the ground that the time is not ripe. Assistant Secretary of State Leddy, appearing before the Subcommittee on International Organization Affairs of the Foreign Relations Committee, which was conducting hearings on the subject of an Atlantic Union, in response to questions from me, indicated this opposition of the State Department earlier this week."

This date would have been toward the end of March of this year.

I would just like you to comment on the recommendation and on the paragraph I have just read.

Mr. BOWIE. Well, my understanding is that West Germany already has extensive trade with East Germany, I think a very large volume of trade on the basis of agreements and, second, has sought through a variety of efforts to expand the movement of people between East and West Germany, but that this has been, in large part, hampered by the Ulbricht regime's atitude.

As to the idea that this would ultimately lead to a confederation of East and West Germany, I am frank to say I am baffled. It is impossible for me to see how you could have a confederation between a regime like the Ulbricht regime and the West German Government.

Senator CLARK. Again, I do not want to argue with you. We will just leave that as your statement for the record.

Mainland China should be brought into world dialog

Now we come to the vexing question of mainland China. The recommendation of the White House Conference was that the—

"United States should attempt to bring the People's Republic of China into a genuine dialog on disarmament and other security matters: First, by seeking bilateral talks on arms control matters of joint concern; second, by ascertaining the conditions under which mainland China could qualify for and accept the responsibilities of membership in the United Nations; and third, by supporting efforts to bring mainland China into the Eighteen Nation Disarmament Conference or in the alternative, a World Disarmament Conference such as the one called by the resolution of the UN General Assembly by resolution adopted November 29, 1965."

That which I have just read was the recommendation of the Conference, and then I interpolate comments made by Senator PASTORE on the floor of the Senate on January 18, 1966.

"Wherever there is a disarmament conference, wherever peace is the topic, let China be invited to come."

Would you tell us whether you agree with that recommendation and with what Senator PASTORE said or not.

Mr. BOWIE. Well, the recommendation seems to embrace quite a number of different things.

Senator CLARK. Take them seriatim, first, and so forth.

Mr. BOWIE. I doubt very much the feasibility of bilateral talks on arms control with the Chinese.

Senator CLARK. Let me point out that they are to some extent going on in Warsaw now.

Mr. BOWIE. What I was about to say was that to the extent that this is feasible, my assumption has been that they would have been explored in the Warsaw talks which have been going on for some years.

Senator CLARK. Before we get off that, you are aware, are you not, that Communist China has consistently advocated general and complete disarmament with respect to nuclear weapons. You know that, do you not?

Mr. BOWIE. I am aware that they have made statements to that effect, sir.

Senator CLARK. All right. Go on. Now we get to the U.N.

Mr. BOWIE. My feeling is that this is much too—it says here to ascertain the conditions under which it could qualify for and accept the responsibility. I do not know what that means, really.

Admission of Red China to United Nations

Senator CLARK. Let us clarify it by asking you a separate question. What is your position with respect to the admission of Red China to the United Nations in view of the current situation where there is, I think, at least some chance that the United States migh be defeated in the United Nations in its continued efforts to prevent the admission of Red China?

Mr. BOWIE. For me the question is the conditions under which Red China might come in. I would be absolutely opposed to letting Red China dictate the exclusion or dropping of Taiwan as a member as a condition of Chinese entry. And the Chinese have repeatedly said, in effect, that that would be their condition. So I would not be prepared to meet that condition.

Senator CLARK. Nor I.

Should the United States support the two-China solution?

What would be your position with respect to the advocacy by the United States this fall of what is known as the two-China solution?

Mr. BOWIE. Well, I have always felt that the China in the U.N. issue was one about which too much was made. I think those who feel that a great change would come over China because it was in the U.N. are mistaken. I think that the people who think that somehow the situation would be greatly worsened if China came into the U.N. are also mistaken. I think the issue has been inflated.

What I do think is important is the way in which the issue is handled. I think if it is handled in such a way that it looks as if we are capitulating to Chinese intransigence that it will be very damaging in Asia. Certainly, if we do anything which essentially defaults on our obligations to Taiwan it would be very damaging.

Senator CLARK. Well, I can agree with everything you say, but I still do not think it meets the issue.

Let me make one more effort to get your views on what seems to me to be the practical problem which confronts us, which is very difficult from the theoretical one we have been discussing.

What should be U.S. policy toward the Red China problem?

We are going to be up, as I see it, against the gun this fall when an application is made for the admission of mainland China into the United Nations. We may lose and it has seemed to me the handwriting has been on the wall for some years. Our diplomacy has been curiously unimaginative in not facing up to that problem and coming up with some sort of a solution.

You are going to be, in all likelihood, in a very high policymaking staff position in the Department of State. I ask you what would you do in terms of handling this problem in the General Assembly which will be meeting soon in New York?

Mr. BOWIE. Senator, Senator SYMINGTON referred to the fact that the last time I appeared before this committee in 1956 I was criticized by Senator Knowland because I had taken the view which I have just expressed, namely, that our China policy should be reexamined. At that time I did not favor either the recognition as of then of China nor admission into the U.N. as a policy which we should favor, but I certainly favored the reexamination of the question as to whether or not we should move much more toward a "two-China" approach.

Nothing has happened in the meantime which has changed my view in that respect.

Senator CLARK. Except, Mr. Bowie, that this is a decision which has to be made by the U.S. Government in the next 60 days.

If you do not want to say what you advocate that is perfectly all right with me. I just want to give you a chance to do it.

Mr. BOWIE. I prefer not to say what I will advocate when I get into government. I have tried to express what has been my view for 10 years.

NOMINEE'S VIEW OF UNITED STATES CHINA POLICY

Senator CLARK. Would you mind restating what has been your view of China for the last 10 years with particular reference to what is your view today?

Mr. BOWIE. I said, sir, that in my view the Chinese will, in fact, not be prepared to come into the U.N. if we insist, as we feel we should, that Taiwan must not be dropped.

Therefore, the issue is much more one of the relations between the United States and Asian powers and the United States and its allies and the United States and Taiwan than anything else.

I have felt for some time we have been using up unecessary amounts of diplomatic energy and capital in getting into the position that we were keeping China out of the U.N., whereas it seems to me China will, in fact, keep itself out of the U.N. on any kind of a two-China basis.

But, as I also said, it has seemed to me that what it was in our interests to do was to move gradually and in an orderly way toward a two-China approach.

Senator CLARK. Could you be prepared to move gradually and in an orderly way toward the two-China approach by the time the next United Nations General Assembly convenes and pressure comes up for a vote on the floor?

Mr. BOWIE. Well, sir, this involves certain things like the relations with Taiwan, and so on, that I am not in a position on the basis of present knowledge to assess.

Senator CLARK. If that is the way you want to leave it, that is all right with me.

Peace settlement of disputes

Look under the recommendations for peaceful settlement of disputes, which is

Nos. 10 and 11, dealing with the peaceful settlement of disputes and United Nations peacekeeping. I would like to have those recommendations under 10 and 11 printed in the record at this point, and give the witness an opportunity to read them and then we will ask him to respond.

Mr. BOWIE. All right, sir.

Senator CLARK. This is a big bite, and I am doing it in the hope of expediting the hearing and so as not to hold you here too long.

Mr. BOWIE. Let me see if I cannot dispose of a large part of this by saying that I have read the proposals of the Panel on the Peaceful Settlement of Disputes and, second, I read the items which you say were recommended by the Panel which you have under No. 11 of your speech.

In general, these, on both counts, seem to me to be constructive proposals.

While I am not expert in all the details, or all the proposals, I would personally feel that they are in the right direction.

Senator CLARK. You see no need to raise a warning signal or to oppose any of them, assuming that you have read them quickly and no one would expect you to be an expert in all of them?

Mr. BOWIE. Well, as I say, sir, in general, to me they look as if they are moving in the direction I think is constructive.

Repeal of the Connally amendment

Senator CLARK. Now, turning your attention to item 12. Do you favor repeal of the Connally amendment?

Mr. BOWIE. Yes.

Development of international law

Senator CLARK. Thirteen, "The Development of International Law." I guess it is easier to read it because it is short. These are recommendations on the Panel on International Law:

"First. That the United States develop a program for legal assistance to new nations."

Would you support that?

Mr. BOWIE. Yes.

Senator CLARK. I would like to point out for the record that a friend and former constituent of mine, James Hall, has recently become the dean of a law school at Addis Ababa, Ethiopia, where I think, one might say, that legal skills are in short supply.

Next, we will read through those, we can probably save time. My guess is you would support all of those six recommendations which I will ask to have printed in the record.

Mr. BOWIE. Yes, sir. In general, I am not too familiar with the possibility of a lower court, a lower level court, but in general, I see no objection.

Need for enforcible world law

Senator CLARK. Now, 14, the need for enforcible world law.

May I point out that now we are dealing, not with recommendations of the ICY Conference, but with recommendations of my own which are listed here. I ask to have them printed in the record, and I ask you to read them and make whatever comment you may see fit since they are mine and not those of the Conference, and obviously do not carry the same weight.

Mr. BOWIE. Well, I have read them rapidly, sir. If I get them, if I understand them, the main thrust of the proposals is essentially an endorsement of the Clark-Sohn proposals for revisions of the U.N. Charter. I think that is, in shorthand——

Senator CLARK. Yes, I think that is a fair shorthand description.

Mr. BOWIE. My feeling, sir, is that—and I think this follows from what I tried to say much earlier—that the Clark-Sohn analysis or study is a very interesting one, and I think a very searching study of what would be required to move toward the kind of complete disarmament which is included in their plan. As a goal, as a long-term prospect, it seems to me that it has much merit. But I would say insofar as you seem to propose that it be adopted as of now, the situation and the conditions do not seem to me to make this at all feasible.

I tried to explain my views about the necessity for overcoming some of the many divisions in the world in order to lay the foundation and conditions for an effective peace, and I personally feel that these must be tackled and dealt with first before it is at all feasible to move toward anything so far reaching as the Clark-Sohn ideas.

Should solution of political problems precede disarmament efforts?

Senator CLARK. Would it be fair to say that in your view political problems should be solved before we move in any meaningful way toward disarmament?

Mr. BOWIE. No, sir; I would not postpone efforts in that direction.

I wrote a long article some several years ago for Daedalus, in which I argued that it ought to be feasible to separate out arms control measures from the political conflicts which exist, at least to some extent.

There does seem to me to be an interest, a common interest, on the part of all countries in trying to prevent any outbreak of a major war even though they may be engaged in conflict with one another on a political plane. But I am bound to admit that since then, in practice, it doesn't seem very feasible to do this.

Senator CLARK. We negotiated the test ban treaty and we established the hot line.

Mr. BOWIE. All right. I would say insofar as it proves feasible to isolate or separate out arms control measures under proper conditions and safeguards. I do not think they need necessarily await the solution of all political problems.

Sixth committee of U.N. General Assembly

Senator CLARK. Let me be a little more specific and call your attention to the first recommendation:

"The United States should take the initiative in prodding the Sixth Committee of the United Nations General Assembly, which has jurisdiction over legal matters, to get to work on its enormous agenda."

It has a huge agenda which has been piled up for years. There seems to be no initiative and no interest in coming to grips with any of these important problems of international law.

As far as I can make out our Government is taking no steps to prod this Sixth Committee to get to work. I have discussed this with Ambassador Goldberg, and he indicated some concern that we should be moving to get some of these matters on the table and some kind of agreement worked out.

I do not have the details, and probably you do not, either, but I take it you have no built-in objection to trying to get the United Nations committees to do their work.

Mr. BOWIE. I am for everybody doing his work.

Senator CLARK. Including Senators. [Laughter.]

U.N. Charter revision conference

Now, second, that a United Nations Charter revision conference should be called. This has consistently been opposed by the State Department on the ground—and I am somewhat oversimplifying it—that we are better off with the present charter than we might be with any revision. This is a view to which I take violent objection.

Have you any thoughts as to the desirability of at least starting work on bringing the United Nations Charter—which to my way of thinking is in about the same level of political development as the Articles of Confederation were—in an effort to bring it a little closer—to use the same analogy—to the Constitution of the United States?

Mr. BOWIE. Well, sir, frankly, in view of the disputes about financing and peacekeeping and some of the other——

Senator CLARK. Representation.

Mr. BOWIE (continuing). Issues——

Senator CLARK. Veto.

Mr. BOWIE (continuing). I am not optimistic as to the feasibility of getting any major—improving the charter in any major way at this point.

Senator CLARK. How can we tell unless we try? How can we tell unless the Policy Planning Staff, perhaps the counselor of the State Department, certainly the Assistant Secretary of State for International Affairs, obviously our Ambassador to the United Nations, take some sort of an initiative to start the work going on a revision for the charter, which seems to me to be inevitable unless the whole thing is going to collapse?

Mr. BOWIE. I am uninformed, so I do not know, in fact, whether these agencies have not engaged in such studies.

Senator CLARK. I take it you would have no objection to the sponsoring of conferences between Russian lawyers and American lawyers in an effort to bring legal thinking in terms of international law closer together?

Mr. BOWIE. No.

Possibility of invitation to Russia to join World Bank

Senator CLARK. Will you have any responsibilities so far as you know in the field of international and monetary cooperation and development of finance? I know there is an assistant secretary for economic affairs, that the State Department does get involved, to some extent, in the World Bank and the International Monetary Fund affairs.

If you expect to have any responsibility in that area I would like to ask you a couple of questions. If not, we can skip it.

Mr. BOWIE. I do not have any assigned responsibility, but it would not surprise me if I became involved.

Senator CLARK. Then let me ask you whether you have any views on the desirability of inviting Russia to join the World Bank.

Mr. BOWIE. No, I have not given any thought to it. If the Soviet Union joined the World Bank like others, I should not think there would be any harm in it.

Senator CLARK. Do you have any views as to the——

Mr. BOWIE. I thought the Soviets had been invited to join the World Bank when it was formed.

Senator CLARK. Fourteen years ago, and the invitation has never been renewed. They are also one of the major gold-producing countries of the world, as you know.

This, of course, is just typical of my position, which must be fairly clear from this colloquy, that the State Department is standing back on its heels, and, in effect, saying, "We asked the Russians to join the World Bank 14 years ago, and they would not come. So why bring that up?"

Mr. BOWIE. Don't tar the State Department with my answers, sir.

Senator CLARK. I will not.

U.S. efforts toward greater international liquidity

Are you, in general, sympathetic with the efforts being made by Treasury Secretary Fowler and his assistants to bring procedures and organization into being which will make for additional international liquidity, have some bearing on our solution to the balance-of-payments problem, bring forward the cooperation of the 10 central banks of the industrial nations, and work out an arrangement with the underdeveloped nations by which they would have access to greater credit facilities?

Mr. BOWIE. Well, again, I am not familiar with the details but I am in general—I am in general support of this.

Senator CLARK. You are in general sympathy with the objective?

Mr. BOWIE. So far as I know, Mr. Fowler is perfectly competent and so I would probably support the principles.

Senator CLARK. I take it that, as a normally well-read member of the academic community, you have followed, at least superficially, these very complex negotiations which are going on in this area.

Mr. BOWIE. Yes, sir. You put a good deal into your question, though. If you ask me whether I am in favor of measures to try to improve international liquidity by international means, my answer is "yes."

Senator CLARK. You would not be shocked if this involved some mild yielding of national sovereignty to an international institution which would control the monetary measures necessary to support an increasing world trade?

Mr. BOWIE. No.

Solution to the U.N. fiscal problem

Senator CLARK. Have you given any thought to a constructive solution of the fiscal problem of the United Nations, by which I mean its inadequacy to finance its requirements and what devices might be utilized to put it on a self-supporting basis?

Mr. BOWIE. No, I have not, sir. You mean by some tax system?

Senator CLARK. That would be one suggestion. But generally speaking, would you see any reason involving our own preoccupation with nationalism and limited sovereignty which would inhibit us from joining in a well-thought-out plan by which some form of international tax might be levied to assure adequate financing for the U.N.?

Mr. BOWIE. I do not think so.

Senator CLARK. One of the suggestions has been a very small tax on transactions in international trade, payable directly to the Treasury of the United Nations.

Mr. BOWIE. Again I have not thought of the specifics but in principle I have no reason——

Senator CLARK. You do not rise in anger and objection.

Mr. BOWIE. No.

World population problem

Senator CLARK. What is your general thinking with respect to the population problem and the need to encourage underdeveloped nations to seek voluntary methods of limiting their population growth?

Mr. BOWIE. Well, I think anybody who has looked into this at all must be deeply concerned about the effects of the very rapid rates of growth on the prospects for improved living conditions.

Senator CLARK. Would you support the position taken in this regard by AID under the leadership of David Bell?

Mr. BOWIE. Very strongly.

Senator CLARK. I will ask you to read the material under the heading of "Population," which I will ask to have printed in the record and ask you if you find anything in those recommendations which you would like to indicate your objection or dissent to. Take your time.

Mr. BOWIE. No, I see nothing that——

Senator CLARK. Shocks you?

Mr. BOWIE. Shocks me, and I would feel that most of those proposals are useful and desirable.

State Department support of general and complete disarmament

Senator CLARK. At the conclusion of the final speech made by Secretary Rusk to the members of the White House Conference on the last date of the conference I asked him the following question: "Does the State Department support a treaty of general and complete disarmament as proposed by President Kennedy?" He responded, "Yes, yes, and we have spent a great deal of time on it at conferences and bilateral discussions. We have a lot of reasons for being very serious about disarmament."

Would you concur in the Secretary's answer?

Mr. BOWIE. Of course.

Senator CLARK. That is good. I was not sure you would.

Mr. BOWIE. Do I question the validity of it, the correctness of it, do you mean?

Senator CLARK. Yes.

Mr. BOWIE. No.

Senator CLARK. There are some who do and a lot of them are in the State Department.

Mr. BOWIE. You mean that we have reasons to be serious about disarmament.

Senator CLARK. Well, I think you provoke me to a comment.

Mr. BOWIE. Well, I am sorry; I withdraw it.

Senator CLARK. I think I will make it. I think the State Department is loaded with individuals who are completely cynical about complete disarmament.

U.S. policy with respect to world law

Senator CLARK. You recall I gave you a copy of a speech I made at Haverford College which included a quotation from a speech made by Dean Acheson. I would like to ask you a few questions involving it.

Dean Acheson, a gentleman whom I profoundly admire and think was one of our great Secretaries of State, but whose views in recent years I found myself unable to accept, made a speech at the University of Virginia, entitled, "The Lawyer's Path to Peace."

In that speech Acheson dismissed his own profession of law as a discipline useless to the cause of peace. He concluded that in these chaotic revolutionary and violent times world peace through law seems inadequate, if not sardonic slogan. So far I am paraphrasing, but I think I am paraphrasing accurately, and then I quote:

"The conditions of today, require not only negotiations from strength but negotiations with strength. Societies in motion approach each other in fog without agreed rules of the road. In a pinch there is nothing better than a skillful navigator, a steady crew, and a stout hull."

Would you express your views as to whether you think Mr. Acheson is correctly stating the policy our country should follow with respect to world law?

Mr. BOWIE. If I may, sir; I have not read Mr. Acheson's speech in toto, and I hesitate to comment on his views and just on the basis of an excerpt.

Senator CLARK. Why do you not just assume——

Mr. BOWIE. Why do I not just say again that—as I tried to indicate earlier in our conversation—to my mind it is certainly extremely important to move toward a world in which resort to force and violence will be reduced and in which the means, the methods of peaceful settlement and peaceful solution are the norm and are effective. In order to do so, it seems to me important to work at creating the conditions which will make that possible, and those seem to me to be the matters which call for our energetic, constructive effort over the period that I am going to be alive. I would hope that by doing this we would lay the foundations for a more peaceful world and a more lawful world.

Senator CLARK. I think again we bog down with a question of priorities and initiative. But I take it that whatever priority you might give it, you would not abandon efforts to reach peace through the development of international institutions based on law.

Mr. BOWIE. No, sir, but my view is wider than that. I, for example, feel that the development of something like the World Bank is a contribution toward an orderly, peaceful, lawful world, although strictly speaking it is not a legal institution; that is to say it is not an institution which is like a court or anything of that sort.

To my mind, to the extent we build up institutions like that, we are making a real contribution toward a more orderly world, a more peaceful world, a more constructive world and a world which can then be better able to still take further steps which are more like the constitutional sort of measures that seem to particularly interest you.

As to the question of priority, I feel as a lawyer—and as a citizen—that the laying of the foundation, the building of the basis, the creating of the conditions, is the first order of business that we face. This is not because I am not interested in the rest, but it is because I feel that we must first fulfill the conditions for an orderly world and a peaceful world before we can move to major constitutional kinds of structures.

International institutions based on rule of law

Senator CLARK. I think you have very eloquently outlined the basic difference between us. My view is, of course, that accepting that these efforts to solve the political problems which you call conditions are important and should go forward, I feel very strongly at the same time that we should follow the lead of President Kennedy, John McCloy, Arthur Dean, Adlai Stevenson, and other very great Americans who have devoted a large part of their lives toward the building of international institutions based on the rule of law as opposed to the rule of force. I take it that you have no objection to that approach but you do not think it is particularly feasible at this time.

Mr. BOWIE. On the contrary, sir, I have said, I thought, in our discussion that I strongly favor a number of moves to strengthen international institutions on every front; it seems to me to be feasible. I am less optimistic than you as to how quickly we can move to some of the things that you feel apparently are more within our grasp, that is all.

Senator CLARK. Including, however, the repeal of the Connally amendment.

Mr. BOWIE. Yes.

Senator CLARK. Including the establishment of an international peace force under the auspices of the U.N.

Mr. BOWIE. That would be fine with me.

Senator CLARK. Including the establishment of an international disarmament organization as part of President Kennedy's program for general and complete disarmament under enforcible world law.

Mr. BOWIE. It seems to me what we must first achieve is an effective agreement on arms control, on the things you want to accomplish, the results, the limitations. It is premature to create an organization until you have got something to administer.

Senator CLARK. How can you have any reasonable inspection system without an international organization?

Mr. BOWIE. I am for creating that just as soon as we have got something to inspect, inspections are agreed on.

International organs provided for in draft disarmament treaty

Senator CLARK. You are aware of the fact in stage 3 of the U.S. treaty for general and complete disarmament, there are requirements, pretty fuzzy to be sure, but requirements for creating not only an international disarmament organization to supervise the process of disarmament, but an international peace force to enforce the supervisory institutions finding that there had been a violation, as well as series of tribunals, legal, equitable, arbitral, mediatory, and the like, which would transfer political disputes from the field of war to the area of peace. I take it that you not only have no objection to the study and development of those institutions in order to put some bones on the draft treaty which has been at Geneva ever since 1962, but you do not give it a very high priority.

Mr. BOWIE. Well, sir, it is because I feel the urgent tasks are things in the next stage of trying to achieve this vast range of changes in conditions all over the world which lay the foundations on which we can then move to some of these more far-reaching kinds of steps. I strongly favor studies like CLARK's and Sohn's efforts to work out the implications and the requirements for an effective complete disarmament, but I have to be honest and say that it seems to me the likelihood of being able to achieve or move to that in the time span that I will have any responsibilities in government is very small.

U.S. foreign policy should move on many fronts

Senator CLARK. And you would think, I take it, and I hope I am not misstating your position, that the first thing we should do is to get NATO straightened out.

Mr. BOWIE. No, sir.

Senator CLARK. What is the first thing you think we should do?

Mr. BOWIE. I consider that we should move on a whole range of fronts simultaneously. We do not have to choose to do only this or only that.

Senator CLARK. I think it would be useful if you would define in general terms that wide range of fronts.

Mr. BOWIE. Well, sir, I am repeating myself, but I will be glad to do so. As I said, to my mind you can group them into the following: It seems to me we should be concerning ourselves with improving relations with the Communists, which, as I said, to my mind requires a dual policy, a policy of both deterrence and cooperation.

Senator CLARK. The carrot and stick.

Mr. BOWIE. The carrot and stick.

Secondly, we should certainly be trying to improve conditions in the less-developed world through a whole variety of actions, aid and trade, technical assistance, all this.

Senator CLARK. Foreign aid.

Mr. BOWIE. Yes.

Senator CLARK. You agree with Senator FULBRIGHT to the extent that if we can make it multilateral instead of bilateral we are that much better off.

Mr. BOWIE. Yes.

Third, I think we should be working toward the cohesion of the Atlantic world. As I see it, this means trying to promote, assist and cooperate in the emergence of some kind of a European entity which will speak for Europe and which can have a more self-respecting role in the world, which can act as a partner with us on a more equal basis.

Definition of "Atlantic world"

Senator CLARK. Would the Atlantic world include Greece and Turkey?

Mr. BOWIE. Well, obviously the Atlantic world includes Greece and Turkey.

Senator CLARK. Would it also include any members of the Warsaw Pact?

Mr. BOWIE. The Atlantic world as I was using the term does not, but as I tried to say at the very beginnnig, I would be working as much as I could to try to improve relations with the eastern European countries. I would be trying to draw them into multilateral relations with the western Europeans and the United States, if that were feasible, things like OECD and other instruments.

Senator CLARK. When you say "Atlantic world," do you not mean substantially NATO?

Mr. BOWIE. I mean substantially the countries which are within the NATO area but not exclusively those. You have the others who are in OECD but are not in NATO.

Senator CLARK. All of the eight as well as the seven.

Mr. BOWIE. Yes.

Senator CLARK. Do you include the Scandinavian countries?

Mr. BOWIE. Yes. As I see it, the advanced countries, the countries that are wealthy, have both the opportunity to be creative and the duty to be helpful—the opportunities to be creative in terms of relations with the whole world in the duty to try to work out ways of improving the situation and the two-thirds of the world which is so poverty stricken. And, as I see it, the developed, the advanced countries also happen to be countries which, because they have similarities of history and background and experience and political system and economic system, ought to be among the first able to create the kind of community in which the rule of law would be a reality and in which resort to force would be essentially outlawed.

Senator CLARK. I quite agree. But that would include Japan, would it not, which is a long way from the Atlantic?

Mr. BOWIE. Well, it certainly includes Japan for many purposes. Japan is in the OECD which is all to the good. I think Japan's interests are going to be, however, more in its own region, as the recent experience has shown. They are going to be trying to develop relations with a number of these south Asian and Asian countries, and I think that should be encouraged.

U.S. obligations under SEATO Treaty

Senator CLARK. I have several questions here which were prepared for another member of this committee.

Do you believe that the United States is obligated under the SEATO treaty to take the course of action we are taking in South Vietnam and, if so, how are we obligated?

Mr. BOWIE. My understanding is that under the SEATO treaty the Indo-China states were included under a sort of, what was the phrase, protocol.

Senator CLARK. I do not remember the phrase, but essentially it was a protectorate setup.

Mr. BOWIE. It was a protocol, I think, that extended the protection of the treaty to these areas although they were not parties to the treaty. I suppose, I do not know, that therefore the treaty by its terms purports to extend this protection to these countries.

Senator CLARK. One viewpoint is that there was no obligation of the United States to move into South Vietnam under the treaty. Secretary Rusk's view is that there was. Do you want to put yours on one side or the other?

Mr. BOWIE. Well, I think I had better be on the side of Mr. Rusk.

Senator CLARK. I should think that once you are confirmed, that is right; pending confirmation, I am not so sure.

But you have not given this any serious study, have you?

Mr. BOWIE. No; this is after all a nice legal question and I simply have not studied it, and I am sure as a fellow lawyer you would not want me to express an expert opinion without having given the thing proper study.

Senator CLARK. Some of us on the committee are somewhat concerned, whether rightly or wrongly, is not for me to say, that this legalistic argument has been made to justify our intervention in Vietnam on grounds which he thinks is untenable. The Secretary of State disagrees. Why do we not say that prior to confirmation you are a little concerned about it? After confirmation, as a good loyal servant, you will side with Secretary Rusk.

Mr. BOWIE. Well, let us just leave it that as far as I can see, the treaty was designed to embrace this area. Whether or not it involved an obligation to these states, I simply have not examined it.

Discussion of "domino" theory

Senator CLARK. Do you believe if we do not fight the Communists in Vietnam we will have to do so later in Laos and Thailand? Do you believe if we succeed in Vietnam there will be no Communist insurgency problem in other countries of southeast Asia? It is a double-barreled question.

Mr. BOWIE. Let me start with the second. Certainly I do not think that the success in Vietnam will eliminate the problem of insurgency or subversion in all of southeast Asia. I do not know whether you happened to see today's paper but there is an article about the situation in Thailand and the base which has been laid there for possible future insurrection, so I would not think, I would not expect, that success in Vietnam would eliminate the problem. I think failure in Vietnam will exacerbate the problem.

Senator CLARK. I think I had better ask you to define a little bit more specifically what do you mean by "succeed"; what do you mean by "failure"?

Mr. BOWIE. I was using the words of the question.

Senator CLARK. Yes, you were as far as "succeed" is concerned. There no reference to "failure." But that is the second question and let me restate the first one. Do you believe if we do not fight the Communists in Vietnam, we will have to do so later in Laos and in Thailand? I guess this is the old domino theory.

Mr. BOWIE. Well, I think that if we do not resist in Vietnam that the question of opposing subversion would raise itself, would arise in those other two areas.

Can the U.S. achieve a military victory in Vietnam?

Senator CLARK. Do you believe we can achieve a military victory in Vietnam at an acceptable cost?

Mr. BOWIE. Well, to my mind this is a political-military kind of problem. I cannot isolate the military aspect of it from the political.

Senator CLARK. Let me ask this then. Do you think there is any prospect of military victory in Vietnam in the sense that we will defeat our adversaries and terminate the Communist aggression and leave South Vietnam free of any Communist elements, be they native and Vietcong or external, Hanoi and Chinese?

Mr. BOWIE. My understanding of the strategy of the present effort is that with pressure on the North Vietnamese and Vietcong, it would be possible to cause them to desist from their effort to subvert South Vietnam. Second, that coupled with this is the effort on the ground in South Vietnam to defeat the insurgents and to pacify. As I understand it this is all a package but obviously the job of dealing directly with guerrillas is not an easy one.

Second, the problem of trying to pacify is an even more difficult one particularly in a war-torn country.

Senator CLARK. It is particularly hard when you do not hold the real estate.

I take it, then, you do believe that military victory is feasibly at an acceptable cost in South Vietnam. What I mean by military victory is such crushing of the enemy there, the Vietcong and North Vietnamese, that they will desist from their aggression and be prepared to come to the conference table on the basis which will result in a settlement acceptable to us.

Mr. BOWIE. You are asking me if I am sure of this. I do not see how anybody can be sure.

Senator CLARK. Of course, you cannot be sure. Nobody can be sure.

Mr. BOWIE. But to me the strategy of attempting to coerce the Vietcong into desisting from subversion is a rational strategy and is worth the risks which it entails.

Senator CLARK. Including a constantly accelerating number of American casualties.

Mr. BOWIE. Well, I do not know whether it is constantly accelerating.

Senator CLARK. It has been, I can tell you, on a factual basis over the last 18 months.

Mr. BOWIE. Well, along with the strategy go the casualties.

Senator CLARK. And you support the strategy.

Mr. BOWIE. Broadly speaking; yes, sir.

Economic destruction created by United States

Senator CLARK. Are you concerned about the economic destruction which is being wreaked by our artillery and our bombers, possibly to the extent that we are (*a*) alienating the local population and (*b*) creating such economic havoc that it will be difficult indeed, if not impossible, to restore the economy after the war is over?

Mr. BOWIE. Well, as to whether one is concerned about destruction in a war, I would say like everybody else, I would be. Whether this means what the second part of the question means; namely, that it will be impossible to restore the economy after the hostilities, I simply assume that this is probably not the case if we are prepared to devote sufficient resources to restoration which I gather we are.

Support for administration Vietnam policy

Senator CLARK. I take it then that you support the present Vietnamese policy of the President of the United States and the Secretary of State.

Mr. BOWIE. Yes, sir. When I say that, obviously I am not—I have not been privy to the details of either the planning to date or the data on which it is based, and I therefore cannot possibly express a judgment which is based on details or on this kind of appraisal.

Senator CLARK. Like all good lawyers, and possibly like all good professors, you want to retain an open mind.

Mr. BOWIE. I simply say, sir, as I go into the government I go with the intention of becoming more familiar than I am as a newspaper reader with the facts and with the conditions and with the limitations.

Senator CLARK. And with no preconceived convictions.

Mr. BOWIE. Oh, no; nobody can meet that criterion.

Senator CLARK. With preconceived convictions only to the extent you stated them today and on your last appearance.

Mr. BOWIE. That is right.

Is neutralization of southeast Asia a desirable goal?

Senator CLARK. Another question: Do you believe that neutralization of southeast Asia is a desirable goal? This, is of course, is as opposed to an American hegemony.

Mr. BOWIE. I was just going to say if one—let us leave out the question how one gets from here to there. It seems to me if one could imagine a southeast Asia which was not dominated by China and not dominated by the United States and was neutral in that sense, that is to say really free to pursue its own life in its own way, this would serve American interests perfectly.

Senator CLARK. Even though there was a merger of North and South Vietnam.

Mr. BOWIE. Well, it depends again on what basis and what terms, and so on.

Senator CLARK. Free from Peking domination.

Mr. BOWIE. You have injected another factor here, sir. As far as a neutral southeast Asia is concerned, as I have said, to my mind that would be entirely compatible with American interests.

Senator CLARK. And under those circumstances, you believe the United States could withdraw?

Mr. BOWIE. Well, I do not think you can achieve—we are now moving into the question of how do you achieve this kind of situation. I think——

Senator CLARK. That is the last question. How can this be effective?

Mr. BOWIE. Well, I do not know. But I do not think it will be effective if there is not some kind of balance in the area which does not imply necessarily the presence of American forces on the ground in southeast Asia. But I think that to have some kind of balance in which these countries feel they are not overwhelmed by China there is going to have to be a sense of presence of countervailing power.

Senator CLARK. How about their feeling they are not overwhelmed by the United States?

Mr. BOWIE. I think that is equally important.

How is the future of Vietnam developing?

Senator CLARK. If events proceed ideally, how do you conceive the future of Vietnam developing? In what position, in your judgment, could we hope the country would be in 5 years and 10 years? This is not my question.

Mr. BOWIE. Do you not think, sir, that is really asking for a kind of second sight which up to this point I have not claimed?

Senator CLARK. No, I do not think it is, frankly. I think it is asking you to give your own well-informed and educated view as to whether we are getting so deep in South Vietnam that the economic and social costs of creating the kind of dream world which we are led to believe is a reasonable alternative, namely, a free, happy and democratic Vietnam is a possibility in 5 years or 10; I do not know.

Mr. BOWIE. Well, it seems to me, sir, that southeast Asia, if there had not been any war, would not have met the criteria which you have described, and certainly given the damage and disruption that results from war, it will be quite some time before they can restore a more orderly kind of life.

Senator CLARK. I do not blame you for not wanting to respond to that question.

Mr. BOWIE. All I can say is that I am sure it would take a long time to restore an orderly society in South Vietnam.

Senator CLARK. And a great many billions of dollars.

Mr. BOWIE. Quite a lot of money.

Senator CLARK. And a good many American boys will be killed in the process.

Mr. BOWIE. In the war part, in the military aspect, yes.

Senator CLARK. So then the critical question is, is whether the game is worth the candle, and I take it from your position you are almost impelled to say, yes, it is?

Mr. BOWIE. I do not think impelled to, I do so.

Senator CLARK. You do.

Recent history is a learning process

In your book "Shaping the Future," you suggested that the history of international affairs since World War II could be viewed as a gradual learning process. What lessons in this learning process drew us into Vietnam and what lessons, if any, are we learning from our involvement there? I stress again this is not my question. You may feel perfectly free to say you cannot answer.

Mr. BOWIE. I do not feel I can respond effectively to the question.

Senator CLARK. All right.

Containment policy toward Red China

Do you believe our policy toward mainland China should be containment without isolation or containment and isolation? This was a subject, as you know, of some rather intensive hearings by the Foreign Relations Committee.

Mr. BOWIE. In general, I find myself in agreement with the views expressed by Doak Barnett and by John Fairbanks to this committee, which, as I understand it, have now been summed up under this phrase "containment without isolation."

Assistance by advanced nations to less developed nations

Senator CLARK. This is the final question. In your book you asked the question: Why should the advanced nations assist the less developed to modernize? You then proceeded to give various answers, but not your own. How would you answer your own question?

Mr. BOWIE. To my mind there are several different reasons for this. One is in terms of the more usual response of foreign affairs if these countries stagnate it seems to me that the prospects of disorder and instability will be increased and, therefore, it is in our interest to try to mitigate this instability as best we can. Now aid or assistance is not an automatic or patent solution for instability, but it seems to me that it increases the prospects for moving toward viable societies and more stable societies. And, second, I feel very strongly that there is a straight humanitarian basis which has been much too little recognized and accepted.

As I see it, as science and technology have made the world really into one big neighborhood, the implication of this is we just cannot decently pass by while we are living on the fat of the land and these people are on their uppers—they do not have any uppers to be on. I frankly feel—and I think the country would respond—that our values of human dignity and human worth require us to assist when people have to live under the conditions in which a billion and a half people are now living in vast areas of the world.

Senator CLARK. I think it is said with some accuracy that a majority of the population of the world goes to bed hungry every night.

Mr. BOWIE. Probably true.

Senator CLARK. I wish you were right, and I hope you are. It is not the prevailing view in the Senate of the United States, and I find great objections, which I share, among my constituency to the views which you have expressed.

Mr. BOWIE. I realize this, sir, and I think it certainly does us no honor to admit the fact.

Senator CLARK. I agree.

Has the concept of our relationship to Vietnam changed?

Here is a final and loaded question. In September of 1963 President Kennedy stated with respect to the war in Vietnam:

"In the final analysis it is their war. They are the ones who have to win it or lose it. We can send our men out there as advisers but they have to win it."

Was he not right, and if he was right, have we not departed drastically from this concept of our relationship?

Mr. BOWIE. Well, certainly the extent of American involvement or participation has increased. But I would certainly assume that the Vietnamese really have got to carry the brunt of trying to make this whole operation effective by helping to create an adequate Government structure and support for the government among the people by the pacification program and rebuilding. So it seems to me that basically, and I do not believe anybody would really differ with this, that basically this has got to be a joint affair in which ours is an assisting role and not the sole one.

Senator CLARK. I would suggest to you we are long past that point. In the spring of 1965, the South Vietnamese Army was on the point of collapse. President Johnson had to make a terribly difficult decision; I am glad I did not have to make it. He decided to put massive American armed forces into South Vietnam to the tune of 200,000 men. Since that time, while we can no longer lose the war, there is no particular reason to think now, any more than there was then, that we can win it. The South Vietnamese Army has become less and less effective to the point where we are now even going to have to move in and take over the defense of the Mekong Delta. Accordingly, it has become an American war. This is what I deplore and what Senator FULBRIGHT deplores.

The best thing we can do short of unilateral withdrawal, repeating the views I think were expressed to the members of this committee by former Ambassador Kennan, General Gavin and General Ridgway, would be to make do with what we have got, to make it perfectly clear we are not going to permit ourselves to be thrown out, to stop this "search and destroy" policy which is costing an incredible number of American lives, and to wait them out.

Do you want to make any comment on that?

Mr. BOWIE. No, sir, I think I have already expressed my views.

Nominee's views on Vietnam

Senator CLARK. Yes, you did. You said you supported the policy of the President and Secretary of State, and I guess that is good enough.

Mr. BOWIE. I feel, sir, this is a subject on which information which I have at my command now is limited. I have not in any way participated in the government on this subject. I have not in any way served as an adviser or consultant and, therefore, my knowledge is in fact limited to what I have read in the newspapers. And I would really want in terms of specifics or details or tactics to not express myself until I have had the access to the data which are available to the government but which are not available to me.

Senator CLARK. All right. But you have been the director of the Center for International Studies at Harvard University. I will not say your preoccupation, but your major interest, has been with Europe and not the Far East; is that right?

Mr. BOWIE. This is where I am more competent.

Senator CLARK. I would not say more competent; you are better informed.

Mr. BOWIE. Right.

Senator CLARK. And, therefore, you come to the job as counselor of the State Department with, I would hope an open, but not necessarily fully informed, mind with respect to the problems in southeast Asia and the Far East generally. But you are going to find, I would think, that the preoccupation of the President or Secretary of State is not with Europe but with southeast Asia. Therefore, you are going to have to inform yourself pretty quickly on the subject. I do not blame you for not wanting to make any comments on it now.

Mr. BOWIE. Thank you very much, sir.

Senator CLARK. Thank you; you have been most patient and I appreciate it.

(Whereupon, at 6:05 p.m., the committee adjourned.)

Mr. SYMINGTON. This testimony demonstrates the very careful investigation that was made of Dr. Bowie's activities in the past, despite the fact that the Senate had unanimously confirmed him on July 17, 1956, for a position at least as important as the present position.

Later, a group of nominations, including Dr. Bowie, were reported to the Senate for approval by the Committee on Foreign Relations. Unfortunately, Mr. President—at least, unfortunately so far as I am concerned, based on the superb record of this outstanding American—a hold was requested on the approval of Dr. Bowie's nomination. For some reason, action was not taken to hold up the entire list, which in similar circumstances, is characteristic of the functioning of other committees on which I serve. The rest of the list was passed, pointing up that there was some objection by the Senate to Dr. Bowie's confirmation at that time.

Then, in order, one might say, to compound what I consider an unfortunate development, a story appeared on the ticker yesterday that Dr. Bowie had been confirmed by the Senate; and that story had to be denied by the majority leader, the leadership of the Senate. So, again, we had a story in the paper this morning that Dr. Bowie's nomination was held up. I do not criticize anybody for this sad development.

I merely want to present for the record the fact that I believe that under these developments any man of integrity and ability will find it difficult to leave the pleasant shelter of academic life to take a position of this character.

Because of Dr. Bowie's outstanding record and because he says what he believes, and because I am sure he will not be intimidated by critical hindsight, it is a pleasure for me to defend this record on the floor this afternoon.

The views of Dr. Bowie in some matters vary from my own. But I do not think any disagreement he might have with me or any other Senators on a particular point should be the basis of questioning his nomination and service.

The important point is that he has had a great deal of experience in this field and is needed in the State Department, where it is fair now to say they are overworked and understaffed.

Without getting into a detailed discussion incident to multilateral force views which interest some Senators, I would quote from an address delivered by the former Special Assistant to the President, Mr. McGeorge Bundy, in Copenhagen, on September 27, 1962, entitled "Building the Atlantic Partnership: Some Lessons From the Past." Mr. Bundy said:

> It would also be wrong to suppose that the reluctance which we feel with respect to individual, ineffective, and unintegrated forces would be extended automatically to a European force, genuinely unified and multilateral, and effectively integrated with our own necessarily predominant strength in the whole nuclear defense of the alliance.

Later, Mr. President, Mr. Bundy, a Special Assistant to the President, stated:

> But it does seem right at least to say this: If it should turn out that a genuinely multilateral European deterrent, integrated with ours in NATO, is what is needed and wanted, it will not be a veto from the administration in the United States which stands in the way.

I felt it advisable to place in the RECORD the details of Mr. Bundy's position on two primary issues, which it might be said, were raised in Dr. Bowie's testimony before the committee.

First, as to the testimony itself, there apparently was a discrepancy in the testimony that Dr. Bowie gave in a comment in answering the Senator from Idaho [Mr. CHURCH]. This was really an aside in replying to the question as to whether the witness favored the McNamara consultative solution over the hardware solution. The substance of his answer was that he strongly favored pursuing the McNamara consultative group but did not think it would be found satisfactory as a solution in the long run. This aside comment about the 1960 report was an inadequate summary of the report, taken by itself.

Later, Senator CLARK asked specifically what the witness has recommended in the 1960 report regarding a collective force. In reply, the witness stated:

> My recollection is that in the report I suggested a two-stage proposal in which there would first be a NATO committee which, as I recall, was to have assigned to it some American subs as a basis for its action and advice.
>
> Senator CLARK. Mixed crews.
>
> Mr. BOWIE. Not at that stage. The first stage, no.
>
> In the second stage, if this was not sufficient,—if this did not meet the desires of the Europeans—there was to be the possibility of a collective force which would be mixmanned.
>
> Now the actual form of the MLF proposal was not in all respects what I had suggested, but I don't want to try to get into the details of it, sir, because I haven't read my own report for five years.

This answer gives a fair, brief summary of the tenor of the report.

Mr. President, in passing, I would say that I was neutral to the point of favoring the multilateral force or its corollary, the Atlantic nuclear force of 1952, 6 years ago. Since that time my views have changed. I oppose the multilateral force. Perhaps Dr. Bowie also views such matters differently now than then.

Moreover, in Dr. Bowie's testimony, the witness was wholly candid in stating his opinion that while consultation should be pursued actively, it would not fully solve the problem of nuclear sharing or of national forces, especially the British and French. He made this clear not only in this answer to Senator CLARK but at several other points in the hearing, including the initial reply to Senator CHURCH's question.

The other question is one of substance and has no relation to the correctness of the testimony. It concerns published writings of Dr. Bowie in which he expressed similar views.

No member of the committee asked any questions about this and it was not discussed in the hearing when Dr. Bowie came up.

In an article on the Atlantic Alliance, published in "International Organization," volume XVII, No. 3, page 728, Dr. Bowie states:

> If Europe moves toward unity, the United States should be willing to reorganize the force, if the Europeans desire, to permit its operation and use without the veto of the United States. In the Nassau Agreement we accepted the right of Britain to withdraw and use its Polaris force in an extreme national emergency. We should be ready to concede to a multilateral force the same degree of ultimate autonomy as has already been granted the British national force. The final outcome might take the form of either (1) an integrated NATO force in which the United States, without a veto, would be one member, or (2) an integrated European force (without the United States as a member) closely coordinated with United States forces, but under ultimate European control.

Either form has its disadvantages. But either would be far better than the continuance and spread of national nuclear forces, which involve serious problems in more intractable forms. Some have expressed concern that an eventual European force would split the alliance. But this would depend on whether Europe and the United States recognized the fact that their security was bound together by the facts of life. These perspectives are important, but they are in the future: the final form will depend greatly on the course of events, especially in Europe.

Mr. President, inasmuch as this statement by this intelligent and patriotic American was made in 1962, I would hope that it would be given full credence by those who are worried about the position he has taken on various issues.

The important point, again, however, is that he comes to this position with a wealth of knowledge and a wealth of experience. He is clearly a man of independent thought, and habit, and I am sure that consistently he will advise the Secretary of State and the other members high in Government of his opinions with respect to the issues in question.

Therefore, Mr. President, I would hope that the Senate would once again confirm Dr. Robert R. Bowie unanimously, this time as Counselor of the State Department.

I will be glad to yield to my friend, the Senator from Pennsylvania [Mr. CLARK].

Mr. CLARK. The able Senator from Missouri [Mr. SYMINGTON] has cleared up all of my doubt. I have no desire to engage in colloquy.

Mr. SYMINGTON. I thank my friend from Pennsylvania.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. SYMINGTON. I am glad to yield to the Senator from Pennsylvania.

Mr. CLARK. I am afraid that my last comment might be misconstrued in the RECORD. The Senator has not cleared up my doubt about the desirability of the nomination, but he has cleared up my doubt about the suggestion I wanted to question him about.

Mr. SYMINGTON. I thank my friend, the Senator from Pennsylvania [Mr. CLARK].

Mr. President, I move that the Senate approve the nomination of Dr. Robert R. Bowie.

The PRESIDING OFFICER (Mr. TYDINGS in the chair). The question is, Will the Senate advise and consent to the nomination of Robert R. Bowie, of Massachusetts, to be Counselor of the Department of State? [Putting the question.]

The nomination is confirmed.

Mr. INOUYE. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

On request of Mr. INOUYE, and by unanimous consent, the Senate resumed the consideration of legislative business.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Breskin, one of its clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 8678. An act to establish in the State of Michigan the Pictured Rocks National Lakeshore, and for other purposes; and

H.R. 17488. An act to amend title 38 of the United States Code so as to increase the rates of pension payable to certain veterans and their widows, and for other purposes.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred, as indicated:

H.R. 8678. An act to establish in the State of Michigan, the Pictured Rocks National Lakeshore, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 17488. An act to amend title 38 of the United States Code so as to increase the rates of pension payable to certain veterans and their widows, and for other purposes; to the Committee on Finance.

PROPOSED LEGISLATION FOR CONGRESSIONAL REORGANIZATION

Mr. MONRONEY. Mr. President, the Special Committee on the Organization of the Congress met yesterday to consider its proposed legislation for congressional reorganization. The testimony of committee chairmen and ranking minority members—taken pursuant to the resolution authorizing the special committee—was considered in the light of the recommendations contained in the final report of the Joint Committee on the Organization of the Congress.

Tomorrow, I shall introduce the Legislative Reorganization Act of 1966. The act will be cosponsored by the six Senators who served on the Joint Committee on the Organization of the Congress. The special committee was granted legislative authority to consider this omnibus bill. It will report favorably on the bill tomorrow.

I shall have additional comments on this highly important legislation and the committee's report when they are introduced.

At this time, however, I ask unanimous consent to have printed in the RECORD another group of representative editorials on the subject of congressional reorganization.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Birmingham (Ala.) News, Aug. 1, 1966]

STREAMLINING CONGRESS

The Joint Committee on the Organization of the Congress has begun preparing a far-reaching omnibus reorganization bill based on its lengthy list of recommendations for improvement of operations.

The recommendations were contained in the bipartisan committee's just-released final report, calling for major changes in congressional organization and machinery. They include uniform rules of procedure for the standing committees, changes in committee jurisdiction, improved staffing and the use of modern management techniques in evaluating the ever-increasing federal budget.

When completed, the committee will seek permission to bring the Legislative Reorganization Act of 1966 directly to the floor of each House during the current session, a procedure that was followed in 1946, when the last comprehensive review of congressional organization was made.

The committee's recommendations, in the opinion of the News, generally offer a practical and realistic approach to revision of the often-cumbersome legislative operations.

This newspaper realizes that it is highly unlikely that Congress would rubber-stamp the recommendations of the committee. Congressmen almost automatically resist any tampering with hidebound rules and habits which have developed down through the years.

Nevertheless, the broad act designed to streamline congressional procedures merits the thoughtful and careful consideration of every member of the Congress.

The committee, of which Senator JOHN SPARKMAN of Alabama is a member, accepted the responsibility it was charged with and delved into all phases of congressional organization.

Its report, for example, proposes major revisions in the standing committee system, the basic working unit of the Congress. It recommends a committee "bill of rights" to permit a majority of the committee membership to call a meeting and report legislation if a chairman refuses to take such action.

It also recommends more frequent use of open hearings and suggests that committee deliberations be televised or broadcast at the option of the committee. The use of proxy voting in committees would be eliminated.

It is immediately apparent that many members of the Congress will oppose such procedures, with their almost natural preference for many closed meetings. The News feels, however, that Congress has a responsibility to conduct certainly most of its hearings in the open, and not behind closed doors which inevitably feed an atmosphere of suspicion.

The committee's recommendations for overhauling congressional machinery appear sound and should be considered an important first step towards overhauling standard procedures which, in many respects, have become outmoded. With the passage of time, during the 20 years since the Congress conducted a self-appraisal of its organization, government has become more complex, more complicated and more unwieldy. Modern day government demands a modern approach to legislative functions.

[From the Greenville (Ohio) Advocate, Aug. 6, 1966]

CONGRESSIONAL REFORM REMAINS TO BE SEEN

When critics flay the House, the Senate, or both, they are joined by some voices from both august bodies. But how sincere congressmen are in their desire for reform will be shown in the weeks to follow.

The Joint Committee on the Organization of Congress, representing both branches and both major political parties, has reported more than 100 proposals for streamlining Congress.

Will the congressmen vote to split the House Education and Labor Committee into two committees, despite the threatened potent opposition of Rep. ADAM CLAYTON POWELL of New York, the present committee chairman? Will it also split the Senate equivalent, the Labor and Public Welfare Committee, as proposed?

Will members of Congress remove from themselves the privilege of all patronage in the Post Office Department? Will it also

eliminate patronage appointments on the Washington, D.C., Capitol Police Force?

Will they actually vote to schedule committee and floor business on a five-day workweek, eliminating the famous "Tuesday-to-Thursday Club" which delays official business but allows committee members to spend those nice, long week-ends away from Washington?

Will they actually open congressional hearings *to the public*?

These are only a few of the proposed changes. But many of these take away little islands of privilege which individual congressmen guard with great vigor.

It has been twenty years since Congress has made any attempt to reform itself, but if some of these proposals are adopted it will be in better shape. The question is: Will Congress adopt them?

[From the Sacramento (Calif.) Union, Aug. 9, 1966]

CONGRESSIONAL CHANGES NEEDED

Proposals by a special Senate-House committee to revise some of the procedures of Congress should do much to make Congress more efficient and to end some of the frustration the public feels at times over congressional procedures.

Congress has many traditions and is a great respecter of these traditions. There are times when some of these traditions appear to get in the way of a popular project, but many times these traditions have served the country well by preventing rash action.

Some of the traditions and congressional procedures, though, are out of date. It has been 20 years since there was a major revision in congressional procedures. Congress needs periodic examinations to make sure it can keep up with the demands placed on it.

One of the approximately 100 suggestions made by the committee is to put Congress on a five-day work week. At present, Congress limits most work to Tuesday through Thursday.

Sessions of Congress would not drag on so long if it stayed busy five days a week from the opening of the session. A full work week in Washington would also cut down on many trips and outside activities of congressmen.

Another recommendation would be to have congressmen lose the patronage privilege, or responsibility, of the appointments of postmasters and rural mail carriers.

The committee recommended that the main body of the CONGRESSIONAL RECORD be limited to verbatim remarks actually delivered on the floor of the House or Senate. Too many speeches have been inserted without being delivered.

Some of the other better recommendations are:

The creation of a committee in the House on the pattern of the Senate ethics committee.

The strengthening of the lobbying regulation act to provide better control of lobbyists.

The right for a majority of a congressional committee to call meetings and act on legislation if the committee chairman refuses to do so.

The granting to minority members of a committee at least three staff assistants.

These recommendations, though, if adopted should do much to help Congress do its job and to help the public appreciate that job.

[From the Boston (Mass.) Christian Science Monitor, July 25, 1966]

TIPTOEING TOWARD REFORM

There has been no widespread, articulate public demand for congressional reform. In the absence of such demand, legislators are reluctant to take a broom to the cobwebs lining the dingy corners of their own congressional house. Members frankly find it less unsettling to turn their passion for reform in the direction of others. The executive branch of government provides this passion a wonderful outlet.

But the time comes when the dust settles so thick that the old formula of sweeping it under the rug can no longer prevent embarrassment. Twenty years have passed since the last measure resulting in major congressional reform. Now congressmen are going to consider another.

The special bipartisan Joint Committee on the Organization of Congress, after extensive investigation and study, has unanimously come up with over a hundred proposals for reform. Relatively modest though they may be, their total impact could result in significant improvement.

The committee, when established, was specifically prohibited from making certain types of recommendations which would result in the sweeping reforms of Congress deemed necessary by a number of competent observers. Committee members deliberately steered clear of proposing any changes in the seniority system. And in spite of all that has happened of late, it rejected a proposal, which it would require of others, that members of Congress and their top staff be required to disclose their financial interests.

It did recommend that the power of committee chairmen to bottle up legislation be curtailed. Should the chairman refuse to call a meeting or take up a given measure, it would permit a majority of the committee to do so in his stead.

And it did propose to divest congressmen of some of their patronage, especially postal appointments, to tighten the lobby laws, and to eliminate secret committee hearings when there is no good cause for secrecy. These and many other of the proposed reforms are highly desirable. Some step on powerful toes, toes ready to boot them into legislative oblivion.

We hope that proposals so important to the effective operation of the legislative branch of the American Government will be approved and that it will not be another 20 years before Congress again thinks about reforming itself.

[From the Newark (N.J.) Star-Ledger, Aug. 3, 1966]

A BEGINNING

A joint committee studying the operations of Congress with an eye toward streamlining its operations has come up with a blueprint for some significant alteration and modification of its processes and committee system . . . but without the full thrust of basic reform.

The joint congressional committee was handicapped by the proscription of its mandate by a wary Congress, determined to resist any incursions on the fundamental structuring of procedures that the legislators hold near and dear.

Even with the pre-conditioned limitations of jurisdiction, the joint group has drafted a document that stipulates a number of changes that could be of considerable benefit in removing some ancient kinks from the cumbersome legislative machinery.

The major provisions include one that would prevent committee chairmen from resisting the will of the majority in getting legislation to the floor for a vote and another to throw open to the public most congressional hearings.

Another sweeping proposal is to separate Senate and House committees that are responsible for educational and labor bills. This would promote a more efficient operation for these important legislative jurisdictions; education has become a legislative area of considerable complexity and greater prominence in the interval since the dual committees were created.

There are a number of other proposed revisions in the committee's report that would be helpful in tidying up the legislative process . . . the Tuesday to Thursday Club would be eliminated and a five-day work week instituted in its place, cutting out long weekends for congressmen on committees, and an annual one-month vacation.

Unfortunately, the joint committee was not able to address itself to legislative areas that, political scientists maintain, are in need of basic reform . . . the seniority system on committees, rules of debate, proliferation of subcommittees, the absence of electronic voting tabulation, curbs on unethical conduct and unwieldy machinery for scheduling bills for floor consideration.

But even with these important areas cut off by congressional mandate, the joint committee has served a useful function in its proposal for general improvements of the cumbersome legislative committee structuring and procedures.

Mr. MONRONEY. Mr. President, as I have said many times before, it is my firm conviction that the eyes of the Nation will be on Congress during the closing weeks of this session. We should take decisive action on this omnibus bill before adjournment.

Tomorrow, I shall request that the leadership consider this bill as reported by the special committee for floor action at the earliest possible date.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TYDINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INOUYE in the chair). Without objection, it is so ordered.

HYDROLOGIC STUDY AND INVESTIGATION OF THE DELMARVA PENINSULA

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2287) to authorize a 5-year hydrologic study and investigation of the Delmarva Peninsula, which was, on page 4, strike out lines 13 and 14, and insert:

SEC. 5. There is hereby authorized to be appropriated the sum of $500,000 to carry out the provisions of this Act: *Provided*, That nothing in this Act shall prevent the expenditure of other funds appropriated to the Geological Survey for studies and activities performed under its general authority.

Mr. TYDINGS. Mr. President, the amendment added in the House is a technical amendment. The language has been approved by the chief sponsor of the legislation, the Senator from Delaware [Mr. BOGGS], and also by the cosponsors.

I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maryland.

The motion was agreed to.

NATIONAL UNICEF DAY—PRAYER IN PUBLIC SCHOOLS

The Senate resumed the consideration of the joint resolution (S.J. Res. 144) to

authorize the President to designate October 31 of each year as National UNICEF Day.

(At this point Mr. TYDINGS took the chair as Presiding Officer.)

Mr. BAYH. Mr. President and Members of the Senate, I rise at this hour, somewhat reluctantly, to pursue and fulfill an obligation that I feel rests upon my shoulders—that of placing in the RECORD—almost at the midnight hour, so to speak—before the Senate moves tomorrow to consider an amendment to the Constitution, the rather thorough documentation of information which has been brought before that committee of the Senate which is duly charged with the obligation of studying proposed constitutional amendments.

I must admit that, as is the case with each of my 99 colleagues, I view this subject through my own two eyes.

My view of all that has gone before us and all that has been said is subject to the interpretation that I as an individual place upon it. However, I must say that in the hearings which we held, which fill this document of almost 900 pages which I hold in my hand, and in the hearings which were held by the House of Representatives in 1964, which fill 3 volumes of this size, and in studying this matter as objectively as I have tried to do as chairman of the subcommittee, the weight of the evidence is against a constitutional amendment.

I think it is extremely important for us tomorrow, when we get down to casting our votes, to recognize that the proposal which is offered to us by the distinguished junior Senator from Illinois [Mr. DIRKSEN] is not just an ordinary legislative matter. Indeed, he asks us to undertake a task of momentous significance—amending the Bill of Rights.

One of the great things about the Constitution is that provisions are contained therein whereby it may be changed. However, the infrequency with which this great document has been changed would lend a great deal of support to the widespread feeling that a change should not be undertaken lightly. Indeed, on only 24 occasions has a constitutional amendment received the necessary two-thirds votes of both Houses and has subsequently been ratified by the necessary three-fourths of the State legislatures or three-fourths of the State conventions convened for that purpose.

One amendment is now pending, an amendment of which I was one of the authors, and on which occasion we had an opportunity to study how a constitutional amendment is introduced, and the great burdens that rest on all who support it—to get it out of the subcommittee, out of the full committee, out of both Houses, and subsequently before the people of this great land.

It is a sober obligation, one not to be taken lightly. I think I do not need to repeat this, because most of our colleagues recognize this fact. I do not intend to argue at great length that the measure which presently comes before this body proposing a constitutional amendment has not yet been discussed in the Judiciary Committee to which it has been referred without recommendation by the Subcommittee on Constitutional Amendments.

I should like to dwell on one point before moving toward the constitutional amendment process as such. I do so because I take vigorous exception to the philosophy of my good friend and cocommittee member, the distinguished Senator from Nebraska [Mr. HRUSKA]. He pointed out that, in his judgment, the constitutional process, the amendment process, mandated, or should mandate, the Members of this body to refer to the people an issue when it became significantly controversial so that it was a matter of great national concern.

To paraphrase his words—these are not his exact words, of course—the Senator from Nebraska seems to feel that such provisions in the Constitution of the United States which do not satisfy the people should go to the people so they have a chance to ratify them. As a matter of fact, the amendments do not go to the people directly. The State legislatures vote on them. They never go to the people.

Before that happens, the Constitution specifically provides that two-thirds of the Members of both Houses of Congress must first say it is important enough to have the State legislatures vote on it. I think this is significant. Heaven help us if the U.S. Constitution could be ratified willy-nilly, overnight, by a national referendum. We have seen that take place in some States, when constitutional amendments were adopted by State referendums. The result would be that we would have referendums almost every year.

Let us not overlook the fact that if we are to fulfill our constitutional duty in this body, we will not automatically refer every controversial issue to the State legislatures. We have an obligation to see to it that these questions are important enough to submit to the States. We have an obligation to decide not only whether this matter before us is significant enough to join the 25 others that have left this body, but whether it is necessary. If we think so, we vote "yea." If we do not think so, we vote "nay."

During the hearings we had a substantial number of witnesses come before us who opposed the Dirksen amendment—in fact, the majority of witnesses were opposed to it. I take the trouble to mention this only because I think it is important that the record be set straight. The matter was brought into contention yesterday by the minority leader, to the effect that we did not have a significant number of members of the clergy come before our committee. Anyone who would peruse the record could not help but be impressed by the array of individuals who submitted statements opposed to the Dirksen amendment. For the sake of time, rather than read all the names—because the list is very long—I ask unanimous consent to have printed in the RECORD at this point the list of some of the significant religious leaders who came before us, men like Bishop Richard C. Raines, of the Methodist Church of Indiana, and Dean Robert F. Drinan, outstanding Catholic leader and legal scholar. I will let the record speak for itself.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Adams, Elder W. Melvin, associate director, department of public affairs and religious liberty, Seventh-day Adventist Church.

Alley, Robert S., associate professor, University of Richmond, representing Virginia Baptist Convention.

Bagby, Rev. Grover C., associate general secretary, General Board of Christian Social Concerns of the Methodist Church.

Barnhart, Rev. Arthur C., executive secretary, Department of Christian Social Relations, Episcopal Diocese of Pennsylvania; accompanied by Rabbi Arnold G. Kaiman, treasurer, Board of Rabbis of Greater Philadelphia; and Rev. Donald Grant Huston, First Presbyterian Church of Lower Merion, Philadelphia, Pa.

Carlson, Rev. C. Emanuel, executive director, Baptist Joint Committee on Public Affairs, Washington, D.C.

Cohen, Rabbi Seymour J., Rabbi of Anshe Emet synagogue, Chicago, Ill., and president of the Synagogue Council of America.

Drinan, Dean Robert F., S.J., dean of Boston College School of Law.

Halbert, Rev. Herschel, staff officer, executive council, Episcopal Church.

Hirsch, Rabbi Richard G., director, Religious Action Center of Union of American Hebrew Congregations.

Hunter, Rev. Dr. David R., deputy general secretary, National Council of Churches; accompanied by Dean M. Kelley, director, Commission on Religious Liberty, National Council of Churches.

Lowell, Dr. C. Stanley, associate director, Protestants and Other Americans United for Separation of Church and State.

Moors, Rev. William R., on behalf of the department of social responsibility, Unitarian-Universalist Association.

Moss, Rev. Robert V., Jr., president, Lancaster Theological Seminary; accompanied by Dr. Lewis I. Maddocks, Washington office director, Council for Christian Social Action, United Church of Christ.

Raines, Bishop Richard C., Methodist Church of Indiana.

Siegman, Rabbi Henry, executive vice president, Synagogue Council of America.

Sissel, H. B., secretary for national affairs, the United Presbyterian Church in the United States of America, representing Dr. William A. Morrison, general secretary, Board of Christian Education of the United Presbyterian Church in the United States of America.

Temme, Dr. Norman, director public relations, the Lutheran Church—Missouri synod.

Van Deusen, Dr. Robert E., Lutheran Church in America.

Mr. BAYH. Mr. President, the minority leader asserted yesterday that only those who were ivory tower figures, freethinkers, were the ones who came in opposition to the amendment. That is not the case. He asked yesterday why so few religious leaders opposed his amendment. The answer is, in fact that many religious leaders are opposed to it.

I do not think it is necessary for me to go to the defense of the National Council of Churches. Indeed, I agree with some of the positions it has taken, and I disagree with others, but I am not going to rely upon the magazine Human Events, as if they were the King James version of the Bible, to support my contention as the distinguished minority leader did yesterday to support his.

I shall let the veracity of the National Council of Churches and the editorial

policy of Human Events stand on their own records.

But the record of the hearings—a volume of almost 900 pages—will show why the religious leaders overwhelmingly oppose the Dirksen approach.

First of all, they were concerned, as the distinguished senior Senator from North Carolina has expressed his own concern, about the need to be absolutely certain that we do not get the Federal Government or a State government into the area of establishing religion. As the distinguished Senator from North Carolina pointed out most eloquently earlier today, traditionally, before the Constitution was adopted, most of the States had prescribed religions. Although many of us still believe or would like to feel that our forefathers came here for religious freedom, what they really did was come here to set up their own religions; and people in the various Colonies were penalized if they did not follow the religion of the State. But with the development in the Constitutional Convention of the concern for individual guarantees of religious liberty, we did get the first amendment. Thanks to Madison and Jefferson and others the prohibition against the establishment of a State religion was included in that great document which safeguards the freedoms and liberties of individual citizens—the Bill of Rights.

Another concern expressed by the clergymen was that to them religion is a personal experience, one that is only degraded if it is relegated to official exercises in rote, such as the recitation of a nondenominational, perfunctory, short prayer. To them, and, indeed, to the junior Senator from Indiana, religion is a personal experience; and it is extremely important for those of us who are parents and those of us who are churchmen, laymen, and officials of a church, to recognize that we need to do a better job of following, practicing, and preaching our own religion where it is supposed to be preached and where it is supposed to be followed, and where these principles are supposed to be inculcated in the minds of our young people—namely, in our homes and our churches.

Reference was made by the distinguished minority leader to the fact that he had this very personal and pleasant conversation with Billy Graham. Billy Graham is an outstanding religious leader; and, indeed, he did talk with the minority leader. Indeed, Mr. Graham was in California, at Disneyland, and, indeed, he did come back across the country with his boys.

But the minority leader is not the only Member of this body who has had the good fortune, over the past few weeks, to talk with Reverend Graham. As chairman of the subcommittee, I also talked with him, and personally invited him to come before our committee. He would have done so, had it not been for a wedding in his family, and the fact that he had to go to London, where he is now ill, I regret to say. But I would certainly not want to bet very much on the contention, the inference that was left—not the statement that was made, but the inference that was left by the distinguished minority leader—that Billy Graham, coming before the committee, would have left with us an outright endorsement of the Dirksen amendment. I do not believe he would have.

I should like to make one reference to the number of ministers—it is a relatively small number, really, compared to all the ministers in the country; and the Senator from Maryland, who is now our Presiding Officer, did a rather perceptive job of analyzing the list of ministers who were included in the Maryland portion of the list that was presented to the committee by the Protestant Ministers for Prayer—and I should like to speak for just a moment as to why those ministers would petition us to support the Dirksen amendment.

Frankly, I must say that I think many of the ministers in this country are just like many of us as individual citizens, like many of us as Senators. Until we were compelled by our duty to investigate what the Supreme Court said on this issue, frankly, we just did not know what the Court had said; and, as a result, the first response of many of us was quite different from our studied response, after we had the chance to investigate the periods and the semicolons, the sentences and paragraphs of the decisions in question. In fact, I do not suppose it is being too harsh on members of the clergy, nor on Members of the Senate, to suggest that they may not be fully aware of the facts of the case. As the Senator from Maryland will remember, we had before our committee Mr. Edward J. Bazarian, who was one of Senator DIRKSEN's witnesses. Mr. Bazarian was one of the lawyers who argued the famed Oshinsky case before the Circuit Court of Appeals for the Second Circuit. And yet Mr. Bazarian had little idea whatsoever as to what the exact final holding of the second circuit court of appeals was on the Oshinsky case.

I shall speak briefly on that point in a moment, because my good friend, the Senator from Illinois [Mr. DIRKSEN] has relied on the Oshinsky case as a fundamental ingredient, to say that the Supreme Court has ruled out voluntary prayer. But I shall discuss the impact of the Oshinsky case following the other two cases, because I think that in this way we can better understand the development of the issue.

I wish to state here that almost all of the religious leaders who came before the committee, even the religious leaders who were for the Dirksen amendment, were of the opinion that if we could devise some means to clear up the controversy other than a constitutional amendment, they would support this position; that what they wanted to do was to clear the air and still permit truly voluntary prayer.

Now I wish to go quickly and succinctly, if I can, to the heart of the issue. The issue was raised in two decisions by the Supreme Court—one, the Vitale case, which dealt with a ruling by the New York Board of Regents which had prescribed and required a prayer to be said in the schools of New York; and the other, the Schempp and Murray cases, which dealt with legislative requirements by the State legislatures of Pennsylvania and Maryland requiring religious services to be held in the schools of those two States.

Now, after the smoke had cleared away, and after the misrepresentation has been separated from the fact, there is no way in which anyone can read the decisions that were handed down by the Supreme Court—and my friend the Senator from Nebraska agreed with this just a few moments ago—to say anything else but that the Supreme Court says it is a violation of the first amendment to the Constitution for a State to prescribe and require a school prayer.

I think most of us would agree that we do not want State legislatures to tell our children how and when to pray in school. That is what the Court said was wrong. That was the one point that was involved. The Court merely said that the Legislatures of Pennsylvania and Maryland and the New York Board of Regents could not tell the children of those States what to pray or that they must pray. The Court's decision had nothing to do with some of the rather ridiculous interpretations that have been placed on it.

I shall point out some of the things that have happened and are happening today that, in my estimation, are not based on fact. They are based on the way in which school boards have interpreted the cases. For example, the Supreme Court cases said nothing about voluntary prayer—though the Court did indicate the difficulties involved in having truly voluntary religious exercises in the public schools. Certainly it did not prohibit it. The Court said nothing about nor did not prohibit baccalaureate exercises in the public schools. It said nothing at all about spontaneous petitions to the Maker in times of great national crises, such as the assassination of President Kennedy. It said nothing at all about prohibiting the singing of the last verse of "The Star-Spangled Banner," or the last verse of "America" because they refer to God. The Court said nothing at all about the reference to God on our coins. It said nothing at all about the use of chaplains in the Armed Forces. All of these are extraneous issues that have been thrown into the melting pot and are not based on fact.

In fact, in the Vitale case, Justice Clark said, in no uncertain terms:

> There is of course nothing in the decision reached here that is inconsistent with the fact that school children and others are officially encouraged to express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life of belief in God. Such patriotic or ceremonial occasions bear no true resemblance to the unquestioned religious exercise that the State of New York has sponsored in this instance.

One of the issues raised by the distinguished minority leader involved Stein against Oshinsky. It is important that the RECORD be cleared on that point. I have before me the decision in Stein against Oshinsky, which is reported in

348 Federal 2d 999, 1965. This case involved a school district in New York, in which the children had been accustomed to saying the traditional milk-and-cookie prayers. I shall read two of them, as they appear in 348 Federal 2d, so that anyone who wishes to do so may compare them with the statement of the distinguished minority leader yesterday. One of them reads:

God is great, God is good, and we thank Him for our food. Amen.

Another one reads:

Thank you for the world so sweet.
Thank you for the food we eat.
Thank you for the birds that sing.
Thank you, God, for everything.

I wish I had a nickel, Mr. President, for every time I said that particular prayer. It is nothing that I object to saying. It is nothing that I object to my fifth-grade son saying. However, in this particular instance, Mr. Elihu Oshinsky, principal of Public School No. 184, Whitestone, N.Y., said it was his judgment that the Supreme Court decision ruled out these prayers.

The previous Supreme Court cases did not even mention this type of prayer. However, Mr. Oshinsky thought it did. He said there would be no school prayers in Public School No. 184.

Thereupon, a group of parents—I think the parents of 12 or 13 students were involved—petitioned the court to mandate Mr. Oshinsky to let their children pray in school. That is the issue upon which the Oshinsky case was decided—whether Mr. Oshinsky should be required to let the children pray in school.

I read now from the Court's decision:

We shall assume, in plaintiffs' favor, that the Establishment Clause would not prohibit New York from permitting in its public schools prayers such as those here at issue.

I want the RECORD to show that I repeat that quotation:

We shall assume, in plaintiffs' favor, that the Establishment Clause would not prohibit New York from permitting in its public schools prayers such as those here at issue.

The Court continued:

Nevertheless New York is not bound to allow them unless the Free Exercise Clause or the guarantee of freedom of speech of the First Amendment compels.

The Court continues:

Neither provision requires a State to permit persons to engage in public prayer in State-owned facilities wherever and whenever they desire.

I go now to the last page of the holding to point out the real crux of the whole issue. The Court said:

Determination of what is to go on in public schools is primarily for the school authorities.

Thus, we see that, quite contrary to the minority leader's contention that Stein against Oshinsky says they cannot engage in voluntary prayer, the Court really held that the school principal will decide what the curriculum in Public School No. 184 shall be, and not the parents of 12 or 13 children—or, for that matter, the parents of a majority of the children.

The fact that the Supreme Court denied certiorari on that matter does not have anything to do with possible decision on the voluntary prayer issue, which, in fact, it has not yet touched.

I ask anyone who might follow this dialog to read an earlier discussion in the RECORD of today in which the distinguished Senator from North Carolina [Mr. ERVIN] and I discussed this particular point, and in which discussion the Senator from North Carolina agreed with the Senator from Indiana unequivocally.

The Supreme Court did decide this matter on the basis of who shall determine the school curriculum, and it has nothing whatsoever to do with school prayer.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD brief excerpts from some significant cases to illustrate how various courts have handled some of the material which has been brought up as a result of interpretations of the Supreme Court decisions matters such as the use of the phrase "under God" in the pledge of allegiance.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

Lewis v. *Allen*, 5 N.Y. Misc. 2d 68 (1957); 11 App. Div. 2d 447 (1960); Cert. denied 379 U.S. 923 (1964).

The Court dismissed a petition to compel the New York State Commissioner of Education to revoke a state regulation requiring the use of the phrase "under God" in the Pledge of Allegiance and reinstate the Pledge without the objectionable religious overtones.

The lower court ruling was affirmed by the Appellate Division, which noted in its decision that since the flag salute exercise was not compulsory, there was no violation of free exercise or any possibility of an establishment of religion.

In September, 1964, an identical action was filed in Hawaii by Mrs. Madelyn Murray. A federal judge dismissed the suit.

An American Civil Liberties Union suit in Los Angeles in June, 1963, claiming that the phrase "under God" was constitutionally objectionable under the guarantees of the First and Fourteenth Amendments was filed in Superior Court. The claim was made in behalf of a teacher who contended his rights were violated by the requirement that he participate. The regulation involved was a 1959 Los Angeles Board of Education ruling making the Pledge mandatory.

In October, 1963, the contesting parties reached an agreement which provided that the teacher would not be fired and would no longer be required to recite the Pledge. However, the Pledge would be continued with a student leading the class.

A somewhat different case involving the Pledge of Allegiance concerned a student's claim that the compulsion to recite the Pledge every day violated his "sacred conscience." The student said that he did not object to the requirement that he stand during the recital, but asked to be excused when the teacher required his participation. His request was denied.

A Superior Court in Santa Barbara ruled in favor of the student, holding that freedom of conscience is as sufficient a cause for refusal as a formal religious belief.

Among the various opinions rendered by States' Attorney Generals on this question are those of New Hampshire and Pennsylvania, advising that daily recitation of the Pledge of Allegiance is permissible. The Attorney General of West Virginia issued a 1963 opinion to the effect that a mandatory requirement that all students salute the flag and recite the Pledge of Allegiance is unconstitutional. He went on to say that "recital of historical documents and songs which make casual reference to the Diety" are valid exercises.

Mr. BAYH. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement concerning the Michigan case of Reed against Van Hoven, which statement shows that the Federal judge in Michigan has, indeed, created a workable arrangement regarding voluntary prayer in the public schools. And that this plan is wholly within the framework of the recent Court decisions.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REED *v.* VAN HOVEN, 237 F. SUPP. 48 (1965)

The plaintiffs in the instant action instituted a suit for an injunction alleging a violation of the free exercise and establishment clauses of the First Amendment.

The religious practices in question were effected under an order by the Board of Education for the Jenison School District, Jenison, Michigan. The Board had adopted this policy in an effort to remain "neutral". It held that:

"Upon the request of any student or parent of a student in any particular class that the individual be allowed prayer and/or Bible reading as a regular religious exercise at the opening of school, the teacher must devise reasonable rules and regulations controlling such exercise.

"The rules and regulations devised to implement the requested exercises may vary, depending on the number of children or parents so requesting, from *allowing a moment of reverent silence* to allowing prayers in unison aloud. In the event the teacher finds that divergent requests preclude reasonable control, the teacher, may always allow as a satisfactory substitute, a moment of reverent silence.

"Depending upon the form of requested exercise permitted in the discretion of the teacher, those who object shall remain in the class, or be excused from the requested exercise, or may arrive at class late, as the teacher feels will best serve classroom procedures and minimize embarrassment."

At a hearing the Court offered a substitute procedure and outlined its operation to the parties. The Court plan was designed to accommodate those children who desired morning prayer exercises. It provided, however, that these practices be held before the official school day began.

The plaintiffs reappeared at a later date, claiming that the Board of Education had failed to implement the Court's plan in a satisfactory manner—thus infringing on the free exercise rights of students who did not wish to participate.

Basically, the problem was one of transportation. The busses serving the Jenison School District also served a number of adjoining districts and Jenison students continued to arrive at the usual time. In an attempt to work out an acceptable arrangement, the School Board rearranged the bell schedule: a first bell at 8:40 was followed by a second bell five minutes later signalling the prayer period; at 8:50 a third bell noted the end of the prayer session and the impending beginning of the school day; at 9:00 a bell sounded indicating that regular classes had begun. Plaintiffs contended that as a result of the bell arrangement and the lack of adequate time intervals, those students not participating in the prayer were segregated; thus an element of coercion was present and students felt the need to join in and avoid ostracism.

Judge Fox, for the United States District Court, Western District of Michigan, S.D., rendered the opinion. He wrote, in general terms, that "when religion is included in the regular (school) program in such a way as to become connected with the learning process, other than within the framework of a general, objective course on religion as religion," there is a valid constitutional objection. Furthermore, grade school pupils are "effectively captives." In seeking a viable arrangement, therefore, the authorities must scrupulously avoid violating "the rights of free exercise of those not in accord with the practices of the accommodated."

Answering the contention that denying religious exercises to the desirous majority was equally a violation of free exercise, Fox reiterated the relevant phrase from Schempp:

"Finally, we cannot accept that the concept of neutrality, which does not permit a state to require a religious exercise even with the consent of the majority affected, collides with the majority's right to free exercise of religion. While the Free Exercise Clause clearly prohibits the use of state action to deny the rights of free exercise to anyone, it has never meant that a majority could use the machinery of the state to practice its beliefs."

Accordingly, Judge Fox sought to effect a workable compromise—"an accommodation," as he termed it. The Court plan provided that the prayer exercise be held either before or after the regular school day; additionally, it stipulated that it be held "in a room other than the regular home rooms, and complete the exercise at least five minutes before the regularly scheduled class day," and that "no bell signifying the start of a prayer exercise should be rung." Filling in the fine points of his proposal, Judge Fox reasoned that during the time the prayer exercise ended and the home room began, there should be a general "commingling" of the student body. Thus, the first bell should signal the beginning of passage to the home room and those students who joined in the prayer would be required to pass in the halls to their regular home room.

After announcing this plan, Fox proceeded to point out that it was not a final answer—legally or philosophically; rather, he characterized it as a "interim accommodation." "Even should the program successfully escape the prohibitions of the Establishment Clause," he reiterated, "as administered it may possibly result in abridgement of rights of free exercise." In that case, of course, evidence would have to be taken to determine exactly where and how the coercive effect operated.

Mr. BAYH. Mr. President, in summary I have submitted, and will move tomorrow to substitute for the constitutional amendment of the Senator from Illinois, a sense-of-the-Congress resolution.

This resolution will do three things. First, it will specify in crystal-clear language what the Court said. It is easy to find out what the Court said. It is written in black and white.

Second, it will mention just a few of the specific items that the Court did not say, some of these ridiculous things about baccalaureate ceremonies and the use of the word "God" in songs, and even the constitutionality of the Senate Chaplain saying prayers in this public building.

Third, we will resolve that it is in the best interest of the country and of the children in our schools that they should not arbitrarily be prohibited from participating in silent voluntary prayer and meditation, provided, of course, the school authorities deem that to be feasible and consistent with their primary academic responsibilities.

Mr. President, we also asked the President of the United States to proclaim the week of Thanksgiving as a week of national prayer and meditation and to invite the Governors and mayors of State and local governments to issue similar proclamations and to urge all Americans, both adults and children, to express, during this period, their thanks for the numerous blessings which have been granted to all the people of the United States.

We are not deceiving ourselves—as the Senator from Nebraska [Mr. HRUSKA] was concerned that we might be—into feeling that this particular resolution is going to approximate the legal impact of a constitutional amendment. It is intended as a public notification to those harassed school officials and those worried parents that the Supreme Court has not outlawed voluntary prayer and silent meditation.

It calls to the attention of the American people the fact that the Senate of the United States, an extremely important body in the governmental structure of our country, still believes that each person should be permitted an opportunity to petition his Maker in the manner in which he or she sees fit. That applies to the boys and girls in our school system, as well as to the Members of the Senate.

I should like to say that at an early stage in the debate, the distinguished Senator from Illinois specified, and I quote as nearly as I can remember:

> It is not my intention or the intention of the supporters of this resolution to overthrow the decision of the Supreme Court.

In other words, the Senator from Illinois apparently agrees with the Senator from Indiana that it is not a healthy condition when a State legislature prescribes what prayers should be said in public schools. But the Senator from Illinois went on and said that all he wants to do in Senate Joint Resolution 148, which he now asks the Senate to vote upon, is to clarify the confusion which has resulted from the Supreme Court decision.

Strange as it may seem, I agree with the goal that the Senator from Illinois seeks. I too, want to clarify the confusion. I, too, want to permit the children of our schools to have the opportunity, in an orderly manner, to petition their Maker. I think that this can be done without a constitutional amendment, and tomorrow I intend to ask my colleagues to permit us to pursue this course.

(At this point Mr. BAYH assumed the chair.)

Mr. TYDINGS. Mr. President, I should like to take this opportunity to commend the responsibility and the diligence with which the distinguished junior Senator from Indiana has discharged his duties as chairman of the Subcommittee on Constitutional Amendments of the Committee on the Judiciary. The Senator from Indiana has performed a great public service by pointing out to the Members of the Senate and to the public at large the very grave deficiencies and dangers in the proposed constitutional amendment which the minority leader [Mr. DIRKSEN] would have the Senate pass.

As the Senator from Indiana has pointed out, the fact is that the overwhelming majority of the leaders of the established churches in the United States—Protestant, Catholic, and Jewish—oppose this legislation. The fact is that, almost without exception, the constitutional lawyers who testified before the subcommittee opposed it and law professors and constitutional experts from all across the country submitted statements for the record against the amendment. The fact is that this proposal could open the door to the establishment of state churches throughout the United States.

I think these are matters of grave concern and are matters properly brought to the attention of the Senate.

As a member of the Constitutional Amendments Subcommittee, I participated to some extent in the hearings and listened to the testimony on this proposal; and I was stunned when the two attorneys whom the minority leader could find to testify in favor of this amendment, when called upon to answer our questions, could not agree upon what the amendment meant, could not agree upon who would prescribe or authorize the prayers which would be said in the schools, changed their statements, and finally left the deeply disturbing impression that they were not really sure what the amendment meant, except that some majority group in the community could prescribe or establish the prayer which all schoolchildren attending a given school district would be called upon either to join in or to leave the room.

Any step the Senate took which weakened our sacred constitutional guarantees against the establishment of a state religion or a state church would be tragic and inexcusable. I think that the proposal and the approach which the Senator from Indiana has suggested is a wise and prudent course.

I fervently believe, as does he, in the need for and the power of prayer. But I am unalterably opposed to amending and weakening, for the first time in our Nation's history, the guarantees of freedom of religion contained in our Bill of Rights. I am unalterably opposed to breaking down the freedom-of-religion guarantees in the first amendment. I am unalterably opposed to the breaking down the separation of church and state in this country.

However commendable the objectives of the minority leader may be, the fact is that this amendment was sloppily, poorly, and dangerously drawn. Neither its sponsors nor its drafters know what it really means, except that it would permit the establishment of some sort of prayer by some sort of majority group in different school districts in this country.

I propose to support tomorrow the substitute proposed by the very able Senator from Indiana.

At this point Mr. TYDINGS assumed the Chair.

Mr. BAYH. Mr. President, I appreciate very much the remarks of my colleague, the Senator from Maryland. Accepting the thoughtful remarks that he has made toward me, I should like to say that on the subject of the Dirksen amendment he is in a good position to have observed, the complete record, inasmuch as he was one of the few members of the subcommittee—in fact, I think I could say one of the three members of the subcommittee—who were in regular attendance at almost all our hearings.

I must admit that I have never had an experience which has done more to enlighten me on any subject than the experience of sitting there and being completely immersed in and exposed to, this subject, with which I had not had the opportunity to become conversant prior to that time.

I want to publicly thank the Senator from Maryland for the studious way in which he helped to conduct the committee at times and the close attention that he has given to this matter.

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. BAYH. Mr. President, in accordance with the order previously entered, I move that the Senate stand in adjournment until 11 o'clock a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 8 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, September 21, 1966, at 11 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate September 20, 1966:

DIPLOMATIC AND FOREIGN SERVICE

Francis J. Galbraith, of South Dakota, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Singapore.

DIRECTOR OF THE MINT

Eva B. Adams, of Nevada, to be Director of the Mint for a term of 5 years. (Reappointment.)

CENTRAL INTELLIGENCE AGENCY

Vice Adm. Rufus L. Taylor, U.S. Navy, to be Deputy Director of Central Intelligence.

IN THE NAVY

Lt. Comdr. Richard F. Gordon, Jr., U.S. Navy, for permanent appointment to the grade of commander in the Navy in accordance with article II, section 2, clause 2 of the Constitution.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 20, 1966:

DEPARTMENT OF STATE

Robert R. Bowie, of Massachusetts, to be counselor of the Department of State.

DEPARTMENT OF JUSTICE

Patrick J. Foley, of Minnesota, to be U.S. attorney for the district of Minnesota for the term of 4 years.

Henry S. Wise, of Illinois, to be U.S. district judge for the eastern district of Illinois.

Alexander J. Napoli, of Illinois, to be U.S. district judge for the northern district of Illinois to fill a new position created by Public Law 89-372, approved March 18, 1966.

HOUSE OF REPRESENTATIVES

TUESDAY, SEPTEMBER 20, 1966

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Great is our Lord and of great power: His understanding is infinite.—Psalm 147: 5.

O God, our Father, who dost reveal Thyself in numberless ways, deepen within us this day the sense of Thy presence as we wait upon Thee in prayer. Strengthen us by Thy spirit that no danger may overwhelm us, no difficulty may overcome us, no distress may overburden us, and no discouragement may cause us to turn aside from walking with Thee. May Thy grace sustain us in our labor, Thy hand uphold us when we fall, Thy joy make our hearts glad, and Thy presence give us courage to face the experiences of this hour unashamed and unafraid. Help us to grow in strength, in understanding, in never-ending good will; and may we ever commit our lives to goals great enough for freemen. In the Master's name we pray. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Geisler, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On September 12, 1966:

H.R. 2270. An act for the relief of the Moapa Valley Water Co., of Logandale, Nev.;

H.R. 3999. An act to provide the same life tenure and retirement rights for judges hereafter appointed to the U.S. District Court for the District of Puerto Rico as the judges of all other U.S. district courts now have;

H.R. 4665. An act relating to the income tax treatment of exploration expenditures in the case of mining; and

H.R. 15858. An act to amend section 6 of the District of Columbia Redevelopment Act of 1945, to authorize early land acquisition for the purpose of acquiring a site for a replacement of Shaw Junior High School.

On September 13, 1966:

H.R. 12328. An act to extend for 3 years the period during which certain extracts suitable for tanning may be imported free of duty; and

H.R. 12461. An act to continue for a temporary period the existing suspension of duty on certain istle.

On September 14, 1966:

H.R. 3671. An act for the relief of Josephine Ann Bellizia;

H.R. 10656. An act for the relief of Kimberly Ann Yang;

H.R. 11347. An act for the relief of Maria Anna Piotrowski, formerly Czeslawa Marek; and

H.R. 13284. An act to redefine eligibility for membership in AMVETS (American Veterans of World War II).

On September 16, 1966:

H.R. 399. An act to provide adjustments in order to make uniform the estate acquired for the Vega Dam and Reservoir, Collbran project, Colorado, by authorizing the Secretary of the Interior to reconvey mineral interests in certain lands;

H.R. 790. An act to rename a lock of the Cross-Florida Barge Canal the "R. N. Bert Dosh Lock";

H.R. 2349. An act for the relief of Robert Dean Ward;

H.R. 3078. An act for the relief of Lourdes S. (Delotavo) Matzke and Yusef Ali Chouman;

H.R. 4861. An act to direct the Secretary of the Interior to convey certain lands in Boulder County, Colo., to W. F. Stover;

H.R. 6305. An act for the relief of lessees of a certain tract of land in Logtown, Miss.;

H.R. 7141. An act for the relief of Ronald Whelan;

H.R. 7446. An act for the relief of certain civilian employees and former civilian employees of the Department of the Navy at the Norfolk Naval Shipyard, Portsmouth, Va.;

H.R. 7671. An act for the relief of Sophia Soliwoda;

H.R. 8000. An act to amend the Ship Mortgage Act, 1920, relating to fees for certification of certain documents, and for other purposes;

H.R. 8989. An act to promote health and safety in metal and nonmetallic mineral industries, and for other purposes;

H.R. 10990. An act for the relief of Maj. Alan DeYoung, U.S. Army;

H.R. 11038. An act for the relief of Mrs. Edna S. Bettendorf;

H.R. 12950. An act for the relief of Kazimierz (Casimer) Krzykowski; and

H.R. 13558. An act to provide for regulation of the professional practice of certified public accountants in the District of Columbia, including the examination, licensure, registration of certified public accountants, and for other purposes.

On September 17, 1966:

H.R. 4075. An act for the relief of John F. Reagan, Jr.;

H.R. 6606. An act for the relief of Li Tsu (Nako) Chen;

H.R. 11271. An act for the relief of certain individuals employed by the Department of Defense at the Granite City Defense Depot, Granite City, Ill.;

H.R. 11844. An act for the relief of Maria Giuseppina Innalfo Feole; and

H.R. 14514. An act for the relief of Vernon M. Nichols.

On September 19, 1966:

H.R. 8058. An act to amend section 4 of the District of Columbia Income and Franchise Tax Act of 1947;

H.R. 1066. An act to amend section 11-1701 of the District of Columbia Code to increase the retirement salaries of certain retired judges;

H.R. 11087. An act to amend the District of Columbia Income and Franchise Tax Act of 1947, as amended, and the District of Columbia Business Corporation Act, as amended, with respect to certain foreign corporations; and

H.R. 15750. An act to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes.

GEORGE M. ELIOPOULOS, SPRINGFIELD TECHNICAL HIGH SCHOOL SENIOR, RECEIVES NATIONAL SPACE CLUB AWARD

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to address the House