

Alice ~~STATINTL~~  
June



10-25-90  
August 16, 1958  
to R

Walter Millis, Esq.  
The Fund for the Republic, Inc.  
60 East 42nd Street  
New York 17, New York

Dear Walter:

Thank you for your letter of August 6, inviting me to contribute a paper on the subject of formulation and control of foreign and military policy.

The subject of your study is one that interests me greatly, and I only wish I could contribute to it. Unfortunately the pressure of work here is such at the present, and will be for the foreseeable future, that I have had to forego commitments to do other work of the nature you describe. Obviously this particular subject is one on which one could not make a constructive contribution without giving it all the time that it deserves.

It was good to hear from you. I appreciate your thought of me and shall look forward with interest to the results of your study.

Faithfully yours,

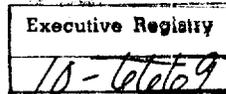
Allen W. Dulles  
Director

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STATINTL

The Fund for the Republic INC.



60 East 42nd Street, New York 17, New York

August 22, 1958

*For Allen*

Mr. Allen W. Dulles  
Director  
Central Intelligence Agency  
Washington 25, D. C.

Dear Allen:

Your letter of August 16 was naturally a great disappointment to us. But it is easy to understand how great the pressure of other work must be upon you.

Meanwhile, we are glad to know that the subject itself does awaken your interest, and we would be glad to advise you of any results which the study may produce.

With thanks,

Sincerely yours,

*Walter Millis*

Walter Millis

ER-

# The Fund for the Republic INC.

60 East 42nd Street, New York 17, New York

August 6, 1958

The Hon. Mr. Allen Dulles  
2740 - 32nd Street, N.W.  
Washington, D.C.

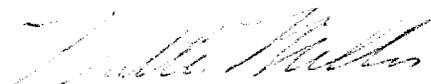
Dear Mr. Dulles:

In the course of its re-examination of the basic issues of freedom and justice in modern society, the Fund for the Republic has become interested in the problem of the formulation and control of foreign and military policy in a democracy. This is a rather difficult subject to frame, and an even more difficult one to get at in any useful way. The usual method of calling a conference of competent persons to discuss it hardly seemed applicable, initially at any rate, in this case. It has occurred to us that it might be a useful approach to assemble, say, half a dozen papers, independently prepared, discussing the problem and offering any conclusions to which the several authors might be led.

This is to ask, on behalf of Robert M. Hutchins, president, and the Fund for the Republic, whether you would be willing to contribute one such paper, for which the Fund would be glad to pay a suitable honorarium. In order to explain more precisely the nature of our interest and of the problems on which we would like to promote discussion, I am enclosing the relevant section of a memorandum which I recently submitted to the Fund's consultant group. It has seemed to us that if a group of such papers could be secured, study and comparison would show whether there is a real and manageable problem here, and if so, how it might be attacked.

We are making a similar request of Acheson, Lovett, Kennan, Truman, Hans Morgenthau, William H. Jackson and possibly some others. This is perhaps asking a good deal; and we would not expect you to comply unless the project itself awoke your interest. We hope very much that it will.

Sincerely,



Walter Millis

It is suggested that in this area a carefully prepared paper by the Staff Assistant should, initially at least, meet the Consultants' needs. If, after it has been presented and discussed, it is thought necessary to go into further consultative and research work this can, of course, be done.

2.) The Control of Foreign Policy in a Democracy. The manner in which a nation's foreign and defense, or military, policies are formulated, managed and controlled is one of the most basic characteristics of its constitution. Since the exercise of power in these areas can be largely determinative of a nation's history, its social and economic development and its political liberties, the location and distribution of such powers becomes a matter of major significance. This was clear to the authors of the American Constitution, as is shown by the care with which they framed the clauses dealing with treaties, the declaration of war, the raising and maintenance of the armed forces and their command, the regulation of the militia and related subjects. But important as such matters were in 1787, they are vastly more so today. Then the penalties for the abuse of power, or for misjudgment or inattention in employing it, might be of only passing consequence in the total life of the society; today, the penalty can easily be the extinction of the society itself and many millions of its members. Even short of that, they may still amount to bringing the nation into positions on the world stage in which it could not survive, as a free society, the vast forces of revolutionary political and economic change which surge about it. The interest of the people in the proper conduct of military and foreign policy has a desperate immediacy beyond anything in the previous experience of democratic states.

No study of our changing institutions can neglect the question of how this proper conduct is to be ensured.

Unfortunately, foreign-military policy has always presented an especially difficult problem to the theorists and practitioners of popular government. It is even less susceptible to competent control by majoritarian voting than are the political and economic processes to which the authors of the Constitution were at pains to attach so many checks and balances. The relatively free, popular government under which they had grown up had continued to cling to royal prerogative and a sovereign monarch as its solution for the difficulty. The authors of the Constitution had deprived themselves of this device, but they created a President who in this field was to be as close to the British king as possible, and who was hedged by rather more checks and balances on popular action than were employed in matters of politics and economics.

It was the President, not the Congress, who commanded the armed forces and made treaties; it was the indirectly-elected Upper House which advised on and consented to the treaties, and then only by two-thirds vote; the powers of the whole Congress (including the popularly-elected Lower House) were limited. It could declare war (never a very significant power); it voted the money for armies and navies, thus retaining in theory a negative power of the purse over their development and capabilities, but was given no authority in their command or employment; it could regulate their equipment and training but did not have the authority to call them into service. In this scheme, military and foreign policy were removed about as far as was possible in a popular

government from control or interference by the people; they were in effect confided to the small elite--men of talent and experience as well as of wealth--whom the Founders hoped would continue to manage the affairs of the state.

This mechanism for the control of foreign-military policy was in practice to work no more closely in accordance with plan than did other Constitutional mechanisms. Large elements of popular influence, if not control, were to be introduced in various ways--through the rise of Jacksonian democracy, the extension of the franchise and direct election, the rising power of the press and public opinion. Today the directors of foreign and military policy often find it necessary to go to great lengths to "sell" the decisions at which they have arrived in the market place of propaganda and politics, and are often frustrated if something resembling a popular mandate cannot be secured. Yet the formulation of foreign and military policies still remains--as is perhaps inevitable--in the hands of a small, elite group of high government officials, advisers and technical experts, most of them without political responsibility, normally operating behind closed doors on secret information and beyond any direct accountability for the consequences of their actions. It is these administrators and policy makers who make all the critical emergency decisions--like Truman's decision to fight in Korea or Eisenhower's decision to land Marines in Lebanon--as well as most of the long-run formulations of policy.

In 1947 an attempt was made to institutionalize the effective or operating constitutional position by creating the National Security Council. While NSC has hardly fulfilled all the hopes entertained for it, its existence and structure are

illuminating. In our working constitution today the President has final power of decision in virtually all matters of foreign and military policy, including not only the making of treaties and agreements and the employment of the armed forces but (through his budgetary power) the size and composition of those forces, the amount and allocation of foreign economic aid and many other matters. The President exercises these vast powers subject to the power of one-third plus one of the Senate to reject a treaty and the power of Congress to deny him requested appropriations. These are about the only legal limitations upon him; his power of decision is so enormous, however, that it can in practice be employed only on the advice of a group of officials. The really significant members of this group are few. In addition to the politically-appointed Secretaries of State, Treasury and Defense, it would normally include the Chairmen of the Joint Chiefs of Staff and the Atomic Energy Commission; it would also include the Chairman of the Senate Foreign Relations Committee and on occasion certain other influential Congressional committee chairmen. One would also find in it such special advisers and assistants as the President might particularly rely on--individuals, whether official or unofficial, discharging the roles filled by House in the Wilson Administration, Hopkins under Franklin Roosevelt, or, presumably, Sherman Adams under Eisenhower.

None of these officers is elected to perform the foreign policy functions which fall to him--not even the Congressmen, who reach their chairmanships by seniority. None is accountable for the advice he gives, even to the extent that a British Minister is accountable before Parliament. The advice itself is

secret, and it is usually only through the shrewd inferences of the Washington press corps that the public gains any idea of the nature of the influence which any given individual is exerting in the formulation of foreign and military policy. A case in point is that of Lewis Strauss, who is believed to have played a commanding role in many vitally important issues of nuclear policy, disarmament and Soviet-American relations. But exactly what his role was is unknown; the reasoning which dictated his advice is undisclosed, and Strauss was inaccessible to questioning or to correction by any independent authority. Once such men reach their positions of power they are as irremovable by any democratic process as are, for example, the chairmen of the powerful Senatorial committees, no matter how incompetent or unsuited they may be to discharge their responsibilities. It is true that Strauss relinquished the AEC chairmanship as a result of the hostility which he sensed to be building up against him; but in doing so he selected a successor of closely similar background and outlook who could be relied on to continue the general course of policy which had brought the criticism down on Strauss.

More than all this, the advice which the top officials tender and on which the President takes his tremendous decisions is to a large and increasing extent generated not by the officials themselves but by the staffs of the administrative bureaucracies over which they preside. It is a commonplace in Washington that policy--and especially foreign and military policy--is not handed down from the top but wells up, rather, from the bottom. Its creative elements are likely to be contributed by obscure juniors with brains and dedication enough to battle

them up through the bureaucratic levels. This happens, when it happens at all, in the process which has come to be known as "staffing." Nearly everything today has to be "staffed." The staff, an institution borrowed from military and industrial rather than political management, and quite beyond the vision of the authors of the Constitution, deserves much more attention as a Constitutional innovation than it has received. The staffs, where the important policy papers really begin, where they are combined, recombined, polished, compromised and pushed upward toward final approval, are almost totally anonymous as well as secret in their operations. The quality, coherence and motivations of the staff work are matters of life-and-death importance to a people whose foreign-military policies are shaped by it, but the public knows almost nothing about it. The staffs function on Arnold's "darkling plain, where ignorant armies clash by night." The public now and then gets echoes of the titanic battles which ensue, but it cannot even follow them, much less influence their outcome. Such a battle appears to have raged, and perhaps still rages, over the enormously fateful issue of nuclear testing. The people, whose fate may be at issue, are reduced to distant spectators.

Foreign and military policies are thus substantially formulated as well as administered without popular participation. On rare occasions circumstances so fall out as to make it possible for the popular vote in a Presidential or even a Congressional election to exert an affirmative influence on the course of foreign policy. Obvious examples are the election of 1900, which confirmed the new policy of imperialism; the election of 1920, which emasculated the League

of Nations and established the policy of neutrality and isolation; the election of 1940, which re-established an interventionist course. It is difficult to think of others. The electoral chances of some Congressmen may well turn upon their positions in matters of foreign affairs, and this may affect the estimates of the managerial elite as to its chances of gaining Congressional support for its courses, but such effects are always spotty and confused. There are always too many other Congressmen into whose elections foreign affairs have not entered at all, or have entered in an opposite sense, to permit Congressional majorities to exert clear and consistent direction in these complex fields. It is clear that "public opinion"--as expressed in newspaper and media discussion, by pressure groups and in Congressional debate--does exert a powerful influence on foreign and military policy. But the influence is confused, confusing and ill-defined.

Under our system as it is the public and its representatives have almost no affirmative part in the conduct of military and foreign policy. The public can and does act as a brake or a drag upon the administrative elite. In this role it may curb excesses that might otherwise take place; but it is equally a drag upon creative initiatives. It does not merely restrain the administrative elite from rash policies; it handcuffs them so that they can adopt no policies at all, while almost never does it generate valid and creative policies to fill the gap. "The public," as one statesman has put it with pardonable overemphasis, "has no function in foreign policy whatever."

If the foregoing is an accurate description of the present position, it

raises the question of whether a free people can afford to face the next half century with this apparatus for the formulation of foreign and military affairs? How can or should foreign policy be controlled in a modern democracy? It may be that the nature of this field, in which the anti-democratic, anti-constitutional "reason of state" has always been regarded as paramount, puts any other solution out of the question. Certainly any solution based on the introduction of a larger measure of "direct" popular government must be highly suspect, in view of the generally poor record of majoritarian democracy in military-international affairs. Those with whom I have talked on the subject--including a former Secretary of State and former Secretary of Defense--are inclined to the view that nothing can or should be done; we shall just have to bumble along with it, hoping to get abler men in the key positions within the administrative elite. But there are other approaches.

If the power must be left in the hands of a small group of top politicians and officials, there may be ways of enforcing upon them a greater accountability for their uses of it. Here one thinks of such things as the personal answerability before Parliament of a British Minister of State, as the mechanisms of the Congressional investigation, as mechanisms for compelling the administrative apparatus to a greater frankness in providing information, report and explanation. In all such solutions there is a basic difficulty (possibly a Basic Issue): who or what can be invented for the officials to be answerable to? But while this difficulty cannot be overlooked, it should not paralyze all thought.

Another possible approach is through organization. If effective

accountability has tended to get lost in the vast proliferation of staffs and organizational complications, it might be restored through simplifying the administrative structure. The tendency of the past decade has been all in the opposite direction. In some degree this was an inevitable and irreversible development; it is impossible to deal with the enormously intricate issues of contemporary military and foreign policy without powerful staff systems. But was all of it inevitable? How much has been devolved upon staffs that ought to have remained in the identifiable (and therefore responsible) hands of command? Is it possible to establish more continuous relationships between Congressional leaders (who also have staffs) and the administrative leaders and staffs?

Again, it has been suggested that some non-governmental or at any rate independent advisory agency might be created, composed of the most experienced and distinguished citizens available, to sit in continuous review of problems of foreign and military policy and the manner in which they were being met by the responsible officials. On somewhat lower levels, the advisory committee had had considerable development in recent years; so has the device of special reviewing commissions, like the Hoover Commission. Whether such institutions could be enlarged into something capable of providing that "public philosophy" for which Walter Lippmann has asked might be a question worth exploration.

It is difficult to believe that the Consultants could deal unaided with all these problems, nor is it easy to see how, initially at any rate, brief conferences or occasional meetings of a sub-consultant group could shed much

illumination on them. It is suggested that a number of competent individuals be commissioned to prepare separate papers discussing this whole matter from their individual points of view. The results so obtained could then indicate the desirability of further work in the area. 

3.) The Individual and Big Government. This is an elusive problem to which it has been difficult to give any useful precision. Its scope can easily be made so large as to render it completely unmanageable; if narrowly restricted it seems likely to lead only to another technical study in law or public administration, of which many already exist. Yet in looking toward the constitutional development of the free society over the coming years, some thought, surely, must be given to the position of the individual enmeshed in the ever-more complicated machinery of the "administrative state."

There seem to be really two kinds of problem involved. One concerns the development of administrative law, including the character of the various regulatory and other quasi-judicial tribunals which have grown up, the procedures imposed upon them, the individual's rights to representation, appeal and so on. The other kind of problem concerns not so much the law of administration, but its practical operation. As an example, a request for a study grant has recently been received from a lawyer who is much interested in the operation of the Uniform Code of Military Justice. He believes that the Code itself is reasonably satisfactory, but that it is being "warped" by the way in which the military commands apply and administer it into a serious perversion of justice toward the young individuals who are subjected to it. There are doubtless many