

# RICHARD NIXON PRESIDENTIAL LIBRARY DOCUMENT WITHDRAWAL RECORD

| DOCUMENT<br>NUMBER | DOCUMENT<br>TYPE | SUBJECT/TITLE OR CORRESPONDENTS                                                                                                              | DATE      | RESTRICTION |
|--------------------|------------------|----------------------------------------------------------------------------------------------------------------------------------------------|-----------|-------------|
| 1                  | Memo             | H. R. Haldeman to Secretary of State re:<br>President's Visit to the Soviet Union, 1 p.                                                      | 3/16/1972 | B           |
| 2                  | Memo             | Henry A. Kissinger to the President re:<br>Comparison of the Chinese and English<br>Versions of the Sino-American Joint<br>Communique. 5 pp. | 3/20/1972 | B           |
| 3                  | Memo             | Henry A. Kissinger to the President re:<br>Situation in Southeast Asia, 3 pp.                                                                | 4/16/1972 | B           |
| 4                  | Form             | Extended Active Duty Order for Capt<br>Vincent E. Friedewald, Jr., 3 pp.                                                                     | 3/18/1972 | D           |

COLLECTION TITLE

WHCF: SMOF: Alexander Butterfield

BOX NUMBER

5

FOLDER TITLE

1972 WH Correspondence To/From Others Part 1: Jan.-June 1972

**PRMPA RESTRICTION CODES:**

A. Release would violate a Federal statute or Agency Policy.  
B. National security classified information.  
C. Pending or approved claim that release would violate an individual's rights.  
D. Release would constitute a clearly unwarranted invasion of privacy or a libel of a living person.

E. Release would disclose trade secrets or confidential commercial or financial information.  
F. Release would disclose investigatory information compiled for law enforcement purposes.  
G. Withdrawn and returned private and personal material.  
H. Withdrawn and returned non-historical material.

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

March 17, 1972

MEMORANDUM FOR :

JEB MAGRUDER

FROM :

H.R. HALDEMAN

I'm sure you'll be delighted to get a creative suggestion from outside, but I offer it anyway.

The more I think about it, the more strongly I feel that your organization's name should be changed once again, and that it should now be titled, The Committee To Re-Elect President Nixon.

On the positive side, I think we gain a great deal from the repetition of President Nixon as frequently as possible so that people tend to put the title and the name together automatically.

On the negative side, I think there is some merit to the point raised by some of our opponents that we're apparently ashamed of the name Nixon and that we are trying to hide it and just get people to re-elect the President whoever he is. This, of course, is not true, but it gives them a point of attack that may have some apparent validity.

I also think bumper stickers, ads, etc., should say, Re-Elect President Nixon, instead of Re-Elect the President. As with all of my other suggestions, I'm sure this one will be ignored, but there's no charge for it.

THE WHITE HOUSE

WASHINGTON

TELEVISED ADDRESS ON BUSING

Thursday, March 16, 1972

Oval Office

10:00 PM

THE PRESIDENT:

PURPOSE:

To deliver a televised address to the nation on the subject of busing.

BACKGROUND:

The address will originate from the Oval Office and will be broadcast live on all major radio and television networks at 10:00 P.M. EST. The standard office telecast arrangement will be employed, with the addition of a new overhead reading lamp. ABC will provide the pool pick-up.

SEQUENCE OF EVENTS:

- 9:30 PM Arrive in Oval Office to check set-up and lighting. I will be present to supply details of the telecast.
- 9:35 PM Move to Alex Butterfield's office, where Ray Voegel will apply make-up.
- 9:45 PM Move to Private Office for personal time.
- 9:58 PM Return to Oval Office to await start of telecast.
- 10:00 PM Telecast begins.
- 10:10 PM Telecast concludes.  
(approximately)

There will be a press photo opportunity following the telecast.

Mark Goode

March 17, 1972

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: MR. MARK GOODE  
FROM: H. R. HALDEMAN  
SUBJECT: T.V. Announcement/Busing

The one thing that was most noticeable about last night's television was the shadow that appeared on both sides of the President's head on his shoulders.

I thought we had a new lighting system, and would like to know what the problem was that caused the shadow, why it wasn't caught ahead of time, and what you are doing to correct it.

*cc: Chipin*

THE WHITE HOUSE  
WASHINGTON

S.S. Folder for  
Protection - if a folder  
pertains to that  
Subject specifically

United States Senate  
Office of the Majority Leader  
Washington, D.C. 20510

March 17, 1972

Honorable John B. Connally, Jr.  
Secretary of the Treasury  
Department of the Treasury  
Fifteenth Street and Pennsylvania Ave.  
Washington, D. C.

1071

Dear Mr. Secretary:

Senator Scott's office has advised me of your decision to offer Secret Service protection beginning March 20, to Senators Muskie, Humphrey and McGovern and Governor Wallace as candidates for the Presidency. The decision, in my judgment, is timely in view of the tragedy associated with the campaign of the late Senator Robert F. Kennedy which followed so closely on the assassination of his brother, President John F. Kennedy.

It is my understanding that the protection which is being extended to the four announced Presidential candidates will not be offered to Senator Edward M. Kennedy at this time. During past discussions of this matter in the advisory group, I recall that the sentiments which were expressed by you and your staff were to the effect that there were some difficulties in including him because he is not an announced candidate and has made clear that he has no intention of becoming a candidate. The advisory group, as a whole, however, was of the view that the proffer of protection should at least be made if it were legally possible to do so.

I must urge again, therefore, as I did at the time of our last advisory meeting that Senator Kennedy be offered the protection of the Secret Service during the current campaign. I do so even though I accept fully the Senator's insistence that he is not a candidate for the Presidency. Nevertheless, he will be making many public appearances in the heated atmosphere of a campaign year in support of the views which he espouses.

In the circumstances, it seems to me that notwithstanding his rejection of the status of Presidential candidate, he is likely to be regarded by a very large segment of the public as a candidate for the Presidency. In fact, public opinion polls have consistently indicated he is so regarded. In my judgment, that consideration exposes Senator Kennedy to a degree of personal danger which is as great as any of the leading announced candidates during the next few months.

Honorable John B. Connally, Jr.

- 2 -

March 17, 1972

1071

So, again, I would urge that Secret Service protection be extended to Senator Kennedy, notwithstanding the fact that he has made clear that he has no intention of becoming an active candidate for the Presidency. The urgency of the matter, it seems to me, is underscored by the great and tragic price already paid by this family for its readiness to serve the nation.

If, as was indicated at the last meeting, there were some doubts as to your authority to make this extension under the law, I want it to be clearly understood that I do not share those doubts. On the contrary, I urge you to resolve any which you may have, if at all possible, in favor of protection for Senator Kennedy.

With best personal wishes, I am

Sincerely yours,

Mike Mansfield



THE SECRETARY OF THE TREASURY  
WASHINGTON

MAR 30 1972

Dear Senator Mansfield:

Thank you for your letter of March 17, expressing your desire that Secret Service protection be extended to Senator Edward M. Kennedy, pursuant to P. L. 90-331.

As you recall, the Candidate Protection Advisory Committee on January 27 in its recommendation to me stated: "... that protection be provided to announced candidates receiving at least 5 percent in either the Harris or Gallup polls and to persons who are unannounced candidates who receive 20 percent in the same polls subject to the legal determination of the Secretary of the Treasury as to eligibility under the law. ..." [Emphasis supplied.]

I am enclosing the legal opinion of Samuel R. Pierce, Jr., General Counsel of the Treasury Department, in which he finds that Senator Kennedy does not qualify as a Presidential candidate within the meaning of P. L. 90-331. That being the case, I have no statutory authority to provide Senator Kennedy Secret Service protection.

With warm personal regards,

Sincerely,

The Hon. Mike Mansfield  
Majority Leader  
United States Senate  
Washington, D. C. 20510

Enclosure

THE GENERAL COUNSEL OF THE TREASURY  
WASHINGTON, D.C. 20220

March 15, 1972

MEMORANDUM TO: Honorable Eugene T. Rossides  
Assistant Secretary for Enforcement, Tariff  
and Trade Affairs, and Operations

FROM: Samuel R. Pierce, Jr. *SRP*

SUBJECT: Whether the Secret Service is authorized  
at the present time to give protection to  
Senator Edward M. Kennedy

You have requested my opinion as to whether the Secret Service may, at the present time, under Public Law 90-331, 82 Stat. 170 (1968), furnish protection to Senator Edward M. Kennedy. My answer is in the negative.

Public Law 90-331 authorizes the Secret Service to furnish protection to persons who are determined from time to time by the Secretary of the Treasury, after consultation with an advisory committee, to be major Presidential or Vice Presidential candidates. The advisory committee established by that statute consists of the Speaker and minority leader of the House of Representatives, the majority and minority leaders of the Senate, and one additional member selected by the other members of the committee.

The response to your question depends upon the meaning of the word "candidate". That word is defined in Webster's New World Dictionary of the American Language (1968 College Edition) as: "1. a person who seeks, or has been proposed

for, an office, an award, etc. 2. a person apparently destined to come to a certain end."

Ordinarily, one associates the word "candidate" with a person who seeks an office, an honor, an award, etc. This is the meaning of the word Congress relied upon in passing Section 701 of the Revenue Act of 1971 (P.L. 92-178), relating to the deduction of political contributions. There, a candidate is defined as an individual who "has publicly announced that he is a candidate for nomination or election" to public office.

Senator Kennedy cannot be considered a person who seeks the Office of President. In addition to numerous press accounts reporting that he has denied he is a candidate, Senator Kennedy has filed affidavits in at least two states disavowing his candidacy. In an affidavit dated January 14, 1972 to the Secretary of the State of Florida he stated that "I am not now and do not presently intend to become a candidate for President at the upcoming nominating convention". In an affidavit dated February 18, 1972 to the Secretary of the State of Wisconsin, he stated that "I ... hereby publicly declare that I am not a candidate for the Office of the President of the United States of America, and do not intend to become a candidate for said office in the 1972 Presidential election."

Moreover, Senator Kennedy has not been proposed for the Office of President. To my knowledge, there is no official Democratic or other recognized group or organization that is promoting Senator Kennedy's candidacy. Therefore, he cannot be considered a person who "has been proposed for" the Office of President.

Furthermore, in the light of his consistent denials that he is a candidate, and his affidavits disavowing his candidacy, he cannot reasonably and logically be said to be "a person apparently destined" to become the President of the United States.

On the basis of the foregoing, it is concluded that Senator Kennedy is not presently a candidate for the Presidency of the United States. It should also be pointed out that I found nothing in the legislative history of Public Law 90-331 to negate that conclusion.

On January 27, 1972, the advisory committee, established under Public Law 90-331, recommended to the Secretary of the Treasury that protection be provided (1) to announced candidates receiving at least 5 percent of either the Harris or Gallup polls, and (2) to persons who are unannounced candidates who receive 20 percent in the same polls, both subject to the legal determination of the Secretary of the Treasury as to eligibility under the law. In view of his disclaimers, Senator Kennedy can-

not be considered, either an "announced" or "unannounced" candidate and, therefore, he is outside the purview of the advisory committee recommendations.

If Senator Kennedy had not disclaimed his candidacy, I might have reached a different conclusion. I understand Senator Kennedy has received over 20 percent of the vote in polls of Democrats. I can perceive reasons why an individual would delay the announcement of his candidacy until a time he considered propitious and still be considered a candidate within the meaning of Public Law 90-331 prior to a formal announcement. However, in view of the specific disavowal of candidacy in this case, considerations of that nature are not applicable.

Accordingly, it is my opinion that the Secret Service is not authorized at this time to furnish protection to Senator Edward M. Kennedy.



THE GENERAL COUNSEL OF THE TREASURY  
WASHINGTON, D.C. 20220

March 15, 1972

MEMORANDUM TO: Honorable Eugene T. Rossides  
Assistant Secretary for Enforcement, Tariff  
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FROM: Samuel R. Pierce, Jr. *SRP*

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The response to your question depends upon the meaning of the word "candidate". That word is defined in Webster's New World Dictionary of the American Language (1968 College Edition) as: "1. a person who seeks, or has been proposed

for, an office, an award, etc. 2. a person apparently destined to come to a certain end."

Ordinarily, one associates the word "candidate" with a person who seeks an office, an honor, an award, etc. This is the meaning of the word Congress relied upon in passing Section 701 of the Revenue Act of 1971 (P.L. 92-178), relating to the deduction of political contributions. There, a candidate is defined as an individual who "has publicly announced that he is a candidate for nomination or election" to public office.

Senator Kennedy cannot be considered a person who seeks the Office of President. In addition to numerous press accounts reporting that he has denied he is a candidate, Senator Kennedy has filed affidavits in at least two states disavowing his candidacy. In an affidavit dated January 14, 1972 to the Secretary of the State of Florida he stated that "I am not now and do not presently intend to become a candidate for President at the upcoming nominating convention". In an affidavit dated February 18, 1972 to the Secretary of the State of Wisconsin, he stated that "I ... hereby publicly declare that I am not a candidate for the Office of the President of the United States of America, and do not intend to become a candidate for said office in the 1972 Presidential election."

Moreover, Senator Kennedy has not been proposed for the Office of President. To my knowledge, there is no official Democratic or other recognized group or organization that is promoting Senator Kennedy's candidacy. Therefore, he cannot be considered a person who "has been proposed for" the Office of President.

Furthermore, in the light of his consistent denials that he is a candidate, and his affidavits disavowing his candidacy, he cannot reasonably and logically be said to be "a person apparently destined" to become the President of the United States.

On the basis of the foregoing, it is concluded that Senator Kennedy is not presently a candidate for the Presidency of the United States. It should also be pointed out that I found nothing in the legislative history of Public Law 90-331 to negate that conclusion.

On January 27, 1972, the advisory committee, established under Public Law 90-331, recommended to the Secretary of the Treasury that protection be provided (1) to announced candidates receiving at least 5 percent of either the Harris or Gallup polls, and (2) to persons who are unannounced candidates who receive 20 percent in the same polls, both subject to the legal determination of the Secretary of the Treasury as to eligibility under the law. In view of his disclaimers, Senator Kennedy can-

not be considered, either an "announced" or "unannounced" candidate and, therefore, he is outside the purview of the advisory committee recommendations.

If Senator Kennedy had not disclaimed his candidacy, I might have reached a different conclusion. I understand Senator Kennedy has received over 20 percent of the vote in polls of Democrats. I can perceive reasons why an individual would delay the announcement of his candidacy until a time he considered propitious and still be considered a candidate within the meaning of Public Law 90-331 prior to a formal announcement. However, in view of the specific disavowal of candidacy in this case, considerations of that nature are not applicable.

Accordingly, it is my opinion that the Secret Service is not authorized at this time to furnish protection to Senator Edward M. Kennedy.



Public Law 90-331  
90th Congress, H. J. Res. 1292  
June 6, 1968

## Joint Resolution

82 stat. 170

To authorize the United States Secret Service to furnish protection to major presidential or vice presidential candidates.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the United States Secret Service, in addition to other duties now provided by law, is authorized to furnish protection to persons who are determined from time to time by the Secretary of the Treasury, after consultation with the advisory committee, as being major presidential or vice presidential candidates who should receive such protection (unless the candidate has declined such protection).

Presidential  
candidates.  
Secret Service  
protection.

(b) The advisory committee referred to in subsection (a) shall consist of the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, the minority leader of the Senate and one additional member selected by the other members of the committee.

Advisory  
committee.

SEC. 2. Hereafter, when requested by the Director of the United States Secret Service, Federal Departments and agencies, unless such authority is revoked by the President, shall assist the Secret Service in the performance of its protective duties under section 3056 of title 18 of the United States Code and the first section of this joint resolution.

65 Stat. 122;  
79 Stat. 890.  
Appropriation.

SEC. 3. For necessary expenses of carrying out the provisions of this resolution, there is hereby appropriated out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1968, the sum of \$400,000.

Approved June 6, 1968.

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### LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 114 (1968):

June 6: Considered and passed House and Senate.

§ 3051. Repealed. Oct. 31, 1951, c. 655, § 56(f), 65 Stat. 729.

**§ 3052. Powers of Federal Bureau of Investigation**

The Director, Associate Director, Assistant to the Director, Assistant Directors, inspectors, and agents of the Federal Bureau of Investigation of the Department of Justice may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. As amended Jan. 10, 1951, c. 1221, § 1, 64 Stat. 1239.

**§ 3053. Powers of marshals and deputies**

United States marshals and their deputies may carry firearms and may make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

**§ 3054. Officer's powers involving animals and birds**

Any employee authorized by the Secretary of the Interior to enforce sections 42, 43, and 44 of this title, and any officer of the customs, may arrest any person who violates section 42 or 44, or who such employee or officer of the customs has probable cause to believe is knowingly and willfully violating section 43, in his presence or view, and may execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of said sections.

As amended Dec. 5, 1969, Pub.L. 91-135, § 7(b), 83 Stat. 281.

**§ 3055. Officers' powers to suppress Indian liquor traffic**

The chief special officer for the suppression of the liquor traffic among Indians and duly authorized officers working under his supervision whose appointments are made or affirmed by the Commissioner of Indian Affairs or the Secretary of the Interior may execute all warrants of arrest and other lawful precepts issued under the authority of the United States and in the execution of his duty he may command all necessary assistance.

**§ 3056. Secret Service powers**

(a) Subject to the direction of the Secretary of the Treasury, the United States Secret Service, Treasury Department, is authorized to protect the person of the President of the United States, the members of his immediate family, the President-elect, the Vice President or other officer next in the order of succession to the office of

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Complete Judicial Constructions, see Title 18, U.S.C.A.

President, and the Vice President-elect; protect the person of a former President and his wife during his lifetime, the person of the widow of a former President until her death or remarriage, and minor children of a former President until they reach sixteen years of age, unless such protection is declined; protect the person of a visiting head of a foreign state or foreign government and, at the direction of the President, other distinguished foreign visitors to the United States and official representatives of the United States performing special missions abroad; detect and arrest any person committing any offense against the laws of the United States relating to coins, obligations, and securities of the United States and of foreign governments; detect and arrest any person violating any of the provisions of sections 508, 509, and 871 of this title and, insofar as the Federal Deposit Insurance Corporation, Federal land banks, joint-stock land banks and Federal land bank associations are concerned, of sections 218, 221, 433, 493, 657, 709, 1006, 1007, 1011, 1013, 1014, 1907, and 1909 of this title; execute warrants issued under the authority of the United States; carry firearms; offer and pay rewards for services or information looking toward the apprehension of criminals; and perform such other functions and duties as are authorized by law. In the performance of their duties under this section, the Director, Deputy Director, Assistant Directors, Assistants to the Director, inspectors, and agents of the Secret Service are authorized to make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Moneys expended from Secret Service appropriations for the purchase of counterfeits and subsequently recovered shall be reimbursed to the appropriation current at the time of deposit.

(b) Whoever knowingly and willfully obstructs, resists, or interferes with an agent of the United States Secret Service engaged in the performance of the protective functions authorized by this section, by the Act of June 6, 1968 (82 Stat. 170), or by section 1752 of title 18, United States Code, shall be fined not more than \$300 or imprisoned not more than one year or both.

As amended July 16, 1951, c. 226, § 4, 65 Stat. 122; Aug. 31, 1954, c. 1143, § 2, 68 Stat. 999; Aug. 18, 1959, Pub.L. 86-168, Title I, § 104 (h), 73 Stat. 387; Oct. 10, 1962, Pub.L. 87-791, 76 Stat. 809; Oct. 15, 1962, Pub.L. 87-829, § 3, 76 Stat. 956; Sept. 15, 1965, Pub.L. 89-186, 79 Stat. 791; Sept. 29, 1965, Pub.L. 89-218, 79 Stat. 890; Oct. 21, 1968, Pub.L. 90-608, ch. XI, § 1101, 82 Stat. 1198; Jan. 2, 1971, Pub.L. 91-644, Title V, § 19, 84 Stat. 1892; Jan. 5, 1971, Pub.L. 91-651, § 4, 84 Stat. 1941.

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Complete Judicial Constructions, see Title 18, U.S.C.A.

Department of Justice  
Washington, D.C. 20530

MAR 27 1972

MEMORANDUM FOR THE HONORABLE JOHN W. DEAN, III  
Counsel to the President

Re: Legal Authority for the Protection  
of Public Figures.

This is in response to your March 22, 1972, memorandum requesting information on the legal authority to assign federal security and law enforcement officials to protect "public figures." Your memorandum raises three questions:

1. Whether any express legal authority exists which permits the Secret Service to provide security for such persons as Dr. Kissinger who would not customarily receive protection, but due to special circumstances, are considered in need of it;
2. Whether any express legal authority exists which permits protection of certain Cabinet Secretaries by the security forces of their individual departments; and
3. Whether, in the absence of any express authority to engage in such activity, constitutional or other powers may permit the ordering of such protection.

In the discussion that follows we have assumed that the purpose of such protection is to provide continuous security of the person of these officials whether or not they are on government property or on official business. We also assume that this protection would be given in the absence of war, rebellion or other extraordinary disturbance in which the emergency powers of the President as Commander in Chief might be involved.

I.

Legal Authority of the Secret Service  
To Protect Dr. Kissinger.

We have found no express authority for the Secret Service to provide routine personal protection for Dr. Kissinger or other similar officials.

The Secret Service receives its authority to protect certain persons from 18 U.S.C. § 3056 (1970). The principal persons entitled to such protection are the President, members of his family, the Vice-President, and certain foreign officials. Of note is a provision permitting the Secret Service, at the direction of the President, to protect the person of "official representatives of the United States performing special missions abroad." This is the only provision that might be applicable to Dr. Kissinger but it apparently would be applicable only in the limited circumstances described.

Also of note is 22 U.S.C. § 2666 (1970), which recognizes the authority of security officers of the Department of State to protect "official representatives . . . of the United States attending international conferences, or performing special missions." Since one executive department may request another to perform duties assigned to it (31 U.S.C. § 686 (1970)), there may be instances when the Secret Service could protect Dr. Kissinger in accordance with the cited provisions. Here again, however, the protection would be authorized only in very limited circumstances, making this provision of little value for routine protection of Dr. Kissinger.

We would also point out that Congress' specific enumeration in these provisions of certain classes of persons entitled to personal protection can be interpreted as impliedly prohibiting the protection of persons not listed.

## II.

### Protection of Cabinet Secretaries By their own Security Personnel.

We are aware of only one statutory provision that expressly recognizes the authority of security personnel of an executive department to protect the department head. Pursuant to 22 U.S.C. § 2666 (1970), the Secretary of State and other designated officials are expressly entitled to protection by State Department security officers.

The Federal Bureau of Investigation does not have express authority to protect the Attorney General. Although in the limited time available we have not examined all of the statutes governing other departments, we do not believe that they contain express provisions permitting the use of security personnel to protect the heads of those departments.

There is one statute of general applicability that may bear on this problem. It provides, in part, that "The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business . . . ." 5 U.S.C. § 301 (1970). We are not aware of any legislative intent that this provision was designed as authority for the assignment of security personnel to protect the department head, or that this statute has, in fact, been relied upon to support such authority in the past. One can make a reasonable argument, however, that the deployment of security personnel is an executive function bearing on the government of the department and the performance of its business. One difficulty with attributing such authority to this provision is, as noted above, that Congress in a separate statute expressly recognized authority for the protection of the Secretary of State. This is an indication that Congress did not believe that section 301 of title 5 already contained the requisite authority.\*/

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\*/ We note that personal protection of department heads and other public officials may be granted incidentally in  
(f.n.cont'd p. 4)

### III.

#### Other Arguments in Support of Personal Protection of Government Officials.

The absence of specific congressional authorization for the personal protection of Dr. Kissinger and Cabinet Secretaries other than the Secretary of State raises doubts about the existence of such authority. There are, however, three separate but related grounds on which reasonably defensible arguments can be made to support the grant of authority to provide special protection to these public officials.

##### A. Implied Congressional Authorization.

We have been told informally that some Cabinet Secretaries in the past have been given special protection by various federal security officers and we understand that the same may be true of some White House officials. If this is true, and a good factual case can be made to demonstrate it, the absence of congressional action to prohibit that protection even though it was aware of the practice can be construed as an implied authorization for it to continue.

There are executive practices that have developed through the years in the absence of congressional direction, and in at least one Supreme Court case such practices have been recognized as legally valid. In United States v. Midwest Oil Company, 236 U.S. 459 (1915), the Court held that the President, by mere repeated assertion of authority from an early date, had acquired the right to withdraw public lands from private acquisition even though Congress

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(footnote cont'd)

public places or buildings where federal security officers have special jurisdiction. Thus, the Executive Protective Service, which has the police power to protect, inter alia, the Executive mansion and any building in which presidential offices are located, presumably could grant special protection to any persons in these buildings. See 3 U.S.C. § 202 (1970).

had previously opened them to occupation and could at any time have repudiated the President's actions. However, since it had not done so the Court held that Congress had impliedly authorized the President's actions by its own inaction. In reaching this decision, Justice Lamar stated:

[G]overnment is a practical affair intended for practical men. Both officers, law-makers and citizens naturally adjust themselves to any long-continued action of the Executive Department --on the presumption that unauthorized acts would not have been allowed to be so often repeated as to crystallize into a regular practice. That presumption is not reasoning in a circle but the basis of a wise and quieting rule that in determining the meaning of a statute or the existence of power, weight shall be given to the usage itself--even when the validity of the practice is the subject of investigation. 236 U.S. at 472-73.

This reasoning would appear applicable to the protection of public officials if a proper factual basis for the practice could be established.

B. Constitutional Authority under the Take Care Clause.

The President's constitutional duty to "take Care that the Laws be faithfully executed" (U.S.Const. art. II, § 3), can also be cited as a legal basis for the President's duty to require personal protection of public officials.

The principal case justifying reliance upon this clause is In re Neagle, 135 U.S. 1 (1890). Neagle was a deputy United States Marshal who was directed to provide personal protection to Supreme Court Justice Stephen J. Field, who had been threatened by one Terry. In the course of this assignment Neagle shot and killed Terry.

In subsequent legal proceedings arising out of this incident the Supreme Court had to decide whether in the absence of specific congressional authorization to assign United States Marshals to such duties, there was any legal basis for Neagle's appointment. The issue posed by the Court (per Justice Miller) was whether the word "Laws" in the Take Care Clause was limited to specific congressional enactments: "Is this duty [to take Care that the Laws be faithfully executed] limited to the enforcement of acts of Congress or of treaties of the United States according to their express terms, or does it include the rights, duties and obligations growing out of the Constitution itself, our international relations, and all the protection implied by the nature of the government under the Constitution?" 135 U.S. at 64.

In answering this question, the Court decided that the President's duties are broader under the Take Care Clause than merely the enforcement of specific congressional enactments and upheld his authority to assign protection to a Supreme Court Justice. Its opinion concluded that "We cannot doubt the power of the President to take measures for the protection of a judge of one of the courts of the United States, who, while in the discharge of the duties of his office, is threatened with a personal attack. . . ." 135 U.S. at 67.

Similar reasoning would permit assignment of officers to protect other officers particularly in the event of actual threats made against them. The following language in the opinion supports this proposition:

It has in modern times become apparent that the physical health of the community is more efficiently promoted by hygienic and preventive means, than by the skill which is applied to the cure of disease after it has become fully developed. So also the law, which is intended to prevent crime, in its general spread among the community, by regulations, police organization, and otherwise, which are adopted for the protection

of the lives and property of citizens, for the dispersion of mobs, for the arrest of thieves and assassins, for the watch which is kept over the community, as well as over this class of people, is more efficient than punishment of crimes after they have been committed.

If a person in the situation of Judge Field could have no other guarantee of his personal safety, while engaged in the conscientious discharge of a disagreeable duty, than the fact that if he was murdered his murderer would be subject to the laws of a State and by those laws could be punished, the security would be very insufficient. . . . We do not believe that the government of the United States is thus inefficient, or that its Constitution and laws have left the high officers of the government so defenceless and unprotected. 135 U.S. at 59.

We note that there is one argument militating against the use of Neagle as precedent, particularly regarding Secret Service protection for Dr. Kissinger. In Neagle there was no congressional action in the area of affording protection to government officers. In the case of the Secret Service, however, Congress has specifically designated those persons entitled to personal protection and the absence of express authority to protect officials like Dr. Kissinger may be construed as congressional action intended to withhold such authorization.

### C. Executive Power

The first section of article II of the Constitution states that "The executive power shall be vested in a President of the United States of America..." Throughout our constitutional history there has been an argument whether the term "executive power" is an independent grant of power to the President or whether it is merely a shorthand term for the specifically enumerated powers that follow it.

In Myers v. United States, 272 U.S. 52 (1926), the Court seems to have adopted the former interpretation. At issue there was whether the term "executive power" vested in the President the power to remove executive officials. Chief Justice Taft held that the President did possess this removal power:

The executive power was given in general terms, strengthened by specific terms where emphasis was regarded as appropriate, and was limited by direct expressions where limitation was needed, and the fact that no express limit was placed on the power of removal by the Executive was convincing evidence that none was intended. 272 U.S. at 118.

Although there is no direct authority for the President's use of the executive power clause to provide protection to public officials, it seems reasonable that, in the absence of a congressional prohibition of the practice, such an assignment of personnel is analogous to the exercise of the removal power discussed in the Myers decision.

In summary, we feel that although there is no express authority for providing protection to public officials such as Dr. Kissinger and Cabinet Secretaries other than the Secretary of State, reasonable arguments can be marshalled in support of the legal authority to do so, particularly if

threats have been made on the personal safety of the individual. There is no doubt that Congress could disapprove, by legislation, the use of federal officials to engage in such activities. The principal question is whether in specifically authorizing protection in some instances the Congress has impliedly denied the authority in other instances. In view of the arguments cited above to support the legal authority to provide such protection, we believe that it can reasonably be argued that Congress has not denied the President this authority.

A handwritten signature in dark ink, appearing to read "Ralph E. Erickson", with a stylized, flowing script.

Ralph E. Erickson  
Assistant Attorney General  
Office of Legal Counsel

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

INFORMATION

March 20, 1972

MEMORANDUM FOR: THE PRESIDENT

FROM: HENRY A. KISSINGER *HK*

SUBJECT: Article on Your Foreign Policy  
in N. Y. Times Magazine

The attached article appeared in the N. Y. Times Magazine while we were en route to China, and I commend it to your reading.

It is a sophisticated analysis of your foreign policy in terms of the new equilibrium relationship among the five major power centers. The author, now managing editor of Foreign Affairs, stresses the conscious parallels to de Gaulle, and is favorably inclined to what he sees as your conception.

Attachment

# The Five-Power World Of Richard Nixon

THE NEW YORK TIMES MAGAZINE

FEBRUARY 20, 1972

BY JAMES CHACE

JAMES CHACE is managing editor of Foreign Affairs.

*Ray*  
*Some good material*  
*Some good material*  
*Approach for*  
*my U.S. news*  
*piece*

"All you need is a competent Cabinet to run the country at home.... You need a President for foreign policy."  
—RICHARD NIXON, 1967

*good quote for beginning of piece*

**T**HE flag of the People's Republic of China has been flying from a pole at the Roosevelt Hotel. The United States prepares for a visit of its President to Peking on George Washington's birthday. Agreements are being prepared in Vienna to limit the deployment of weapons of mass destruction by the United States and the Soviet Union. Washington has virtually declared that the dollar can no longer be used as the currency for financing world trade. In broad terms, the President is proceeding not only to establish a rapprochement with Peking but to work out specific accords with China's main adversary, the Soviet Union, and to encourage new trade with the restive Communist nations of Eastern Europe, all the while trying to stabilize a non-Communist Government in South Vietnam. Without repudiating U.S. commitments, he hopes to avoid new ones. He keeps out of disputes whenever he can, wary of U.S. intervention in such explosive situations as the India-Pakistan conflict and the Middle East. In short, postwar U.S. foreign policy has been turned upside down. Rarely has there been a more dramatic, more ironic and more seemingly paradoxical series of moves on the global chessboard. And the man most responsible for moving the United States into the uncharted area of the post-postwar world is the allegedly conservative Richard Nixon.

The Richard Nixon whose early crusade against Communism was unstinting and often merciless, and who said in 1968, "I do not believe that the United States can afford to accept a concept of parity with the Soviet Union," is now promoting mere sufficiency of nuclear forces

vis-à-vis Russia. Not only has Nixon reversed policy on China, but he is about to fulfill the dire consequences of which he once warned. Now, as he readies himself for his appointment in Peking this week, after supporting the admission of Communist China to the United Nations, one can turn back to the debates with John F. Kennedy in 1960 when Nixon warned that admitting China "would give respectability to the Communist regime, which could immensely increase its power and prestige in Asia, and probably irreparably weaken the non-Communist Governments in the area." This is a roughly accurate statement of what is likely to occur.

But few politicians have been consistent. John F. Kennedy, after all, was the only Democratic Senator who did not vote to censure Joe McCarthy in 1954, and later ran for the Presidency as a man who incarnated the liberal tradition of his party. Nor should it be forgotten that the then Senator Lyndon Johnson, also in 1954, refused to support any plan to send American troops to Indochina. In both Kennedy's and Johnson's cases their apparent changes of heart evolved out of the premises which they later felt their party and their country were committed to. But what of Richard Nixon? How do we explain his reversals of posture and policy? Is he a man who has no world view, but merely seizes opportunity whenever it presents itself? Are his preachments of earnest moralism mere lip service to a world which has no relevance to a nation that questions its own values, that confuses hero and villain, that has found itself in a dark wood where the straight way has been lost?

For those who view him most critically, as Garry Wills has put it, "There is one Nixon only, though

there seem to be new ones all the time—he will try to be what people want." A more sympathetic observer, such as French political analyst Pierre Hassner, will deem him a "pragmatic conservative." Whatever it is called, the President's course reveals a man who has begun to formulate an over-all foreign policy sharply at variance with the dominant U.S. postwar vision of the world, a vision which he himself had shared.

**I**N part, Nixon has learned from his years as a protégé of Dwight Eisenhower to be skeptical of purely military solutions, and he has certainly embraced the concepts of Henry Kissinger, once the foreign policy adviser of the man who was his archrival, Nelson Rockefeller. But a major key to Nixon's philosophy in foreign affairs is his link with General de Gaulle. It is this which best helps us understand a man whose response to the highest office of this land is not unlike that of the towering figure from another age who befriended him when his political career was at its nadir and provided him with a model of greatness.

In asking for support for his New Economic Policy last September, the President concluded his appeal to the Congress by citing and then paraphrasing General de Gaulle: "America can be her true self only when she is engaged in a great enterprise." The echo of de Gaulle's memoirs was deliberate, for in his mature years Nixon had become an avid admirer of the general. And when, on occasion, the President startles the nation with a sudden reversal of policy, the general's admonition that "once action starts, criticism disappears" seems particularly apt. Both the tactic and the rationale are Gaullist. Ruse, cunning surprise—de Gaulle used all these in order to advance the vision of restoring France to the

*I used to believe it had some viability, but not now*

first rank. Unexpected tactics were necessary for the Machiavel, so that Saint Joan might conquer.

It is of fundamental importance to realize that Nixon is often consciously trying to imitate de Gaulle and that he wants History to view him the way History will view de Gaulle. De Gaulle wrote of "the contrast between inner power and outward control from which ascendancy is gained, just as style in a gambler consists in his ability to show greater coolness than usual when he has raised his stake." In a similar vein, Nixon has written: "The ability to be cool, confident and decisive in crisis is not an inherited characteristic, but is the direct result of how well the individual has prepared himself for battle." It is amusing that General de Gaulle, the theorist of modern tank warfare, took his example from the game of poker, while Richard Nixon, an enthusiastic and successful poker player, chose the battlefield metaphor.

Nixon, like de Gaulle, was a man whose career seemed to be finished. In 1953, when de Gaulle was brooding alone at his country estate at Colombey, who would have predicted his return to power five years later? Who in 1962, when Nixon lost the governorship of California to Pat Brown, would have predicted his election as President of the United States only six years later?

Yet, when Nixon was out of office, de Gaulle treated him courteously; he spoke of Nixon as someone who should not be counted out, and seemed to agree that Nixon might, in some respect, be able to pattern himself after de Gaulle. Upon Nixon's election, almost the first order of business of the new President was to pay a visit to the French leader; moreover, Nixon's foreign policy adviser, Kissinger, shared in his admiration for de Gaulle, and in Nixon's desire to repair the fabric of U.S.-French relations. It was on the 1969 visit to de Gaulle, according to C. L. Sulzberger, that

the general told Nixon that "it was easier for the United States to leave Vietnam than it had been for France to leave Algeria with its large French population." Nixon agreed and said that had he been in de Gaulle's position during the Algerian crisis, he would "probably have done the same thing."

They make a curious pair, Charles de Gaulle and Richard Nixon, both of them profoundly shy human beings, the Frenchman cloaking himself in cynicism and elegance, the American in earnest moralism. Both have employed a rhetoric of the past. In de Gaulle's case, his cynical tactical methods, combined with his vision of France's global role, enabled him to achieve a new reality by asserting France's independence from the two superpowers. Will Nixon be able to emulate him? And, finally, in the service of what vision will Nixon's tactics and moralism be employed?

**T**HERE have always been two dominant strands among those seeking an international order in the postwar world. They are most easily defined in European terms and can be roughly divided into the Gaullist and the Monnetist camps. The Gaullist view, stressing what Stanley Hoffman, Harvard professor of government, has called "the new legitimacy of the nation-state," believes in the viability of the nation as a major actor on the world's stage. Big powers such as the United States and the Soviet Union thus take their places as matinee idols, upon whose leading roles in shaping the future the peace of the world depends. Another group of policy-makers believes that the day of the nation-state is drawing to a close; transnational forces will combine to create a more centralized international system. They derive much of their inspiration from de Gaulle's great opponent, Jean Monnet, who saw economics and technology as leading to a political federation of West-

ern Europe. Their version of the Monnetist dream is that of a community of advanced, industrialized, non-Communist nations. As one of their most articulate spokesmen, Zbigniew Brzezinski of Columbia, has put it: "The emergence of a community of the developed nations must still remain the central goal of U.S. policy."

Such a community would presumably stretch from Japan to Scandinavia, with the United States as its centerpiece, and would be a kind of model of the Atlanticist "grand design" of the Eisenhower-Kennedy eras. Moreover, in this federalist view, the community could be the beginning of a new international system that would be better able to cope with such problems as monetary stability, trade barriers, pollution, population control—problems that would seem to transcend the ability of the nation-state, no matter what its size, to solve. This community would presumably develop joint policies toward the poorer countries of the globe, and hold open the possibility of membership for Communist nations.

The world which President Nixon perceives conforms much more closely to the Gaullist model than to the Monnetist. His approach to world politics is to see a pattern of relationships involving five major power centers: the United States, Russia, China, Japan and, eventually, Western Europe (including Britain). In this pentagonal world each power center will be constrained by the others. The President first made this vision explicit last summer in Kansas City, when he explained the passing of the cold war. "Twenty-five years ago," he said, "we were No. 1 in the world militarily, with no one who even challenged us, because we had a monopoly of atomic weapons. . . . Now, 25 years having passed . . . we see five great economic superpowers: the United States, Western Europe, the Soviet Union, China and, of course, Japan."

*As an admirer of Winston's power I realize his measures were totally unimpeachable*

Though it is palpably untrue that all five are "economic superpowers," the President's words do reveal his consciousness of the pentagonal world that he now believes will be the next stage after the end of the cold war and the confrontation politics of the two superpowers which characterized that period. Were he to have taken the older view—that the balance of power was really a nuclear balance of terror between the U.S. and the U.S.S.R.—his rapprochement with China would not be perceived in Moscow as a possible counterweight to Russia's global engagement.

**M**ORE recently, Nixon has articulated a concert of great powers that resembles in some respects the balance of power in Europe during much of the 19th century. "We must remember," he has said, "the only time in the history of the world that we have had any extended periods of peace is when there has been a balance of power. . . . I think it will be a safer world and a better world if we have a strong, healthy United States, Europe, Soviet Union, China, Japan—each balancing the other, not playing one against the other, an even balance."

In the search for a global balance of power, however, there are risks. For the nations that came together in Vienna after the generation of war that ended in Waterloo generally agreed on the desirability of such a balance among the five great powers in order to maintain the peace. Those who gathered at the Congress of Vienna in 1815—and, in particular, Metternich, Talleyrand and Castlereagh—understood the need to prevent any one power from becoming too dominant in Europe and thereby threatening the Continent with another war. Metternich, the great Austrian statesman who, in Henry Kissinger's words, became for the next generation the virtual "Prime Minister of Europe," laid down as an axiom of policy "the application of the principle of solidarity and equilibrium . . . and

of the united efforts of states against the supremacy of one power." Russia, Prussia, Austria, France and England—these were the five great powers of the post-Napoleonic world, and their achievement was to bring about a balance of power that was to give the world a century without a major war.

As Harold Nicolson has pointed out in his study of the Congress of Vienna: "It is thus a mistake to regard the balance of power as some iniquitous plotting of forces; it was rather the achievement of such a distribution of strength as would render aggression by any single country a policy of the greatest uncertainty and danger." The five European powers disagreed, however, about the extent to which they would act in concert to impose their will upon nations that were infected by the revolutionary virus that could destroy the established order. It was a static world, based upon the sacred principle of legitimacy, that they sought.

In writing of U.S. foreign policy prior to the election of 1968, Henry Kissinger, author of a book on Metternich and a study of Bismarck, echoed principles Metternich would have endorsed: "Part of the reason for our difficulties," Kissinger once wrote, "is our reluctance to think in terms of power and equilibrium." He went on to criticize the American tendency to feel that "while other nations have interests, we have responsibilities; while other nations are concerned with equilibrium, we are concerned with the legal requirements of peace." As Talleyrand would have urged in the last century, and as de Gaulle advised in turn, Nixon and Kissinger pursue a quest for equilibrium in a world in which the nation-state persists as the most important force to be reckoned with.

**T**HERE is, of course, a crucial difference between the balance of power sought in the early 19th century and such an order in the contem-

porary world. For the five major power centers today do not agree that such a global balance is even a desideratum. Unlike the European nations which tried to implement a Concert of Europe to maintain equilibrium, the global great powers that Nixon is dealing with cannot operate together; a balance of power will exist only insofar as the powers act to constrain the overweening aspirations of any one power. And there is no guarantee that this will always occur.

Nor should it be supposed that a five-power world and the balance of power necessarily imply a policy of "spheres of influence." Though the great powers will always try to insure that the countries bordering them are not hostile—and to this extent certainly seek spheres of influence, as in Eastern Europe and the Caribbean—the competition among them in other parts of the world is more likely to be for access and influence than for hegemony.

If the great powers, in concert or individually, constrain one another, they are likely to find themselves increasingly excluded from spheres of influence. Indeed, even in Eastern Europe, Rumania enjoys a large measure of independence; Cuba, moreover, has successfully resisted the United States. And one purpose of the new American rapprochement with China was to deny the Russians a sphere in South Asia.

George Canning, the British Foreign Secretary, when he supported the independence of the South American republics in 1826, declared that he had "called the New World into existence to redress the balance of the Old." Nixon might be said to have recognized the status of China as a Great Power in order to counteract the growing power of the Soviet Union.

The difficulty of playing great-power politics to contain conflict and establish a balance of power was demonstrated most graphically by the interplay of Russia, America and China in the conflict



*"It is of fundamental importance to realize that Nixon is often consciously trying to imitate de Gaulle."*

Drawing by TIM.

over Bangladesh. As did de Gaulle in his assessment of France's role in the Israeli-Arab conflict, so, too, did Nixon mistake the situation in South Asia; and with the same result. Both countries would have preferred that such a conflict not take place. Both countries would have been wiser to remain completely neutral in the event of an attack. Neither really did so. Both lost influence to the Soviet Union.

By aligning itself with China, the United States tried to create a situation in which India, despite its alliance with the Soviet Union, would be so intimidated as to not initiate

military operations against Pakistan. But neither Peking nor Washington was prepared to make its threats effective. For the United States, domestic constraints against American involvement in Asia prevented any substantial U.S. engagement, either of men or matériel. China, though free from domestic limitations, was constrained by her own strategic problems. Fearful of Russian advances along her own border, her military leadership weakened after the recent purge, China was wary of putting any direct military pressure on India; thus, Peking was left to fulminate in the United Nations against Rus-

sian ambitions. Only Russia had neither domestic constraints nor shortage of weaponry.

Once it became clear that India had indeed attacked, and that Russia would fully support India's course, Washington let it be known that such behavior would jeopardize the scheduled visit of President Nixon to the Soviet Union this spring. But the threat lacked credibility; Nixon would have had to sacrifice, at least temporarily, a major objective — closer U.S.-U.S.S.R. relations—for a relatively minor one: supporting a weak regional power.

The effectiveness of the Indian attack, the weakness of Pakistan in the west—both also made ineffectual the Administration's efforts to show its authority by sending warships into the Bay of Bengal.

From Pakistan's vantage point, relying on the great powers to balance off one another may have been the only choice she had. But it proved a poor one. Pakistan erred in evaluating the ability of either America or China to deliver the goods. The balance of power that had existed in some tentative form in South Asia prior to the Bangladesh upheaval and the Indo-Pak war was finally shattered. Russian preponderance is now evident to all. Misperceptions on the part of two of the great powers involved—America and China—resulted not in the success but the failure of the two powers to constrain the third.

**N**OR does cooperation between the U.S. and China have a much better chance of resolving that enduring world dilemma: the war in Indochina. The condition of success of Nixon's foreign policy lies in ending that war, just as de Gaulle's depended on getting out of Algeria. Until the U.S. successfully disengages from the conflict, Nixon can never be totally free to play out the great game of world politics. In this case, the ability of a small power like North Vietnam to manipulate the big powers points up the problem of working within the balance of power.

In a sense, the three great powers involved are all hostages to Hanoi. Neither Communist power wants to jeopardize possible agreement between it and the United States on other issues; yet neither Russia nor China can abandon North Vietnam. Washington, in turn, wants to better relations with both Peking and Moscow; but to do this, it must be wary of any massive re-escalation of the war. Despite his great-power diplomacy, the price of Nixon's re-election could well be an accommodation with Hanoi. The ultimate power to end the war lies with the North Vietnamese, as Reprod

Kissinger has pointed out: "We expect to settle this war with Hanoi, not with Moscow and not with Peking."

The situations in South and Southeast Asia also illustrate both the global and the regional nature of the pentagonal world. Only America and Russia are truly global powers. Only these two great antagonists can meet to contest or compromise in almost any area of the world. The other three powers, at least in the near future, will remain regional powers. Though a balance of power in Southeast Asia and the Pacific—after a settlement of the Indochina war—might well involve the United States, the Soviet Union, China and Japan, it is hard to envisage Europe playing a major role. In Africa and Latin America, on the other hand, China would certainly be limited by her economic and military resources. And in Europe itself, neither China nor Japan would be likely to have a voice in any over-all settlements.

Despite its limitations, however, a five-power world, with shifting coalitions, with few entangling alliances and reduced spheres of influence, may be inescapable. It may also be a more chaotic, though not necessarily a more dangerous, world than most of us have known. But as one can see by examining Nixon's approach to some major foreign policy problems, it is in the understanding of just such a configuration that U.S. foreign policy is being conceived. For Nixon believes that such a balance may yet help to fulfill his promise of providing, as did Metternich, "a generation of peace."

It is, of course, Nixon's visit to China that has revealed most clearly the lineaments of this policy. In planning the China trip the old tie to de Gaulle is again evident. According to Prof. Ross Terrell in a recent issue of *The Atlantic*, Nixon first let it be known that he would like to "normalize relations with China" when he saw de Gaulle in 1969. The general passed this on to the Chinese leaders who were avowed de Gaulle admirers. That initial contact, combined with the continued

withdrawal of U.S. troops from Southeast Asia, apparently convinced Peking that Nixon meant what he said.

The roots of his China policy, however, are certainly not evident during his years as Vice President when he seized on the so-called loss of China to the Communists by Truman and Acheson as a potent campaign issue with which to belabor the Democrats. On the other hand, it cannot be said to date solely from his postelection relationship with Henry Kissinger. A full year prior to the election in 1968, Nixon was writing in *Foreign Affairs*: "Taking the long view, we simply cannot afford to leave China forever outside the family of nations, there to nurture its fantasies, cherish its hates and threaten its neighbors. There is no place on this small planet for a billion of its potentially most able people to live in angry isolation." He went on to warn that "if our long-range aim is to pull China back into the family of nations, we must avoid the impression that the great powers or the European powers are 'ganging up.'" This theme was repeated after the election in early December, 1968, in a conversation with a British journalist. After repeating some of the points he had made in *Foreign Affairs*, Nixon concluded: "Thus our aim should be to persuade China... that its own national interest requires a turning away from foreign adventures and a turning inward toward the solution of its own domestic problems. Then, I believe, Communist China will begin to come to the conclusions the Soviet leaders came to several years ago. Then the dialogue with China can and should be opened."

The China policy is also a good illustration of the difficulty of knowing where Nixon begins and Kissinger leaves off. Or maybe it is just the marriage of true minds, for Kissinger himself was saying in 1966 that "policy could probably be altered much more dramatically in Communist China than in the more institutionalized Communist countries." Certainly Nixon's belief that a conservative President has more freedom

to pursue a radical policy toward the Communists than a liberal one is something the young Nixon might have learned from Eisenhower, who ultimately settled for terms ending the Korean War that Truman had been unable to accept. And since the China visit is taking place during the closing days of the New Hampshire primary campaign, the President can be both opportunistic and statesman-like, a practice not unknown to incumbents of the White House.

**D**ESPITE this not entirely fortuitous timing, something more substantial than an increase in his political capital may come out of his appointment in Peking. In his State of the World Message, issued just prior to his China trip, the President suggested that Taipei and Peking negotiate their differences. "The ultimate relationship between Taiwan and the mainland," he said, "is not a matter for the United States to decide. A peaceful resolution of this problem by the parties would do much to reduce tensions in the Far East." Such a remark has been unprecedented since 1949 when President Truman declared that Taiwan was "China's internal affair." If this is any indication of further moves by the President to develop a new China policy, then matters of substance rather than a mere exchange of views may result, even if the effects are not immediately apparent.

Convinced that the five-power world is both inevitable and desirable, believing like de Gaulle—or Eisenhower—that it takes a conservative to negotiate liberal positions, Nixon carefully prepares for his voyage to the East realizing that this is a not unimportant facet of his presentation of himself as a Peace President in the fall of 1972. ■