

be bought until you come to a reason why the item should be bought sole source, or selected source. If none applies, the item is put in the third category—open competition.

Then the Air Force will verify your decision in all high-dollar areas (buys of \$10,000 and above) when coded for other than open competition. In the lesser dollar areas we will take a statistical sampling. This will be done in such a way as to give us a 90-percent confidence factor. When we arrive at a mutual decision we will stand by it—together. Any evasion of the rules can only have one result—the destruction of confidence and loss of future business—and we will again be placed in the unfortunate position (for both of us) of having to make and follow our own unilateral list. But if we can have mutual confidence and trust both of us will have improved our positions. You have protection for the integrity of your product. We comply to the safe maximum extent with the will of Congress.

Secretary Morris has approved this idea. We have his permission to proceed while his staff studies and develops a system for application on a DOD-wide basis.

During the service test, industry came forward and suggested that the 11 criteria for the airframe industry weren't well suited to the engine and accessory manufacturers. I then adopted the engine criticality criteria as ours, after it had been presented to Secretary Charles. These ideas are now being prepared for publication. However, I have already directed San Antonio Air Materiel Area to adopt this procedure in its dealings with the Navy and Pratt & Whitney. I'm told (about third hand) that the Buweeps people have raised the question as to whether the Air Force will second guess them on their decisions. Our answer is "Definitely no."

RELATED AREA: END ITEMS

Now there is another related area that involves end items, often Government furnished to contractors for installation and sometimes furnished by prime contractors as part of end item weapon systems. This is a large field. It covers all the way from sophisticated jet engine controls to most of the cockpit instruments and back up again to constant speed drives and such time-honored troublemakers.

The problem is that over recent years it has become customary to compete these items at each buy. This has often resulted in as many as four or five models of the same gadget—each doing the same job but internally noninterchangeable. You can see the logistics support problem that results. What I am fighting for is standardization and competition only for the start of the item's production. After that the contractor should so conduct his business as to keep up quality and share with the Government the savings resulting from long production runs, learning curves, lack of duplication of engineering, tooling, testing, etc.

This policy would result in more efficient operation for everyone; however, I need the industry's help in getting the old system stopped. Each time I try to get an item standardized some previously disappointed contractor comes forward and says, "You have got to have a competition because I was promised a chance to bid again last time. Well, you can see we can't get there from here."

There is one other feature to competitive procurement which has caused us considerable difficulty in the past. This is the question of competence of new bidders to do the job. I am happy to quote from a recent policy statement by Secretary McNamara.

"In working toward better defense procurement, nothing is more basic to satisfactory procurement than that we deal with responsible prospective contractors. Contract awards to concerns of marginal capa-

bilities can lead only to delays or failures in obtaining delivery of needed items and to increased eventual costs to the Government." End of quotation. And thank you, Mr. Secretary.

This we propose to follow scrupulously—and by so doing, I am certain our procurements will be sounder and our deliveries more timely.

POINTS SUMMARIZED

In summary, I'd like to say that:

1. Your summary of September of 1961 is in consonance with the legislative history of the Procurement Act of 1947.

2. In order to insure reliable weapons and get competition where it makes sense we must cooperate with each other. This means two-way cooperation. We must keep the competition figure high by honest endeavor on both sides. We must have "competition with confidence."

3. We are not deemphasizing "competition" but rather beginning to put emphasis on "other" and, in the words, and surely the intent, of the Procurement Act "perhaps more important factors" such as quality and ultimate costs. I have here for distribution 100 copies of our latest regulation on this subject.

4. We must all do whatever we can to reduce the ultimate costs by standardization and long production runs.

I want to say that the problems I have talked about are extremely difficult and that the suggested solutions are certainly not easy to accomplish. But I am confident that—if we can get wholehearted cooperation between industry and the military—we can make great progress toward our future goal—reducing the ultimate cost of defense.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. ELLENDER. I yield to the Senator from Mississippi on the conditions previously announced.

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

Mr. STENNIS. Mr. President, the Senator from Minnesota in a statement on the floor of the Senate on Monday, May 25, pointed out that the debate and explanation of H.R. 7152 has helped the Senators and the public to better understand the provisions and real content of H.R. 7152, the civil rights bill now under discussion in the Senate. He pointed out, as many of the opponents of the bill have said on the floor of the Senate many times, that misleading statements and on occasion rather serious distortions have been made about what the bill really contains and the practical effect it will have upon our society. He very wisely concluded that such misunderstandings "point to the need for a renewed effort to explain this bill in

straightforward and uncomplicated language."

Mr. President, the opponents of the civil rights bill have for several days studied the bill very carefully, and even after some several weeks of thorough investigation and study, many heretofore unknown provisions have been discovered. The language of the bill is so broad and the terms are so imprecisely defined that almost any interpretation can be placed upon the words and phrases which have been used to put together this package of bills that actually it is nearly a dozen bills in one. There were, of course, no hearings by Senate committees, no attempt has been made to call witnesses, and the only evidence that the Senators and the public have on which to draw any conclusions as to the effect the bill might have is the study and examination of the statements that are made during the debate on the floor of the Senate.

In the course of this debate, the Senator from Minnesota has made several statements and speeches in favor of the bill. In the most recent memorandum which the Senator from Minnesota has inserted in the Record, there is contained a statement relating to title I which is devoted to voting rights. The Senator from Minnesota stated:

State control over voter qualifications is not impaired, except that those qualifications must apply equally to all citizens regardless of race.

The Senator from Minnesota has apparently attempted with this statement to leave the impression that voter qualifications in the several States will not be affected or, as he says, "not impaired," and that the States will be allowed to hold their own elections without regard to what the Federal Government may prescribe in the way of voter qualifications or the election of Federal officials. This statement is somewhat different from the view that the Senator from Minnesota took on March 30, when he explained on behalf of the proponents of the bill what effect title I would have upon the control of voter registration throughout the Nation. He called attention to the fact that "the States would be free to set up a procedure solely for the election of State officials," but he further said:

I think that as a practical matter, the States will not establish separate elections.

The opponents of the bill have repeatedly pointed out that title I will, in effect, place constructive control over voter qualifications in the Federal Government and take it from the States where the Constitution intended that it should be and where it has, until recently, rested since the founding of the Nation. No one argues that, under this bill, the States would still have the right to suffer the expense of a separate election for which they must hire separate election officials and underwrite the tremendous expense of holding separate elections. In Mississippi, this would be a very expensive and almost prohibitive procedure. There are nearly 2,000 voting precincts, all of which must be manned by election officials, and the expense of con-

ducting an election is estimated variously from a quarter-million dollars upward. It would impose a great burden on my State, a burden which it should not have to bear simply to preserve for itself that to which it is already entitled. Whether it would be prohibited in Mississippi is uncertain. But the Senator from Minnesota apparently feels that it would be, for, as he said in his speech of March 30, "As a practical matter, the States will not establish separate elections." The conclusion then is inescapable that on March 30 the Senator from Minnesota felt that, "as a practical matter," State elections would not be separate from Federal elections and that the rules and regulations established for the Federal Government with regard to voter qualifications would, under the terms of this bill, H.R. 7152, dictate the qualifications of voters in the various States.

This is in grave conflict with the Senator's statement of May 25, in which he said, "State control of voter qualifications is not impaired." This is typical of the ambiguous and double standards that are found throughout the civil rights bill. Such conflicting statements are the source of much of the misunderstanding and misinterpretation and lack of knowledge about what the bill really contains. The language and the specific letter of the law as laid down by the bill may indicate one thing, but the practical effect of that language may be completely different. The memorandum which the Senator inserted in the Record purported to show what H.R. 7152 provides and what it does not provide, but the Senator from Minnesota was not so generous in his explanation as he usually is when he listed some of the things H.R. 7152 provides. For instance, he did not call attention to the fact that under section 302 the Attorney General is given the power to intervene in any action commenced in any court of the United States seeking relief from the denial of equal protection of the laws on account of race, color, religion, or national origin. He neglected to say that this bill places more power in one appointed official than has ever been placed in the hands of one individual, outside the President, in the history of the United States of America. He neglected to point out that a person accused of violating the terms of H.R. 7152 would be denied the right of trial by jury contrary to the provisions of the Constitution. He neglected to point out that in the case of matters concerning voting rights, the Attorney General could "shop" for a three-judge court that would suit his own particular needs and satisfaction without regard to the long-established custom of having matters of a local nature determined by judicial proceedings conducted by local people. He neglected to point out that title VII of this bill would take from the employer the right of managing his own business and conducting his own business affairs so far as the hiring and firing of employees is concerned, and place it in the hands of a bureaucratic equal employment commission of the Federal Government. He neglected to point out the fact that H.R. 7152 would remove from every cafe owner, hotel, and motel, however big or small, or other place of public ac-

commodation that is by the broad terms of this bill remotely engaged in interstate commerce, the right to conduct his business, but place such stringent requirements on him that there is grave doubt he could survive.

The Senator from Minnesota, in discussing title VII, said:

In fact, the title would prohibit preferential treatment for any particular group, and any person, whether or not a member of any minority group, would be permitted to file a complaint of discriminatory employment practices.

If the real purpose of this bill is to remove all discrimination in employment without regard to whether or not an individual is a member of any minority group, and if any person would be permitted to file a complaint against discriminatory employment practices, why does the bill specifically define an unlawful employment practice under the terms of this bill as an act of discrimination against an individual because of such individual's race, color, religion, sex, or national origin? If the purpose of the bill is to remove all discrimination, why is race, color, religion, sex, or national origin even mentioned? Why does the bill not simply say there shall be no discrimination whatever, thereby removing the explosive, emotional aspects of the race issue from the discussion of this title?

It is clear the divergent and apparently conflicting statements about what H.R. 7152 contains or does not contain do not find their source exclusively in the opponents of this bill, nor are those who express differing opinions to be necessarily criticized for doing so. The ambiguous language, the complicated construction and the subtle and hidden provisions of the bill make it impossible for any individual, proponent or opponent, to determine with any certainty what the legal interpretation or the practical effect of the bill will be if it is enacted. This certainly substantiates what the Senator from Minnesota has advocated, that is, "the need for a renewed effort to explain this bill in straightforward and uncomplicated language." The Senator from Mississippi is happy to state that in the interest of insuring that the terms of the bill are understood, it is his intention to discuss it as frankly as is possible for so long as it is necessary to understand its total effect upon our society and our Government.

McNAMARA'S WAR IN SOUTH VIETNAM

Mr. ELLENDER. Mr. President, under the same terms and conditions, I yield to the distinguished Senator from Oregon.

Mr. MORSE. Mr. President, I shall speak again in opposition to McNamara's war in South Vietnam. I shall speak again and again, so long as I think there is any hope of changing the mistaken course of action of my Government, which, if it is not changed within 12 months, is bound to bring death to thousands of American boys in southeast Asia.

I shall speak again and again, here and elsewhere, in protest against a foreign

policy of my Government that I believe is indefensible, inexcusable, unconscionable, and morally wrong. I shall speak again and again, here and elsewhere, in an endeavor to change the foreign policy of my Government from one of making war to one of attempting to make peace in the world.

My Government is making war. My Government is killing, unjustifiably, not only American boys, but South Vietnamese; and my Government is acting outside the framework of international law.

The American people need first to know the facts. Once they know the facts, they have the duty to speak out and to hold their Government to an accounting, for, after all, the foreign policy of this country belongs to the American people; and the people of this Republic have both the right and the solemn obligation to make clear to their Government that they want it to stop making war, and that they want it to return to the sacred moral duty of making peace.

Any failure of the United Nations to fulfill in southeast Asia the role for which the United Nations was created would be one of the great tragedies of our time, comparable only to the tragic disinterest of the League of Nations to the pleas of Haile Selassie, in 1935.

There are many differences; but there are very many common characteristics and very many similarities between what is happening today to the United Nations and what happened in 1935 to the League of Nations, when the League of Nations chose not to act in the case of Italy's aggression against Ethiopia. That was the last chance the League had to head off World War II and it washed its hands of it.

The comments of Secretary General U Thant, of the United Nations, in expressing reluctance to see the United Nations take over the Asian crisis, are especially remarkable, since at the same time he deplored the use of nuclear weapons in that area.

Mr. President, just how does the Secretary General of the United Nations think nuclear weapons come to be used? I trust that he is not naive. If he does not know the answer to that question, he should be told that nuclear weapons are used in war; and that a war is going on right now in southeast Asia; and that unless the war now going on in southeast Asia is quickly brought under control, no man can say where it will end, how many nations will be involved, and what kind of weapons will be used.

It is no secret that the United States relies upon weapons superiority to offset the manpower resources of both the Soviet Union and Communist China. Our country relied on atomic weapons in Asia in World War II. Our country came near to using atomic weapons in Korea. Regardless of how dreadful and terrible atomic weapons may be, no American war ever will be fought on the mainland of Asia except with nuclear weapons.

And, Mr. President, we are on the brink of a full-scale war in Asia. I cannot emphasize too much the gravity of this situation. As the American people from coast to coast in this Republic at

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this hour go about their enjoyable living, few of them know the danger lurking overhead. Apparently, few of them are aware, or want to be aware—for it is more comfortable to be unaware—that a nuclear war is in the offing, unless this war in Asia is stopped. If this war in Asia is escalated into a war in North Vietnam and beyond, put it down as a certainty. Mr. President, that nuclear power will be used. And no one, anywhere in Government—in the United States, in Russia, in Great Britain, in Red China, or elsewhere—knows what the end result of the first use of nuclear power by the United States would lead to.

Mr. President, this is the hour, figuratively speaking, and this is the time, accurately speaking, when the leaders of nations who want to maintain peace should act in the interest of peace, not in the interest of warmaking.

So, Mr. President, here is one Senator who has no intention of remaining silent at this critical hour. Here is one Senator who refuses to "pass the buck," insofar as his constitutional responsibilities are concerned, to the President of the United States, to the Secretary of State, or to the Secretary of Defense, so long as those holding such offices seem bent on making war, for at this hour they are making war in South Vietnam—a war which is an illegal war, an unconstitutional war, and a war outside the framework of the United Nations.

Mr. President, what has happened to us? What has overcome us? What has happened to the American people? Have we forgotten so soon? Have we forgotten the inhumanity in the last war? Have we forgotten the cost of the last war, not only in material things, not only in human blood, but also in human values? I feel that the last war did something terrible psychologically, not only to millions of Americans, but also to millions of people elsewhere in the world. It did something dreadful to what theretofore had been a sensitivity to human values and moral principles.

Is it true that the people of this great religious Nation are willing to "pass the buck," so to speak, in connection with their responsibilities of citizen statesmanship, to warmakers and warmongers? Is it true that the people of this Republic are perfectly willing to sanction unnecessary killing? I say "unnecessary," because no thorough attempt to make peace has yet been made.

Having raised the question, Mr. President, I am going to give my answer, based upon my conviction: It is that the American people have not changed their sense of values. But as this war in southeast Asia continues month after month, and as more and more American boys die there, the demand of the warmongers that that war be escalated into a war in North Vietnam, and that then the use of nuclear power be begun, thus killing men by the thousands, will seem more and more plausible and then the holocaust will be underway.

Mr. President, if ever there was a time when the churches of America should be filled with people on their knees, it is now. If ever there was a time when the

religious leaders of this country should be raising their voices to Almighty God, it is now. But that is not happening.

Has life become too easy, that too many are willing to waste it?

Have the joys of easy living become so captivating that the American people have turned their faces away from reality to what they hope will be a dream world of unreality in which they can live? Escalate this war into Asia and start shipping American boys by the thousands into Asia, and then perhaps the American people will come up with a sudden start. But it is so unnecessary. We should not have to travel that road of horror, sacrifice, and blood. We should stop while the chances of reason can prevail, and proceed to use our minds and reason in connection with the procedures that should be followed in Asia today.

That is why I am highly critical of the Secretary General of the United Nations in this speech today. In my judgment, he has evaded his responsibilities. He turned away from his obligations when he indicated to the world—and his statement was unfortunate—that the United Nations at the present time cannot take up this issue. What is the issue? It is the issue that determines the difference between peace and war. Mr. U Thant sits as the Presiding Secretary General over the Organization that was created at San Francisco to preserve peace. Before I finish my speech, I shall quote for the benefit of the Secretary General the Charter of the United Nations, because his unfortunate statement to the world shows that he needs to have the charter over which he presides quoted back to him.

As Secretary General he has a solemn responsibility to use his great office to do everything he can to promote peace and not to throw up his hands hopelessly, as I interpret his remarks, and leave the impression that there is nothing at this time that the United Nations can do; for there is, Mr. President. The member nations of the United Nations must insist that the procedures of the United Nations be brought to bear upon the terrible world crisis which threatens all mankind.

Every nation uses whatever it has that can be used to advantage in time of war. With some countries it is manpower; with us it is nuclear weapons. If the war is escalated into North Vietnam, into Laos, and into Red China, we may or may not use large forces of conventional American manpower. But most certainly we would use nuclear power. Now is the time to stop it. Now is the time to put on the brakes. Now is the time at least to exhaust every peaceful resource to avert what could be the greatest historic tragedy that mankind has ever suffered. The issue toward which Secretary General U Thant should be directing himself is not the madness of nuclear weapons, but the conflict which brings them into use. That is his job. That is the only job he has.

Article 99 of the United Nations Charter specifically authorizes the Secretary General—and I read it for the benefit of the Secretary General:

To bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

The charter states that he may bring those matters to the attention of the Security Council. It is a great mystery to me how U Thant can express the concern he did over the use of nuclear weapons in southeast Asia and still regard the conflict there as one which the United Nations should ignore. If he is worried about the use of nuclear weapons, why is he not bending every effort to have the United Nations step into the conflict before it reaches the stage of nuclear warfare, instead of making a statement that will be interpreted around the globe as a "throw-up-the-hands" gesture that this conflict is too much for the United Nations? I deny it. Mr. President, no threat to the peace of the world is too much for the United Nations, for, as Stevenson has said in the past—but long before last Thursday—this great charter offers mankind a charter for peacekeeping. I paraphrase him, but do so accurately.

For years the U.S. Ambassador at the United Nations has raised his eloquent voice in pleading for the application of the rule of law instead of the rule of might to the settlement of international disputes that threaten the peace of the world. That is why the speech of Stevenson last Thursday was one of the greatest tragedies of our time. As I said last Thursday, that speech extinguished a light of world statesmanship. That was not the speech of a peacemaker; that was the speech of one who had been drawn in, because of an ambassadorship, to support an unsound American foreign policy. That is why I said then, and repeat today, that he should have sacrificed that ambassadorship before he ever lent his lips to writing into the pages of history through his lips a statement of foreign policy that will rise to plague this Republic for years to come.

I say to the Ambassador, and to the Secretary General who fears the use of nuclear weapons that the only reason I have been pleading with my own Government to put the Vietnam situation before the United Nations is that I know that the possibility and the danger exists that the war will be escalated to the point of the use of nuclear weapons. The United States has already escalated it from moderate military aid to the saturation point, plus American advisers who fight and American airpower in the skies.

Reports coming out of South Vietnam, one after another, belie the statements of McNamara and Stevenson in regard to American foreign policy in southeast Asia.

The sad fact is that, no matter how much they deny it, the United States is making war in Asia. We cannot justify it, and we ought to stop it. We ought to come back to the framework of international law, and act within it. We ought to come back to the idealism of the Adlai Stevenson of years gone by, and make it again the foreign policy of this Republic.

Anyone, including U Thant, who fears the use of nuclear weapons against Asians or anyone else, should be pleading, too, for the United Nations to take over before it is too late. Whenever the use of atomic weapons is being contemplated, there exists a terrible and immediate threat to international peace. Cannot Mr. Thant see that? He has already heard our U.N. Ambassador say that the United States will "take whatever means are necessary" to help certain nations in Asia.

I repeat that unfortunate quotation of Adlai Stevenson that the United States will "take whatever means are necessary" to help certain nations in Asia.

If the Secretary General and the U.N. as a whole decline to act on what is clearly their responsibility, they can hardly quibble over the steps one of the parties may deem necessary, nuclear or not.

Let me repeat what I said the other day in a speech on the floor of the Senate about the logistics problems that will confront the United States if it escalates the war.

If tens of thousands of American boys were put into the jungles of North Vietnam, is it expected that we would win? Or if it were done in Laos, does anyone think we would win if tens of thousands of American boys were pitted against human tides of millions of Red Chinese sent against them in one human wave after another?

I remind the American people that military experts say that a war cannot be won that way. That is why we would use nuclear weapons. The human sacrifice involved in such a war, on both sides, would be so great that the United States could never rise from the ashes of its destroyed reputation as a peaceful nation.

That is why I say there are great spiritual value involved at this hour. That is why I say today that the church bells of America should be tolling. That is why I say that, in my judgment, every religious person in this country should be in communion with his God. I do not believe our course of action can be reconciled with spiritual values. All the appeals to superpatriotism by waving the flag into tatters can change the basic fact that American foreign policy in southeast Asia cannot be squared with spiritual values and with our professings as a religious nation.

Is it not interesting, Mr. President, that in the thinking of some persons, it makes a difference in God's eyes as to what our course of conduct is because Communists are on the other side? They are ignorant, illiterate Communists. Uninformed millions in Red China have not the slightest idea what they are fighting for. That goes for South Vietnam, for North Vietnam, and for Laos, too.

One of the difficulties in American thinking today is that we are proceeding on the assumption that the people involved are of the same development—educationally, intellectually, and politically—as we are. It does not happen to be true. That fact makes it all the more important that we should hold firm to

great moral and spiritual values. We cannot justify this killing at all.

The course of conduct this country is following is resulting in the killing of thousands of South Vietnamese, too. They happen to be human beings. It is also resulting in the killing of thousands of Vietcongs. The political philosophy which they possess, as it is alleged, and which their leaders possess, I despise and abhor. But they are flesh and blood. They, too, are the children of God.

I have read nothing, I have heard nothing, even by way of rationalizations and alibis of a McNamara or a Stevenson, that justifies the blackout of moral values that seems to have overcome the policy of this Government in southeast Asia.

As I said before, when I think, not of the possibility, but of the probability, if we continue this course of action, that in a twelvemonth thousands of American boys will lie dead in Asia, I raise my voice again pleading for a halt, pleading for a change of policy, pleading for assuming our responsibilities in the United Nations, to lay the matter before the United Nations, even if the Secretary General may have thrown up his hands in despair—which is my interpretation of his unfortunate statement to the world.

I hope that there is not an ugly fact behind the scenes that would explain the position of the Secretary General of the United Nations, for it never would have prevailed in the thinking of his great predecessor.

His great predecessor did not hesitate to take on Russia before world opinion when Russia threatened to make war in the Congo. That great Swedish leader announced to Russia and to the world that Russia would either get out, or the United Nations would put her out. Russia got out.

Of course, the great Secretary General of the United Nations of that day had strong support. The United States was behind him. Great Britain was also behind him.

Where are they today?

The United States is making war in South Vietnam, and Great Britain is egging us on.

A tragic example of international hypocrisy in recent hours has been the position of Great Britain endorsing U.S. planes over Laos, and endorsing Stevenson's threat to use whatever means are necessary in Asia. As I shall say later in my manuscript, but will say it now because it cannot be said too many times, we do not find any British planes over there; we do not find any British boys dying over there, nor Australian nor New Zealand boys—or planes, either.

They are "egger-ners." But "egger-ners" are not allies. They only find it convenient from the standpoint of British interests to have the United States do the fighting and the spending in southeast Asia. Certainly, no one should suffer from a myopia which blinds him to the fact that Great Britain's eyes are on Malaysia—and New Zealand's and Australia's, too.

Great Britain finds U.S. foreign policy in Asia at this hour very helpful to the

perpetuation of what should be recognized as bygone British colonial policy in Asia but which is still being maintained in Malaysia. It is doomed. British colonial policy has been doomed elsewhere in the world, and for the most part has fallen elsewhere in the world. We now have the United States and Great Britain embracing each other, but the United States is paying the bills, U.S. boys are doing the dying, and U.S. planes are doing the flying in the war in southeast Asia.

I say to the people of Great Britain, "Your policy will not stand to your credit in the pages of history, just as the policy of my Government, as of this hour, will not stand to its credit in the pages of history."

I have great faith in the public opinion of Great Britain, as I have great faith in the public opinion of the United States. I have great faith that once the British citizen fully comes to understand and comprehend the threat to the peace of the world which U.S. foreign policy is creating in Asia today, British public opinion in the months ahead will hold its government to an accounting.

If the Secretary General and the United Nations as a whole decline to fulfill their clear responsibility, they can hardly quibble over the steps one of the parties may deem necessary, nuclear or not.

I am not interested in hearing all the reasons why it would be unsound for America to use nuclear weapons in Asia, unless those who advance the reasons are ready to fulfill their own international responsibilities to bring the conflict under the jurisdiction of the United Nations.

That is the responsibility of the Secretary General, Mr. U Thant, but not his alone. My criticism of the Secretary General of the United Nations in this speech is not limited to him. My criticism goes to members of the United Nations as well, for, as I shall show in a moment they, too, have not only the power but the clear duty to call this threat to the peace of the world to the attention of the United Nations for the exercise of its jurisdiction under the charter.

I have a word or two to direct to the less developed countries. The less developed countries, no less than the great powers, must always remember that the one, primary reason for the existence of the United Nations is to save succeeding generations from the scourge of war. If it cannot do that, then it is not going to do anything. If it allows a conflict in Asia to go unheeded and uncondemned, all its social and economic development interests will come to nothing, because once the great powers involve themselves in major conflict, the problems of the undeveloped countries will pale into insignificance.

Secretary General U Thant has many problems on his hands—the Congo, the Middle East, Cyprus. All are difficult, and all are expensive. But if the United Nations does not have the will to cope with the big threats to peace, it will be heading down the same road to oblivion which the League of Nations traveled,

and it will take its economic development problems along with it.

Is it to be U Thant's role in history to preside over the demise of the United Nations? His remarks of yesterday would so indicate.

If the United Nations is unable to stop war when there is a threat to the peace of the world through war, the United Nations is finished.

The United Nations cannot survive as a club for powerful nations, at which they meet and divide up the role of international policy among them. The United Nations is finished if Great Britain and the United States can get together and decide to support each other in the policy that presently prevails in Asia. The United Nations is all through if it is not willing to step in and exercise its procedures to the maximum extent possible to maintain peace. The United Nations is not doing it in Asia.

No wonder that I ask again, "Could there be the ugly fact behind the scenes that some nations, such as the United States, Great Britain, Australia, Canada, New Zealand, and others, are too powerful for the United Nations to exercise its jurisdiction when peace is threatened?"

I said the other day, and repeat now, that, in my judgment, the United States will be condemned in history because the course of action that we are following in southeast Asia is the greatest threat to the survival of the United Nations that has occurred since the United Nations was created. For the United States from the very beginning has had a clear obligation and duty to take the issue to the Security Council, and, if necessary, in the face of a Russian veto, to the General Assembly.

By not doing so, Mr. President, I say, for the benefit of Mr. Adlai Stevenson, that the United States is weakening the very charter he has been sent to New York to serve as the U.S. Ambassador. His speech of last Thursday was anything but the fulfillment of a trusteeship. His speech of last Thursday weakened the United Nations as a force for peace in the world.

In that speech, he served notice to the world, in effect—and I paraphrase it, but the meaning is clear—that we would do whatever we wanted to do in South Vietnam. That is it.

That is not the position of a peaceful nation. And that is not the position that my Nation ought to take, with its signature remaining on the United Nations charter.

Article 98 of the charter declares:

That the Secretary-General shall act in that capacity—

Chief administrative officer—

in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs.

Note that he "shall perform." He shall perform "such other functions as are entrusted to him by these organs."

The General Assembly, no less than the Security Council, can entrust certain peacekeeping functions to the Secretary General. If the Security Council is un-

able to do so because of the veto, then the General Assembly should do it, if it cherishes its own future.

The United Nations will not serve the best interests of either the small nations or the big nations if it fails to act in southeast Asia. If it is content to let Communist-led rebels fight against Western interests there, with the increasing likelihood of the introduction of nuclear weapons, it will serve no one's interests. Among the big nations, France does not favor U.N. action because France does not look with favor upon the U.N. at all. It has consistently been contemptuous of the organization and prefers to handle international problems in the old ways, including war. The Soviet Union has little interest in U.N. action when the side it favors seems to be winning. As the guerrillas continue to make progress, the Soviet Union probably will not favor any U.N. action, either. But let that war escalate itself into a full-scale war in Asia, and watch the Russians.

I do not know what we are thinking of, to lay the foundation for a possible rapprochement between the Red Chinese and the Red Russians. If anyone thinks as a result of the so-called negotiations that have been going on between the United States and Russia—and I am all for those negotiations, including the treaty that the President announced today for the exchange of consulates in United States and in the Soviet Union—that if the Western powers start a takeover war in Asia, there will be no rapprochement between Red China and Red Russia, in my judgment, they could not be more mistaken. For neither Russia nor Red China will let the colonial powers of the West control Asia. We must be included among the colonial powers of the West now, for the United States is fighting a colonial war. Colonialism has a variety of definitions.

Mr. President, when we seek to dominate and control, as we are doing with the puppet government that we have set up in South Vietnam, and maintained now through three dictatorships, we are resorting to a form of colonialism. And neither Red China nor Red Russia will ever permit Western colonialism to rule Asia.

So I would have the Secretary General of the United Nations and Mr. Stevenson meditate on article 98 of the United Nations Charter. I would have them meditate on their obligation of trusteeship in regard to the charter. For if they did, I am sure that intellectually they would have to come to the conclusion that they cannot justify U.S. action in South Vietnam.

I have made it clear so many times, in so many speeches, that I hold no brief for violations of the Geneva accords by North Vietnam, by Laos, by Cambodia, by Red China, that I would assume it would be unnecessary to mention it in this speech. But if I did not mention it, someone would point out that I did not, and unfounded conclusions would be drawn from the fact of my not doing so.

I have no doubt that North Vietnam violated the Geneva accord. China probably did, too, as did Cambodia and

Laos. The neutral council that was set up by the Geneva accords found in its 1957 report that both North Vietnam and South Vietnam had done so.

As I have said so many times, it was found that South Vietnam had done so in part because of the military aid that the United States had been furnishing her and that she had been accepting.

Because the escalating of the war in South Vietnam, participated in by the United States, violates the Geneva accords of 1954, we stand, as a nation, convicted of violating the Geneva accords. What a hypocritical position we take when we seek to rationalize and alibi. This is McNamara's and Rusk's great alibi for our course of action in South Vietnam. McNamara and Rusk do not like to have anyone say they are acting illegally. They are. Neutral counsel found them violating the Geneva accords by taking military aid, and the U.S. escalating policies in South Vietnam—accords we did not even sign, nor did South Vietnam, by reason of our pressure.

Instead of taking those violations of the other countries to the United Nations, as we should have done, the alibi of Rusk and McNamara is, "We are in there because the Geneva accords of 1954 are being violated."

As an old professor of logic, if a student in my course had ever made that argument, not only would I have flunked him from the course, but I would have despaired that he could ever survive university study.

Rusk and McNamara have brilliant minds. They know better. They have placed themselves in a position in which they are trying to pull through with rationalizations and alibis that cannot be bottomed upon either logic or law. What a glorious opportunity we had—and still have—to prove that the Geneva accords of 1954 are being violated by North Vietnam. I believe they are being violated by Red China, too. Certainly they are being violated by the Pathet Lao in Laos. I am not so sure that Cambodia would come off clean.

Under the sections of the charter which I discussed the other day in my speech on the charter, we ought to file our complaint. Adlai Stevenson, being the brilliant lawyer he is, ought to offer his evidence, instead of sitting in New York, playing the role of judge, prosecutor, and jury in one person.

We have no case, under the Geneva awards, for justifying America's making war in South Vietnam.

Great Britain, Australia, and New Zealand have been perfectly willing to see the United States fight their colonial battle for them. We constantly hear of Britain's fear that Communist success in Vietnam will endanger Malaysia. But you do not see any British boys fighting in Vietnam, or British planes flying there. The same goes for Australia and New Zealand. Despite their alleged concern that Indonesia may be encouraged to move against Malaysia if a Western foothold is not held in Vietnam, you do not see any New Zealanders or Australians helping to keep that foothold.

All are perfectly satisfied merely to endorse what Uncle Sam is doing, to en-

dorse the expenditure of American money and American blood.

So most of the great powers have reasons of one kind or another for preferring to keep the issue out of the United Nations. All have a vested interest in the outcome, and rather than turn over the problem to a more impartial arbiter, they prefer to fight it out despite what history teaches about the end result of such conflicts.

Perhaps Mr. Thant had the great powers in mind when he doubted the competency of the U.N. to undertake any task in southeast Asia. Or perhaps he had the small, undeveloped nations in mind. Their preoccupation with their own economies to the exclusion of their international responsibilities as U.N. members has been a widely discussed shortcoming of the organization.

But the purpose of having the organization is to provide the means whereby small and great powers alike can find a meeting ground. Peace is essential to all of them. That is why we have the U.N., and it is the only basic reason. I predict that there will be no peace in southeast Asia, and that there will be growing conflict there until the United Nations lives up to its charter and intervenes.

I hope that Mr. Thant will wake up to that fact before it is too late, before he finds himself presiding over the liquidation of the United Nations.

Finally, I cannot let pass the press reports of Secretary McNamara's comments yesterday after his testimony to the Senate Armed Services Committee. He said nothing to justify the war he is managing in South Vietnam. He said nothing that puts it on a legal footing. The Constitution still requires a declaration of war or a treaty obligation before American soldiers can be sent into battle, and as the Secretary of Defense knows, American soldiers are now fighting in South Vietnam not under a declaration of war nor in pursuance of a treaty, but on the orders of Mr. McNamara.

That makes our war illegal under the Constitution of the United States.

Under article 1, section 8 of the Constitution, the power to declare war is vested in Congress, not in the President, not in the Secretary of State, not in the Secretary of Defense.

The Secretary of Defense naturally made no mention of the United Nations Charter, to which this country is a signatory. Paragraph 3 of article 2 of the charter reads:

All members shall settle their international disputes by peaceful means in such a manner that international peace and security, a nd justice, are not endangered.

Who in this administration wants to defend the proposition that we are doing that in South Vietnam at the very moment I speak? We are not. That statement is irrefutable. It is undeniable. We stand in violation of the charter to which we have put the signature of the United States.

Yet the Secretary of Defense, in justification of McNamara's war, came out out of the Committee on Armed Services trying to alibi for his position. I could not quite determine from the press re-

ports whether he had walked out on his press interview of a couple of weeks ago.

It will be recalled that for several weeks, on the floor of the Senate, I have been discussing, with great frequency, McNamara's war in South Vietnam. I pointed out in answer to some of his apologists that he took a little umbrage because I had called it McNamara's war and said that I would continue to call it McNamara's war, because that is exactly what it is, as evidenced by the fact that the Secretary of Defense prepared the blueprint for the war.

So long as the President retains him as Secretary of Defense, it is to be expected that the President will follow the Secretary's blueprint. But the President needs a new blueprint for southeast Asian policy; and in order to get a new blueprint for southeast Asian policy, he needs a new Secretary of Defense. It is as simple as that.

The Secretary of Defense has been silent about the provisions of the United Nations Charter. It is well that he should be, in view of his indefensible position in leading this country into an undeclared McNamara's war in Asia.

Paragraph 4 of article 2 of the United Nations Charter provides:

All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.

We were caught flatfooted. We were caught dead to rights; and that is the posture of the United States in the world today.

Yet an attempt is now being made to steamroller through Congress increased appropriations of millions of dollars for the conduct of McNamara's war in Asia. As I said earlier in this speech, I fear that it will escalate into a nuclear war.

There are many things about that legislative strategy that I abhor. One of them is its indirection. One of them—although it was not very subtle—is what I suspect was designed to be a subtle strategy in order to get Congress "on the hook" by means of an indirect approval of the undeclared war in South Vietnam, through the passage of an appropriation bill which would provide millions of dollars for its prosecution.

Mr. President, I stress my concern about what I consider to be a very unfortunate indirect legislative tactic in an attempt to obtain congressional approval of the undeclared war in South Vietnam. I refer to the attempt to steamroller through the two bodies of Congress appropriations for conducting McNamara's war in South Vietnam. It is not to our credit; it is not the way we should face the issue. As the Congress of the United States, we should vote directly either for or against a declaration of war; and then we should permit the voters to pass their judgment on our votes.

As more and more Americans come to understand the facts involved in McNamara's war, I am satisfied that a growing feeling of resentment is spreading through the United States. Later, Mr. President, I shall request permission to

have printed in the RECORD some recent communications I have received in regard to the position I have taken on the war in South Vietnam.

One of them has come from one of the greatest living historians in the United States; he has made perfectly clear his agreement with the position I have taken. All of those communications come from very responsible citizens across this country. I shall have to delete the names of some of the writers of the letters; but, as I have previously stated, their letters will remain on file in my office, available for inspection. Some of them come from members of our armed services in South Vietnam, who have been writing what the correspondents also have been writing from South Vietnam concerning the unsoundness of McNamara's position in regard to his blueprinted war in South Vietnam.

Mr. President, I am satisfied that once the American people come to understand the facts about this uncalled for, unjustified killing of American boys in South Vietnam, that resentment will reach the point of white heat of opposition to those who support it.

I am aware of the Madison Avenue technique and the propaganda support used by a warmongering press. By and large, at this hour the press of this country is a warmongering press. I am aware of the various media of propaganda that are being used in attempts to convince the American people that they must fight, that they must make war, or else the Communists "will get them"—as if the American people were still little children who could still be frightened by scare stories. I know such propaganda tactics can fool many persons for a period of time. But, Mr. President, one must have my faith in people, to follow my course of action; namely, that once the American people understand the spiritual values, the moral principles, and the legal obligations owed by our country to the United Nations and, through it, to the world, they will ultimately approve the course I advocate.

I say to my political colleagues in the Congress that before there is that final recognition of the right, some political losses may be suffered by some. But how insignificant would be such sacrifices on the part of any of us, if they were made in the interest of trying to maintain world peace.

I do not intend to permit anyone who involves himself in this historic debate to overlook the fact that we have one common objective, one compelling obligation—to maintain world peace; for if we do not do so in our generation, we shall not have any heritage of freedom to leave to our grandchildren.

One of the most inexcusable and fallacious bits of propaganda that is being spread by the propagandists of McNamara's war in South Vietnam is the statement that we are engaging in that war in the name of freedom. What nonsense. There is no freedom in South Vietnam. In South Vietnam, as I said yesterday, we are supporting a military dictatorship—a dictatorship that is so

scared about its survival that it closed six newspapers and arrested nine of its leading opponents; and in one of those newspapers there was published an article in which it was stated that the little military tyrant we have built up and are supporting in South Vietnam sleeps in a different place every night, because he fears for his life.

If the United States were out of South Vietnam and the United Nations were in, the difference would be a difference between the making of war on the one hand and maintaining the peace on the other. That is quite a difference. We would find a great difference in attitude developing among the South Vietnamese people, too, which would open the way to go in for the next 20 to 25 years—it would take that long—to help build up a system of economic freedom for the people of South Vietnam out of which would grow political freedom for them once they understood.

Clever propaganda is leaving the impression that the people of South Vietnam are enthusiastic democrats with a small "d". Nothing could be more mistaken. They do not know the differences, and they care less about the differences between and among political ideologies. They would understand economic freedom. Once we help to develop a system of economic freedom for them, the political result will be inevitable. There will be political freedom of choice for the individual, for it always grows out of a seedbed of economic freedom. We must establish it first.

Senators must have my faith that the final judgment will be rendered by the American people, once they understand the facts.

We must be willing—as I am willing—to follow a course of action, regretfully though I do, contrary to the present course of action of my Government in the field of foreign policy, hopefully—always hoping, of course—that my Government would change its policy.

There is no question as to where the senior Senator from Oregon will stand if his Government should finally make the colossal blunder of either declaring war or entering into a full-scale war undeclared. Then the issue would be drawn between Red China and Red Russia, on the one hand, and the survival of my country on the other. We shall all be united at that hour in doing what we can to successfully prosecute such an unnecessary and unjustifiable war, but one which at that time would present us with a set of facts that involved the survival of the country, for I would not vote for the war. I shall continue to do what I can to persuade the leaders of my country to reappraise the mistaken course of action which they have followed up to the present moment. That is why I urge again that they reread and meditate upon the sections of the United Nations Charter which Mr. Stevenson had nothing to say about in his most unfortunate speech of the other day, and about which there is not the slightest intimation of knowledge in the unfortunate statement that the Secre-

tary General of the United Nations made in recent hours concerning the relationship between the United Nations and the war in Asia.

Returning to his statement of yesterday, the Secretary of Defense made no reference, either, to article 33 of the charter, which provides—

The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

We have never invoked that article. We have never attempted to use article 33. We stand convicted before the world of having walked out on our obligations under the United Nations Charter. We signed that commitment at San Francisco. The Senate approved it, and the treaty was ratified. It calls for affirmative action on our part. It calls for affirmative action on the part of Great Britain, our "egger on-er." It calls for affirmative action on the part of the other signatories. But in view of their statements, which I consider to be unfortunate, uncalled for, and inexcusable, it calls for action also on the part of Adlai Stevenson and U Thant.

Most certainly Secretary McNamara did not respond to article 37, which provides—

Should the parties to a dispute of the nature referred to in article 33 fail to settle it by the means indicated in that article, they shall refer it to the Security Council.

We stand convicted again. We have not lived up to our obligations under one article after another of the United Nations Charter. Is the United States trying to destroy the United Nations? Is that our purpose? This will help to do it, because if we persist in this unlawful course of action vis-a-vis international law, nation after nation, if we ever attempt to hold any other nation responsible for its obligation under the United Nations Charter, will cite our defiance of the United Nations Charter in South Vietnam.

I am sure that most American citizens do not know that. Our leaders are counting on the fact that they do not know it. The Secretary of Defense, Mr. McNamara, the U.S. Ambassador to the United Nations, Adlai Stevenson, and Mr. U Thant, the Secretary General of the United Nations, were very careful not even to allude to those obligations.

The articles of the charter making the war we are fighting in South Vietnam illegal under the United Nations Charter had better be considered by the leaders of my Government who are responsible for the unjustifiable course of action that we are following in South Vietnam, which is leading to the unnecessary killing of American boys.

Secretary McNamara has already presided over a considerable escalation of the war in Vietnam. At the same time, he has presided over a consideration deterioration of our condition there. Unless the countries of the world, function-

ing through the United Nations, act under the provisions of the charter to take over this dispute, it will be Mr. McNamara's role in history to preside over a large and hopeless American land war in Asia that will undoubtedly see the use, sooner or later, of nuclear weapons. And that means the loss of hundreds of thousands of human beings.

Both Mr. Thant and Mr. McNamara, who seem to have parallel views on the subject, must remember that war has a way of dictating its own means and its own ends. A country gets into a war only because it believes it has interests at stake that justify it. Thereafter, the war sets its own demands upon the methods used, and very often those methods change the objective of the war itself. Sometimes the causes that gave rise to it disappear long before the war comes to a close.

A war also creates its own vested interests. It would be far easier for the United States to make a graceful exit now from our unilateral position in southeast Asia than it would be after we had committed still more troops and air power. The longer this conflict continues and the more intense it becomes, the less chance there is of the United Nations or anyone else heading it off.

I return to the point I raised the other day about face saving. We still read it in the newspapers. It is surprising how many editors start their editorials by deprecating the plight we are in, and criticizing our Government for getting us into this plight. One reads on, thinking the editor at long last is going to make a plea for sanity in American foreign policy, only to find the editor diverting himself with the facesaving argument.

So, in one language form or another, the editors end by saying, "Of course, we cannot get out. That would be a great loss in American prestige and face."

Mr. President, I cannot understand such an attitude. I have heard the old story about throwing out the baby with the bath water, but I never thought anyone would come to suggest that we blow off heads to save face. That is the kind of face saving we are engaged in in South Vietnam today—blowing off the heads of American boys, as well as a large number of South Vietnamese, apparently to save face.

It is nonsense. It does not change the immorality of what we are doing. It does not lessen one whit my earlier criticism in this speech that this country has walked out on our moral values as a religious people by prosecuting this illegal war in southeast Asia.

Nothing said by the Secretary General, Mr. U Thant, the American Ambassador to the United Nations, Mr. Adlai Stevenson, the Secretary of Defense, Mr. McNamara, the Secretary of State, Mr. Rusk, or the President of the United States changes the fact that in South Vietnam the United States is acting outside the framework of its obligations under the United Nations Charter.

That foreign policy should be changed before it is too late. I believe that the world expects more from Mr. U Thant,

from Mr. Stevenson, from Mr. McNamara, from Mr. Rusk—yes, and more from the President of the United States.

To seek to rationalize and alibi our foreign policy in South Vietnam, which is undercutting the United Nations, may very well endanger its very survival, in my judgment. It may very well present to the world the sad spectacle of the Secretary General, U Thant, presiding over the liquidation of the United Nations.

If that hour comes, in my judgment, the hope for peace in the world will vanish, and mankind will thrust itself into the holocaust of that destruction.

The world expects more from the Secretary General, the Secretary of Defense, the Ambassador to the United Nations, the Secretary of State, and the President of the United States.

I shall continue to pray tonight that we will get more from these leaders, whose decision can change the course of events in southeast Asia which at the present time jeopardize the peace of the world.

Mr. President, I ask unanimous consent to have printed in the RECORD certain communications on this subject.

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

SAN ANTONIO, TEX.,
 May 25, 1964.

Senator WAYNE MORSE,
 Senate Office Building,
 Washington, D.C.:

Great analysis by a great American. Please continue to promote truth and democracy.

WILLIAM J. LYTLE.

WASHINGTON, D.C.,
 May 24, 1964.

Senator WAYNE MORSE,
 Senate Office Building,
 Washington, D.C.:

After today's "Face the Nation," I would say I am not from Oregon but I'm somewhat sorry that I cannot vote for you. I wish I could.

KENNETH H. JENKINS.

CAMBRIDGE, MASS.,
 May 24, 1964.

Senator WAYNE MORSE,
 Senate Office Building,
 Washington, D.C.:

Thank you for that magnificent talk on television today. I am with you 100 percent.

HELEN PEABODY.

DETROIT, MICH., May 24, 1964.

Senator WAYNE MORSE,
 Washington, D.C.:

Just heard you on "Face the Nation." Simply spectacular. Your message desperately needed by the American people. Keep talking. We all bless you.

Mr. and Mrs. HERBERT T. RIEBLING.

St. LOUIS, MO., May 24, 1964.

Senator WAYNE MORSE,
 Senate Office Building,
 Washington, D.C.:

Deeply deeply thankful to have heard your today's much-needed alerting message on "Face the Nation." Hoping you too await and expect again Stevenson's best.

Gratefully yours,

ROSE T. JONAS
 Mrs. ERNST T. JONAS.

CHAMPAIGN, ILL., May 24, 1964.

Senator WAYNE MORSE,
 Senate Office Building,
 Washington, D.C.:

Your performance on "Face the Nation" was masterful.

Thank you.

JOHN J. DEBOER.

GRANTS PASS, OREG.,
 May 24, 1964.

Hon. Senator WAYNE MORSE,
 Senate Office Building,
 Washington, D.C.:

Congratulations. Your TV interview put into words the very thoughts I have in mind and heart.

BERNICE B. MULLER.

HOLLYWOOD, CALIF.,
 May 16, 1964.

U.S. Senator WAYNE MORSE,
 Senate Building, Washington, D.C.:

Your recent speech relative to Vietnam on floor of Senate was masterpiece. My brother, Bob Hendrickson, your former colleague and U.S. Senator from New Jersey, briefed me over long-distance telephone and we both say congratulations. Keep up your great work.

DAN HENDRICKSON.

QUINCY, MICH.,
 May 25, 1964.

Senator WAYNE MORSE,
 Senate Office Building,
 Washington, D.C.:

Bravo, bravo, bravo on your "Face the Nation" reply to a hostile press, on the Vietnam situation. Run for President and I'll campaign for you.

W. E. CROTTY,
 Chairman of the Board, Crotty Corp.

To Senator WAYNE MORSE: Please. Keep on talking. Please. Don't be silent. Speak for those of us who believe you are right and have no way to voice our opinion. Please. Speak out.

It is obvious to anyone who cares to look that we are fighting a war against the Vietnamese people. We have devised a plan, we say, a very good plan; we just don't understand why it doesn't work because there is something keeping the people from cooperating with us. Five planes missing. Unexplained. Two possibly downed by mechanical failure and three others just misplaced. Americans are being killed by their own weapons supposedly fighting for a people who are fighting against them. Could there be greater insanity?

And yet, we march on, without eyes, without vision (and worst) without mind. I suppose I am so pessimistic because it is not only in Vietnam that we are without sight. All of our actions emanate from the same blind vision. To understand our insanity is beyond my ability. That I see the insanity is more than most and that you have spoken out against it is beyond all hope for in this madness, one does not expect to see a light in this most black darkness. You must continue to speak out and I write to help support the burden you have taken upon yourself and to ask what can be done to help.

It seems that once something happens in our Government it is almost impossible to stop it from continuing. People get into positions of power in a situation and are unwilling to give up their power even if they see the situation should come to an end. The situation in Vietnam must come to an end. The United States must remove what never should have been there.

In Federico Fellini's movie, "8½," an enormous tower is built, which, in the end,

is useless and must be dismantled without being used. There are many towers like this in our world today. Vietnam is one. But, in the movie, as in life, there is a tremendous feeling of frustration created by not using this monstrosity. Fellini is most directly symbolizing the bomb, something that we have but must never use, something that we have created that we must discard without using. To do this, to not use the bomb, to remove ourselves from Vietnam, requires something which man so lacks today, restraint, but which man must have if he is going to survive.

So, please, continue to speak out. Keep on talking. Make them take down the tower. It is a very difficult thing to do. People are so proud of their work, even their monstrosities.

Sincerely,

SUSAN GARLOCK.

AMHERST COLLEGE,
 DEPARTMENT OF AMERICAN STUDIES,
 Amherst, Mass., May 24, 1964.

DEAR SENATOR MORSE: Everything you said today on "Face the Nation" made sense. Clearly we are headed for disaster in southeast Asia if we persist in our policy of unilateral action; clearly the way out is to put the whole business before the United Nations. I think you did say that we should welcome De Gaulle's proposal to neutralize the whole area. I did not hear you say what is, I think, equally obvious, that the cooperation of Red China is essential to pacification of this area, and that the price of this is the admission of China to the United Nations. China should be admitted on other grounds as well, but it is not clear that this present crisis is furnishing us the clearest of all possible lessons in what happens when China is not in the U.N. and the strongest of arguments for recognizing that she must be brought in?

Who was the imbecile from the Chicago Daily News who had such difficulty understanding what you were saying? He ought to be returned to Chicago where his capacity for obfuscation would not be so irritating or unusual.

Sincerely yours,

HENRY COMMAGER.

MANSFIELD CENTER, CONN.,
 May 9, 1964.

Senator WAYNE MORSE,
 Washington, D.C.

DEAR SENATOR MORSE: I wish to congratulate you for your gallant efforts concerning our policy toward South Vietnam.

A glance at the situation in South Vietnam illustrates the bankruptcy of our approach to the problems of all of southeast Asia. The struggle for Vietnam has become a bottomless pit for the United States. We have wasted some \$5 billion in that region since 1950. Today the bill is running at the rate of \$1½ million a day, while more than 15,000 U.S. troops serve as combat "advisers" to the junta of the moment.

What do we have to show for our investment in men and money? Only a bitter harvest of mounting Communist victories, to loss of American life, the increasing disenchantment of the war-weary Vietnamese people, and the hardening of dictatorship in the government of our choice.

Keep up the good work.

Sincerely yours,

JAN AKUS.

Mr. MORSE. Mr. President, I also ask unanimous consent to have printed in the RECORD a transcript of a television program of last Sunday entitled "Face the Nation," in which I was the person

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examined by the board of questioners of the press. I discussed in part, on that broadcast, some of the views I have expressed on the floor of the Senate this afternoon, and the communications inserted in the RECORD relate to the views expressed in that broadcast.

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

"FACE THE NATION"

(As broadcast over the CBS television network and the CBS radio network, Sunday, May 24, 1964, 12:30 to 1 p.m.)

Guest: The Honorable WAYNE MORSE, U.S. Senate, Democrat, of Oregon.

News correspondents: Paul Niven, CBS News; Peter Lisagor, Chicago Daily News; and Marvin Kalb, CBS News.

Producers: Ellen Wadley and Prentiss Childs.

Director: Robert Vitarelli.

ANNOUNCER. From Washington, D.C., Senator WAYNE MORSE, Democrat, of Oregon, will "Face the Nation," in a live, spontaneous and unrehearsed news interview. Senator Morse will be questioned by CBS News Diplomatic Correspondent Marvin Kalb, Peter Lisagor, Washington bureau chief of the Chicago Daily News.

To lead the questioning, here is CBS News Correspondent Paul Niven.

Mr. NIVEN Senator MORSE, welcome to "Face the Nation."

In 1952 you left the Republican Party to campaign for Adlai Stevenson for President. The day before yesterday you accused Stevenson of walking out on his past record of statesmanship. The disagreement was over U.S. participation in the war in South Vietnam, and Stevenson's defense thereof in the U.N. speech.

In almost daily speeches on the Senate floor you have been calling the war McNamara's war, describing it as illegal and unconstitutional, and demanding that American troops be pulled out.

We would like to ask you today, Senator, about the situation in southeast Asia, about the civil rights bill, and about the November election.

We will begin the questioning in just 1 minute.

Mr. NIVEN, Senator MORSE, what do you mean when you call our participation in the South Vietnam war unconstitutional and illegal?

Senator MORSE. Well, our Government has no right to send American boys to their death in any battlefield in the absence of a declaration of war, and article I, section 8, of the Constitution vests the prerogative of declaring war in the Congress of the United States, and no war has been declared in southeast Asia, and until a war is declared, it is my position that it is unconstitutional to send American boys to their death in South Vietnam or anywhere else in southeast Asia. And furthermore, it is illegal, in my judgment, under the United Nations Charter. I hope before the program is over I will have time to cite the very sections of the United Nations Charter that make our course of conduct in southeast Asia illegal under the United Nations Charter, and that is why I criticized the great Stevenson in two speeches in the Senate, because he walked out on the great statements he has made of times gone by about the United Nations being the only hope for peace for mankind, and I think that as our Ambassador at the United Nations it is too bad that he permitted his lips to be used to read a speech which apparently most of which was written for him down at the State Department.

As I said on the floor of the Senate, when I think of the sacrifice and the casualties of American boys in South Vietnam, the casualty of a United Nations ambassador-

ship would have been a small sacrifice for Mr. Stevenson to have paid, and, in my judgment, he should have resigned that ambassadorship before he extinguished his light of world statesmanship which he extinguished, in my opinion, when he delivered that speech.

Mr. LISAGOR. Senator MORSE, we fought, this country fought a war in Korea under the umbrella of the United Nations. Would you advocate that this country turn the whole of the South Vietnamese war over to the United Nations or to a group of United Nations powers in which case the United States could then participate, or do you just advocate that we pull out and leave them to their own devices?

Senator MORSE. First, let me say that we fought the Korean war not under the umbrella of the United Nations, but as a participant to the United Nations in conducting that war. I have never criticized American foreign policy without always offering a substitute of a policy that I think ought to take the place of the policy I am criticizing.

For weeks, on the floor of the Senate, I have been urging our Government to take the southeast Asia issue to the United Nations. We have a clear duty to do it, under the charter, and I am asking that the United Nations be asked to set up a peacekeeping force in southeast Asia to maintain the peace. There is a lot of difference between maintaining peace and making war. The United States is making war in South Vietnam, not maintaining peace.

Mr. KALB. Senator, do you feel that a U.N. peace force can actually maintain peace in as turbulent an area as southeast Asia?

Senator MORSE. Why, if there is any hope for the United Nations to survive, it must. You certainly can't destroy—justify destroying the United Nations the way we are doing now. The purpose of the United Nations is for the signatories thereto to band together and keep the peace, and that is why we are supporting United Nations forces in the Congo, in the Middle East, in Cyprus. Why not in southeast Asia?

Mr. KALB. Well, Senator, there is always a constant battle at the U.N. as to how you set up a peace-keeping force under a United Nations umbrella.

Senator MORSE. Of course—

Mr. KALB. Do you really feel that the Soviet Union, which has already made its position quite clear on this issue, would agree to setting up a United Nations force for southeast Asia?

Senator MORSE. As I have said so many times in my Senate speeches, let's put Russia and Red China on the spot. Let us put Russia on the spot and see if she dares veto such a program in the Security Council, but don't think the Security Council ends the power of the United Nations. If Red Russia vetoes it in the Security Council, then you know what I think my Government ought to do? It ought to call for an extraordinary meeting of the General Assembly of the United Nations, and I was one of your delegates to the General Assembly in 1960 and after that experience I came away more convinced than ever that the only hope for peace in the world is through the United Nations, and we ought to then call for an extraordinary meeting of the General Assembly of the United Nations and let the world speak up, because I am satisfied that the overwhelming majority of the nations of the world would join in insisting that the United Nations move in and maintain the peace.

Now—

Mr. KALB. Senator—

Senator MORSE. If you are not going to do it, what is your alternative? Let me say on this telecast today to the American people the real danger is if you don't follow that course of action is escalating the war in southeast Asia and the plans are in preparation for escalating it if our Government

decides that is the course it wants to follow, and that will mean the death of thousands and thousands of American boys and you will be bogged down in southeast Asia for a quarter of a century and then you won't win.

Mr. LISAGOR. Senator MORSE—

Senator MORSE. I happen to think we are really on the brink this time and the United States ought to take this issue to the United Nations and go back to its glorious record of using the United Nations as the instrumentality for maintaining peace.

Mr. LISAGOR. Senator MORSE, Communist China is not a member of the United Nations and it is a chief offender in southeast Asia.

Senator MORSE. So what?

Mr. LISAGOR. How do you bring China before the dock in the United Nations? We tried that in the Korean war. It didn't work then. How do you do it in southeast Asia?

Senator MORSE. You won't know until you try it and let me tell you what I think the result will be. If you get the United Nations to recognize that this is a threat to the peace of the world and we may go into a third world war if we don't stop this, and the nations line up in support of that doctrine, watch Red China work for an accommodation because Red China has no intention in my judgment—she wouldn't be that shortsighted to try to take on the world.

Mr. LISAGOR. In specific—

Senator MORSE. But she isn't going to hesitate to take on the United States in Asia.

Mr. LISAGOR. In specific terms, Senator, what would you do about southeast Asia? Do you support the idea that we might be able to neutralize it as General de Gaulle has suggested?

Senator MORSE. Well, I want to say, contrary to Mr. Stevenson's proposal in this very unfortunate and unsound speech of his, we ought to support France's request for a reconvening of the signatories to the Geneva accord of 1954 which, incidentally, we didn't sign and which we persuaded South Vietnam not to sign. The sad fact is, and many Americans don't realize it, neither the United States nor South Vietnam signed the Geneva accord in 1954, and yet we are saying to the world, the Geneva accords are being violated. They sure are being violated. I happen to think they have been violated for some time by North Vietnam, by Red China, by Laos, possibly by Cambodia and certainly by South Vietnam. In fact, the neutral council that was set up in the 1954 accord has found as a matter of official finding that North Vietnam and South Vietnam have both violated the Geneva accord of 1954, and one of the reasons they found that South Vietnam had violated it was because of American military intervention in South Vietnam specifically contrary to the accords of 1954, and what should we have done instead of following that course of action? Should we try to rationalize, as Stevenson does, going into South Vietnam because North Vietnam has violated the accords? We should have taken the issue to the United Nations immediately. We should have filed a complaint. As a nonsigner to the Geneva accords we had no international law or right to unilaterally try to enforce them. The fact is we are outside the charter. We are outside the accord.

Mr. KALB. Senator, there is another Geneva Conference and that was in 1962 and that did reach an agreement to which the United States is a signatory.

Senator MORSE. That is right. Laos.

Mr. KALB. For the neutrality of Laos.

Senator MORSE. That is over Laos.

Mr. KALB. In this particular case, the United States right now is conducting air reconnaissance over the northern part of Laos controlled by the Pathet Lao. First, do you agree that this is a sound policy?

Senator MORSE. Completely unsound. Very interesting that the British are egging us on, but they haven't got any British planes over Laos, you'll notice, and, after all, Britain and Russia have the primary responsibility, as far as the original agreements are concerned, to take the leadership here in trying to get something done about the Geneva accords, but so do we, and we ought to have Laos before the United Nations, too.

I don't know why we think just because we are mighty that we have the right to try to substitute might for right, and that is the American policy in southeast Asia. It is just as unsound when we do it as when Russia does it. And we have no more right in South Vietnam than Russia has in East Germany. They are on a parallel. Russia says the East Germans invited them in and we say the South Vietnamese invited us in, although South Vietnam has been our puppet government ever since it has been created. We ought to get rid of this violating of international law and we ought to keep faith with our idealism and Stevenson ought to start his march back from his retreat of the other day and return to the United Nations and ask the United Nations to take jurisdiction.

Mr. NIVEN. Sir, you said repeatedly that the U.N. jurisdiction ought to extend to all four of the states of Indochina. Can you imagine the Communists accepting the U.N. presence in North Vietnam?

Senator MORSE. Well, we know what happened when we made our objections in other places of the world to the Communists, but the fact is that in a good many instances they reconciled themselves to the realities. Look at Russia first in the Congo. Why, you had threats from Russia that she was going to invade the Congo and she was set to invade the Congo, but the fact is—

Mr. NIVEN. But the Congo—

Senator MORSE. But the fact is Russia withdrew from those intentions, and you never know—you see, I say respectfully that so many people are thinking in terms of hypotheticals. "Do you think this would happen, Senator?" "Do you think that will happen?"

You will never know until you go back to the framework of the United Nations, and we are outside the framework of the United Nations.

We have even got the Secretary of State now standing up before the American Law Institute rattling America's saber, threatening that if we don't have our way in southeast Asia we are going in with expanded action. I think that is a sad, dark day in American foreign relations history.

Mr. LISAGOR. Senator, it seems easy enough to criticize what we are doing, but what I don't understand is, what specifically would you prescribe for the area? Is it neutralization? Is it that we abandon the whole area to their own devices? Or what do you see as being possible in southeast Asia today if American force is withdrawn from it?

Senator MORSE. No, I abandon unilateral U.S. action in southeast Asia.

Mr. LISAGOR. Under those circumstances, does that not mean abandoning southeast Asia?

Senator MORSE. Not at all. You didn't let me get to my second point.

We announce to the world that we are going to abandon unilateral American military action, but we are going to support and we will help supply forces to the United Nations to maintain a peace-keeping corps of whatever size is necessary in this trouble spot of the world to maintain peace, because if you don't maintain peace over there, you have no assurance that this cannot escalate itself into a nuclear war, because let me say, as a member of the Foreign Relations Committee, that I am satisfied that if we escalate this war into North Vietnam, nuclear weapons will be used.

Now, does anyone think for a moment that the first nuclear weapon the United States uses in North Vietnam, if we come to that, that Red China is going to send us bouquets?

Mr. LISAGOR. Are you suggesting that Red China has nuclear weapons now, Senator?

Senator MORSE. I am suggesting that she has got millions and millions of manpower that she can pour into Laos and overrun, or North Vietnam, and overrun any Western army you want to put in there.

Mr. KALB. Senator, you are saying that part of the American escalation plan as you see it for North Vietnam is the use of nuclear weapons?

Senator MORSE. If we go into North Vietnam with an escalated war, I am satisfied we will use nuclear weapons.

Mr. KALB. Do you feel that if the United States—

Senator MORSE. What do you think, we will put an army in North Vietnam, in the jungles of North Vietnam? Do you think you could support an American army in North Vietnam? Why, they wouldn't have a chance. Find me the military officials, will you, that know anything about Asiatic warfare that will tell you that American ground forces can win a ground war in Asia. That is not the place to let the Communists pick up our battlefield for us. I don't propose to let the Communists pick our battlefield for us, and the great danger is we are going to let the Communists pick a battlefield for us in Asia.

I think it is just inexcusable from many angles, and may I take a minute, because I want to get to your next question very quickly, but I think the questions that you have raised entitle this audience to know the basis of my foreign policy philosophy because I am a disciple of the great: Republican in my judgment in foreign policy that has served in the Senate during my 20 years there, the great Arthur Vandenberg, at one time the greatest isolationist in the Senate, to become the leading internationalist in the Senate. And after he became briefed on the oncoming atomic bomb, he turned from an isolationist to an internationalist and he left with us this tenet. I want to recommend it once more to Adlai Stevenson. I thought he had accepted it for years, but he walked out on it the other day. I want to recommend it to Dean Rusk because he certainly isn't following it. Neither is McNamara down in the Defense Establishment. And here it is.

There is no hope for permanent peace in the world until all of the nations of the world, not just those we like, but until all the nations of the world are willing to set up a system of international justice through law, through the procedures of which would be submitted each and every issue that threatens the peace of the world, to be enforced by an international organization such as the United Nations. And I want to say it is mankind's best hope for peace. There is no hope for mankind if we continue to use jungle law of military might which the United States is using in South Vietnam today to try to win a peace, for no longer in history can you win a peace through war.

Mr. NIVEN. Senator, can we look at this politically for a moment? Wouldn't President Johnson or any President who abandoned any Communist war in an election year open himself to charges of surrender or appeasement from his political opposition?

Senator MORSE. I think it is a ghastly suggestion. I just think it is untenable that the United States should adopt a foreign policy that would be geared to political expediency rather than to right, and I want to say that my President I am convinced—and he and I disagree on this matter of foreign policy—but my President is a thoroughly honest man of principle and I am satisfied he would not adopt an argument of expediency. If

he thought it was the proper course of action to follow what I am recommending, he would follow it. But I want to say now in direct answer to your question, I completely reject the idea that American foreign policy ought to be related to political expediency because the right is always a course of action that the American people will follow once they get the facts supporting the right policy.

Mr. LISAGOR. Senator, the Constitution gives to the President of the United States the sole responsibility for the conduct of foreign policy, does it not?

Senator MORSE. You couldn't be more wrong. You couldn't make a more unsound legal statement than the one you have just made. This is the promulgation of an old fallacy that foreign policy belongs to the President of the United States.

Mr. LISAGOR. To whom does it belong, then Senator?

Senator MORSE. It belongs to the American people.

Mr. LISAGOR. All right. Then how can you—

Senator MORSE. The constitutional fathers made it very very clear.

Mr. LISAGOR. Then how can you say that Adlai Stevenson or Secretary of State Rusk or Secretary McNamara, have three separate foreign policies which they are promulgating in the U.N., the State Department and the Defense Department? Where does the President fit into this—

Senator MORSE. What I am saying is—

Mr. LISAGOR. On the responsibility scale?

Senator MORSE. What I am saying is under our Constitution all the President is is the administrator of the people's foreign policy. Those are his prerogatives and I am pleading that the American people be given the facts about foreign policy.

Mr. LISAGOR. You know that the American people cannot formulate and execute foreign policy.

Senator MORSE. Why do you say that? You are a man of little faith in democracy if you make that kind of statement. I have complete faith in the ability of the American people to follow the facts if you will give them to them.

Mr. LISAGOR. It isn't a lack of faith.

Senator MORSE. And my charge against my Government is we are not giving the American people the facts. Are we giving the American people the facts about our obligations under the United Nations? Are we giving the American people the facts about the Geneva accord? Have we given them a rundown on what the facts are with regard to southeast Asia? Read the letters I have put into the Record from a good many servicemen over there. They will tell you we are not getting the facts.

No, I reject completely that unsound argument.

Mr. NIVEN. I hate to interrupt this fascinating colloquy but we have some questions also on civil rights and politics, and we will come to them in just 1 minute.

Senator, if you have to choose between the civil rights package incorporating the Dirksen amendments and no bill at all, what will your decision be?

Senator MORSE. First, I am going to vote for cloture. We have got to get cloture adopted, and then I will do the best I can to try to improve the amendments when we come to the debate on the amendments.

I am going to vote for the best civil rights bill that we can get passed, and then if it is not good enough to meet some of the problems that confront us, keep right on working for improvements in Congress session after Congress session.

Mr. NIVEN. In other words, in whatever shape the bill ends up, you expect to vote for it?

Senator MORSE. Well, I wouldn't say in whatever shape, but I can't imagine it ending up in such shape that I couldn't vote

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for it, because the issue here is a simple one. The time has come to deliver for the first time in our history the Constitution to the Negroes of America. They have never had the Constitution delivered to them since the Emancipation Proclamation. So I keep my eyes on one question. The provisions of this bill proceed to deliver the Constitution to the Negroes.

Now, we may fall short in some particular, but I am going to vote for the best bill I can get, unless it ends up in such a mishmash that I feel it would cause more harm than good, but I don't expect it to end up in that kind of a condition.

Mr. LISAGOR. Senator, do you foresee as a result of the vote in some Northern States for Governor Wallace, of Alabama, the fact that the race issue may be a political factor in the November presidential election?

Senator MORSE. It is bound to be a political factor. It has been a political factor in our elections for quite some time, and I think perhaps more so this time than any other. But, here again, I think we have got to get the facts out to the American people as to what the Negroes are entitled to, because basically, you know, the American people have a dedicated faith in government by law, and once they understand that what we are passing in the Senate constitutes implementing the constitutional rights of the Negroes, they will support it, but let me very quickly say, remember, the Constitution is not self-executing. The Supreme Court in 1954 declared the constitutional rights of Negroes in regard to desegregated schools. But if you are going to guarantee that right to them, you have got to implement it with the civil rights bill, and that is one of the titles in this bill, and I could go right down the line and show that what this bill is doing is seeking to implement the decisions of that great Court, for that Court has been so far ahead of the Congress and the White House for so many years that it is about time we catch up, and I am glad, and may I very quickly say, I am glad that my President, when he was Vice President, last Memorial Day, at Gettysburg, delivered the greatest speech since Lincoln's message on the Emancipation Proclamation on civil rights in this country, and he just told me a few days ago in a conversation with him he has no intention to support watering it down by denying the Negroes their constitutional rights.

Mr. KALB. Senator, do you feel that the recent showing of Governor Wallace in primaries will cut into the President's strength in the South?

Senator MORSE. I doubt it very much. I think the South is going to support the President, but who knows? There isn't any question that there is a very strong anti-civil-rights feeling among millions of Americans, but here again it is because we have failed to get a clear understanding of what the facts are in regard to constitutional rights to those Americans, and once you have a great debate in this campaign, and I think we will, you will be able to change a good many of those points of view.

Mr. NIVEN. Senator MORSE, you are the only Member of the Senate with extensive experience in both political parties. Drawing on that expertise, could you tell us who Mr. Johnson's running mate will be, who the Republican nominee will be, and what will happen in November?

Senator MORSE. The first part of your question, I shall go to the convention as a delegate supporting the President's nominee because I think the President is entitled to pick his running mate unless he picks somebody—

Mr. NIVEN. What about Mr. McNamara?

Senator MORSE. Unless he picks someone—the only caveat I utter, unless he picks someone that I think is completely unqualified for the position.

Mr. NIVEN. What about McNamara?

Senator MORSE. I wouldn't support McNamara.

Mr. NIVEN. You will bolt the party if McNamara—

Senator MORSE. Of course I wouldn't bolt the party. I just wouldn't support his nomination at the convention. If he was nominated and that was the choice of the party, I would support the ticket, of course, but I wouldn't support him as a vice-presidential candidate at the convention.

Now, the second part of your question, about the Republicans, you know, it would be presumptuous of me to advise Republicans, and my respect for my old friends is such that I wouldn't want to advise them as to what they could do. It wouldn't make any difference anyway. No matter what they do they are going to get beat just about as bad as Roosevelt beat Landon in 1936.

Mr. NIVEN. Do you think with any vice-presidential nominee Mr. Johnson—

Senator MORSE. With any vice-presidential nominee—the President is going to have a good one and I think he is going to have a Democrat.

Mr. NIVEN. Senator, thank you very much for being our guest on "Face the Nation."

Mr. MORSE. I now thank the Senator from Louisiana [Mr. ELLENDER] for his courtesy in yielding to me; and I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. ELLENDER. I wish to say to my good friend from Oregon, as well as to our other colleagues, that I was very happy to yield to them.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. ELLENDER. Mr. President, the long-awaited compromise package was submitted to the Senate yesterday. I have not had time to examine this document very carefully, but I had occasion to glance over it. I can well see why it is that the distinguished minority leader [Mr. DIRKSEN] is now willing to sign a cloture motion so that the substitute bill can be acted upon. I can well see why it is that quite a number of other Senators on his side of the aisle will be prompted to sign a cloture motion when the time comes.

Mr. President (Mr. MCINTYRE in the chair), this substitute makes the bill sectional. It is directed at the South, and the South only. The title which the distinguished Senator from Illinois [Mr. DIRKSEN] opposed the most was title VII, dealing with equal employment opportunity. The amendment that is now proposed by him would make it impossible for the Commission which would be created by the bill to exercise its authority in any State which already has an FEPC law. A reasonable time must be

allowed before the Federal Government could go in, and that reasonable time is described as being not less than 60 days.

It has been well demonstrated on the floor of the Senate on many occasions that in as many as 30 States which have so-called FEPC laws, the law has not worked or it has not been enforced in most of them.

I have obtained figures from the Bureau of the Census, taken in 1960, which indicated more unemployment among Negroes in States which had an FEPC law than in States which did not.

As I have pointed out before, the State of Pennsylvania has had an FEPC law for quite some time. The total number, percentagewise of unemployed in the State of Pennsylvania was 6.2 percent, 5.8 percent of those were white, but 11.3 percent were colored. Yet Pennsylvania already has an FEPC law.

In the State of Michigan, which has had an FEPC law for 15 or 20 years, the total number of unemployed in Michigan was 6.9 percent. Six percent were white, and 16.3 percent were colored.

Yet that State, too, already has an FEPC law.

It is readily demonstrated that there is no greater employment of Negroes in States which have FEPC laws, but on the contrary there is less than in the South.

Under the proposed amendment, the FEPC which would be created by the bill cannot assume jurisdiction until a reasonable time has elapsed after the complaint shall have been made, but not less than 60 days.

There was another provision in the bill which was violently opposed by the Senator from Illinois, the architect of this package deal, and that was in regard to schools.

When the bill was first presented to the Senate by the House, some believed that Representative CELLER, of New York, had sufficiently protected the nonbalancing of schoolchildren from one neighborhood to another, in order to prevent imbalance. But the Senator from Illinois went a step further. Not only can they not transport children by bus from one neighborhood to another, but the courts, under the bill, are prevented from taking any action.

Let me read from subsection (2) of section 407(a) of the proposed amendment:

Provided, That nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance.

Mr. President, that means to me that the only section of the United States which will be affected by this pernicious bill will be the South.

We have said that all along, but now it is written in black and white, that it will not be operative on most of the States in the North, in fact, all of them except two or three that do have public accommodations laws as well as FEPC laws, which are not enforced.

Those two sections, as all Senators know, are the ones which were opposed mostly by the Senator from Illinois. I

cannot understand how he was able to get the Attorney General to agree to that language.

I am wondering what attitude the Negro leaders will take as to the provision I have just read. Racial imbalance is one of the main causes of demonstrations in the North.

We in the South have been open and aboveboard with respect to segregation. Everyone knows where we stand. But the same kind and form of segregation was practiced in the North, and no one paid any attention to it—until recently.

I predict that if the Negro leaders look into this matter and realize they have been sold out, I doubt that they will follow those who advocate this procedure.

I wish to read again from this subsection (2) of Section 407(a), because, as I said, it was the most repugnant title in the bill so far as the Senator from Illinois was concerned.

Provided, That nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school requiring transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance.

That situation, Mr. President, has existed for years in the large cities of the North, where they have practiced segregation as much as it was practiced in the South.

They have even changed title I—the voting qualifications. I presume that was done in order to satisfy someone and thus impose cloture on the southerners. It reads in part:

That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such tests in accordance with the provisions of applicable State or local law * * * meet the purposes of this subparagraph and constitute compliance therewith.

In other words, the Attorney General—the courts—would be empowered to enter into an agreement with the attorney general of any State that certain rules and regulations may be applicable wherever the literacy test is effective.

Mr. President, this is merely another loophole which is created in order to obtain votes from the northern Senators. There are 16 or 18 Northern States that have literacy tests. Under this language, the U.S. Attorney General, through the attorney general of a State, could excuse the State from the operation of this law if he saw fit.

With reference to those three titles—which, in my opinion, were the ones that were most violently opposed, particularly titles II and VII, by the distinguished Senator from Illinois [Mr. DIRKSEN] and others—they have been so changed and modified that they would not be effective at all in the Northern States. They are directed solely at the South.

I am in hopes of being able in the near future to point to many other instances in which the bill has been so changed that it would not be effective in places where it ought to be applicable.

If the bill is passed, and the Negro leaders of the North find out that even the courts cannot interfere and have

children moved from one area to another so as to balance the schools, as was indicated by the Supreme Court.

As I have indicated in previous speeches, the contempt powers of the Federal court are extremely broad and the Congress should give some thought to restricting this power, which is summary in nature and often arbitrarily exercised. There is adequate precedent for the Congress to take such action.

An early case referred to as the Peck case, arising in 1826, illustrates how great the abuse of the contempt power can be. The facts of this case arose out of a suit in the Federal court of Missouri in which title to certain lands in the Upper Louisiana Purchase Territory was in dispute. Judge Peck was a presiding judge in the case of the heirs of Antoine Soulard, and there was a dispute between the U.S. Government and certain persons claiming title to this land under French and Spanish territorial grants. Lawless had acted as counsel for some of the claimants in the Soulard case and Judge Peck decided it in favor of the United States, adopting a position which narrowly construed Spanish land grants.

Judge Peck's opinion was printed in a local newspaper and shortly thereafter an article appeared which criticized the Judge's opinion and respectfully pointed out a number of errors of law and fact which the Judge had committed. The newspaper article was signed only as "A Citizen." Judge Peck had the printer attached for contempt and then it was discovered that Lawless, the counsel for the heirs, had actually written the article. He was cited for contempt of court and ordered imprisoned for 24 hours and suspended from practicing law for 18 months. At Lawless' request, an impeachment proceeding was originated in the House of Representatives setting forth the charges against Judge Peck and after a delay of several years, the House voted 123 to 49 to impeach Peck, and then the matter was turned over to the Senate for trial.

The impeachment proceedings in the Senate began on March 4, 1830, and lasted almost a year and finally ended in an acquittal of Judge Peck. The vote was 21 to 22, but the impact of the case was such that the Congress agreed on remedial legislation to curb the powers of the Federal court.

Judge Peck had acted under the provisions of chapter 20, section 17, of the Judiciary Act of 1789 which provided that—

All the said courts shall have power to * * * punish by fine and imprisonment at the discretion of said courts all contempts of authority in any cause or hearing before the same.

Because of the injustice committed under this provision of the old law, Congress passed the restrictive legislation referred to as the act of March 2, 1831. The act of March 2, 1831, provided that—

The power of the several courts of the United States to issue attachments and inflict summary punishment for contempts of court, shall not be construed to extend to any cases except the misbehavior of any person or persons in the presence of the said

courts or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of the said courts in their official transactions and the disobedience or resistance of any officer of the said courts, party, juror, witness, or any other person or persons, to any lawful writ, process, order, decree, or command of said courts.

And be it further enacted, That if any person or persons shall corruptly or by threats or force, endeavor to influence or intimidate any juror, witness or officer of any court of the United States in the discharge of his duty, or shall corruptly or by threats or force obstruct or impede the due administration of justice therein, every person or persons so offending shall be liable to prosecution therefor by indictment, and shall, on conviction thereof, be punished by fine not to exceed \$500, or by imprisonment not to exceed three months, or both, according to the nature and aggravation of the offense.

The second part of this act which I have just cited was interpreted by the Supreme Court to offer an alternative method of treating contempt cases—that is, by indictment and regular trial. This was decided even in the face of Buchanan's statement concerning the act. Buchanan, who was later to become President, was at the time, the drafter and manager of this bill through the House. His statement concerning the act of March 2, 1831, restricting the contempt powers of the Federal courts, said:

I thought it monstrous that a judge without the intervention of a jury, under highly excited feelings, should be permitted to try and punish libels committed against him according to his will and pleasure. * * * A few days after the acquittal of this judge, the Senate, without one dissenting voice, passed a bill, not to create a new law, but declaratory of the old law, or rather what the Constitution was under which no federal judge will ever again dare to punish a libel as a contempt. The constitutional provision in favor of liberty of the press was thus redeemed from judicial construction.

The "joker" in the Federal act was the use of the wording "or so near thereto as to obstruct the administration of justice." This wording was seized upon by the courts to cover any case of contempt which they considered as an obstruction to the administration of justice.

I mention this old law and the reason for its existence arising out of the celebrated Peck case, to point up the necessity to have the right of trial by jury in all contempt cases if for no other reason than the jealousy with which the judiciary guards its contempt powers. Many of the old decisions were of the same type as the Peck case in which judicial interference with newspapers abridged the constitutional right of freedom of the press. In spite of the old act of Congress attempting to set the limits of the contempt power of the courts, the courts continued to punish newspaper editors for printing derogatory remarks about the court. It would appear that today, after many years of controversy in this field, that newspapers are at liberty to criticize the person of the judge, but not to derogate the authority of the court itself.

I submit that if the Congress had insisted on jury trials in all criminal contempt cases in the beginning that much