"Limiting the Power of the President"

Wayne Lyman Morse

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HOST: [recording begins mid-sentence] ... introduce the statesman and former senator Ralph Bunch of our political science department. [applause]

RALPH BUNCH: Our speaker today is a person who speaks to you with the credentials of an academician, in that he was at one time the youngest dean of a school of law in the United States; that was the University of Oregon School of Law. So he speaks to us as an academician. And then you all know that he speaks to you as a person with a great deal of experience in the key issues of our time. Consistently, his voice has been heard to limit the power, the growing power of the President, and that’s the subject of his talk today. If President Nixon had listened to Wayne Morse in the fifties, he wouldn’t have proposed the use of American air power against the Vietnamese at Dien Bien Phu in order to uphold the French colonial rule. If President Johnson in the sixties had listened to Senator Morse, he wouldn’t have escalated the Vietnam War. And now, if President Nixon and the members of Congress don’t listen to Senator Morse, we’ll be in Vietnam for another ten years. Senator Morse, on limiting the President’s power. [applause]

SENATOR WAYNE MORSE: Mark, Professor Bunch, and fellow students. I want you to know that it’s always a pleasure for me to come back to Portland State and renew my education, and I’ve been renewing it this morning. I just came out of a fascinating seminar, and I expect to learn from you as we go ahead with this discussion; I shall speak for about thirty minutes and then take your questions. Professor Bunch will take the questions so that the entire audience will know what they are, and then I’ll reply, if I can reply.
You’ve asked me talk on the subject: does the President have too much power or should his powers be limited? My very quick answer, before I come to an ancillary point, is that the Congress is permitting him to exercise unconstitutional powers, and the responsibility is not only the President’s but also the Congress’ for letting that usurpation under our constitutional system to develop. I’ll come to that in just a moment. First, I want to talk about your political powerhouse, because I am talking to a good many young men and women who for the first time have been given the privilege and the right to vote, and it’s not a new issue with me. When I first ran for the Senate in 1944, I supported votes for eighteen-year-olds, and I proposed a national direct primary for the nomination of presidential nominees in our country, and a lot of people thought I’d lost my rocker. But it was perfectly obvious then and it has been ever since, that our government had long delayed giving first-class citizenship to young people who had the qualification to assume the responsibilities of citizenship, especially in view of the fact that the government placed the obligations of citizenship upon them.

And I want to talk to you about what that means in our state, now that you’ve been given the vote. You ought to have a statistical foundation as to what your powerhouse really means if you generate the power. We have in this state 39,643 18-year-olds. That’s 1.90% of the voting strength. We have 35,725 19-year-olds. That’s 1.71% of our voting population. We have 34,160 20-year-olds. That’s 1.63% of the voting strength. That adds up to 109,528 new voters in this state potentially, or 5.24%. That’s a powerhouse of political strength, if you register and vote. It’s not for me to preach to you, but it is for me to plead with you to assume your responsibilities of citizen statesmanship, keeping in mind that the statesmanship of your elected officials will never be any higher that your own, speaking of the public generally, most politicians being what they are.

They are remarkable gymnasts. They can perform the gymnastic stunt of keeping both ears to the political ground at all times. [laughter and applause] And ten moist political digits to the wind at all times. Because they are followers, not leaders. They are perfectly willing to go along with a temporary public opinion that’s dead wrong on the facts, when their obligation is to take the facts to their voters and let the voters then decide if they want to support the position that a representative takes. I have said once before here, but it needs to be repeated and repeated, I say, Professor Bunch, that you and I know the importance of repetition in the learning process, and you and the rest of the faculty here know that we use it to that extent that relates to the capacity of our class. That’s why I repeated myself so many times on foreign policy from 1953 through 1968—two to five times a week I talked on the subject. [applause] And it finally started to get through.
Well, I only want to say here that you have the duty of making clear to your political representatives that you know the facts, and insist that they apply their votes to the facts and not the prejudices. I’ll give you one or two other statistics very quickly. We have 321,207 people in this state that are 60 years and over. That represents about 16.3%. We have 2,091,000 in round numbers of men, women, and children in the state. I think I have made my point. You not only should register, but you happen to have a citizenship responsibility of voting. And if you do, and others like you across this nation carry out that responsibility, you’re going to be the ballots in the 1972 elections both national and state. And I think that you owe it to your country to carry out the responsibility that the country has for too long a time delayed in giving to you.

Now I come to the subject that you assigned to me. I started in 1953, the day after Eisenhower, Nixon, and Dulles announced their military containment policy, to point out that they didn’t have the slightest constitutional right or power to enunciate that doctrine. For that doctrine started our intervention into Asia, and that doctrine was in open violation of the advice and consent clause of the Constitution. And remember when you talk to me, you’re talking to a Constitutionalist. I have always said that I was a Constitutional liberal, not a liberal. You talk to me, you have to talk about our trying to carry out those great guarantees of that Constitution that would give us a liberal government if we carried them out. And what are they, in general?

Well, there are three things. First, the human rights guarantees of the Constitution. We have a long way to go yet before we translate into legislation and into court decision and into executive policy the full enjoyment of the human rights of the individual intended to be guaranteed by the organic act. The second great guarantee is that there’s going to be economic freedom of choice for the individual in this system of constitutional government. And if I say nothing I’d have you remember for discussion afterwards it is this tenet: unless people have economic freedom of choice, then they’re not going to have political freedom. Because I would have you keep in mind that if you make people literate, informed, educated, and economically free, and give them time—I’m talking now about some underdeveloped areas of the world—and give them time, they will develop their own system of self-determination which will not be subjugation by a totalitarian state. Totalitarianism, I don’t care what its breed, whether it’s communism or fascism or militarism, breeds out of the seedbed of human degradation and poverty and disease and illiteracy.

That’s why I never walked out, as far as my Asian philosophy is concerned, I never walked out on Franklin Roosevelt. He announced it and saw what was coming in Asia long before most. He announced it at Tehran when he proposed that there should be established in all of Indochina an international trusteeship, participated in by all nations Western and Asian, including Red China. To do what? To export into Indochina literacy and economic freedom of choice for
individuals comprising the masses of those people that were in a very low economic state, and then give them time. They would develop their own system of self-determination. One of the few mistakes I think Winston Churchill made was his opposition to it, he said in effect to the president, “Well, you’re asking us to get out of India.” Roosevelt made very clear that’s what he was asking. Of course, they ought to have been out of India 35 to 50 years before Tehran. But he said to the British prime minister, “You’d better get out before you’re thrown out.” He saw it coming. The French blocked him and said, “You’re asking us to give up our very rich and valuable economic possessions in Indochina.” Roosevelt made clear that was true. But he said, “You’d better do it, or you will be defeated in the war,” and the war hadn’t even started.

And what happened in the Congress of the United States? They walked out on Roosevelt, my Democratic colleagues; didn’t expect the Republicans to go along with him but you certainly had a right to expect the Democrats to. And what did the Democrats buy? That shocking, immoral, and illegal procedure of Dwight Eisenhower and Nixon and Dulles for a military containment policy on a unilateral American basis in Asia with out the slightest Constitutional right. Presidents don’t have the power under the Constitution to make that kind of commitment! I opposed it the next day and I continue to oppose it. I pointed out in my early speeches that unless that doctrine was repudiated, thousands of American soldiers would die in Asia in the next few years. Nobody wanted to believe me. What I want to say, talking about the exercise of usurped power, that if the Nixon doctrine isn’t repudiated in Asia, millions of American soldiers will die in Asia in the next 25 to 75 years, because that’s bound to give us an all-out major Asian war that we cannot possibly win.

You will turn the pages of the Congressional Record in vain—unless one’s been made in the last couple of days—to find a single speech that has yet to analyze the illegality and unconstitutionality of the Nixon doctrine. Sure, it’s got some catchy sleeper clauses in it. Watching for those. Gotta build up their own defenses, says the President. Gotta do everything you can to help yourself. And everybody swallowed it. But—and always watching for his “but” clauses—but! [applause] If a situation develops where you’re going to be attacked from without or from within, you can’t defend yourselves—then we’ll come to your military assistance as we deem necessary. That’s the essence of the Nixon doctrine. That’s the pledge that the President of the United States has made to South Vietnam, Thailand, Indonesia, Cambodia, Laos, Burma, and the Philippines, without the slightest Constitutional right to make it. That’s another example of a failure to carry out the advice and consent clause of the Constitution. Don’t forget that that clause is a before-the-fact clause, not an after-the-fact clause. Congress is entitled to be taken in for its advice and consent before international commitments are made, not afterwards. I have no objection to Nixon going to China, but he ought to be going on two conditions which do not exist. First, we should have recognized her
diplomatically before the President of the United States went to China. [applause] We should have recognized her from the very beginning, and I stood on the floor of the Senate time and time again and proposed it and got castigated by the press of my state and my nation. Because this wave of super-patriotism was sweeping the country. The Eisenhower administration and its McCarthyism has succeeded in creating the impression that the Democratic Party had lost China. And the Democratic Party wasn’t going to support that shocking corrupt dictator that we put on Formosa! Over then 12 million native Taiwanese without the slightest right for us to do so. And we should have recognized the People’s Republic of China from the very beginning. And I despise its political ideology, as I do the ideology of any totalitarian state, but what’s that got to do with our responsibility to carry out diplomatic intercourse? And of course the second thing he should do before he goes to China is follow the advice and consent clause of the Constitution, and hold sessions with the appropriate committees of the Congress that have the right to advise and recommend in the first instance what American foreign policy is to be anywhere in the world.

And that the President doesn’t do, and too many of his predecessors haven’t done. So I’m not talking about just a partisan issue here. This is a policy of developing a government by executive supremacy and secrecy that has been running across a good many administrations in our government. The fault lies with the Congress, that they let these presidents get by with it. Now, let me take you to another example of the misuse of presidential power. You never heard about Cambodia… until we were in. [applause] Shocking abuse of Constitutional position! What do you think would have happened if he told the foreign relations and foreign affairs committees and the armed services committee of the Congress of what his plans were? What’s his alibi? His alibi is that he did it as commander-in-chief. Now, let’s pin it down. He’s not the first president that has misapplied the commander-in-chief doctrine. I don’t say misinterpreted—he knows better.

Where did the commander-in-chief doctrine come from in the Constitution of the United States? It came from the Continental Congress. It came from the commission that the Continental Congress gave to George Washington. And it was that commission that was used as the basis for the discussion in Philadelphia when the organic act was framed. It was that concept of the commander-in-chief doctrine that the Constitutional fathers had in mind. Let me read part of what the commission said, passed by the Continental Congress on June 19, 1775, referring to George Washington: “And you are to regulate your conduct in every respect, in accordance with the discipline given to you as herewith; and functionally observe and follow such orders and direction from time to time as you shall receive from this or future Congresses of the said united colonies, or a committee of Congress for that purpose appointed.” The commander-in-chief language of the Constitution is what we call in constitutional law
“language of limitation.” It is not language that gives to a president unchecked power. A president as commander-in-chief doesn’t have the power to make the kind of commitment that is made in the Nixon doctrine. The commander-in-chief clause does not give to the president the power to send troops into Cambodia, and then try to justify his war-making on the ground that he did it to save American lives in South Vietnam. As I have said consistently, if they’d ever wanted to save those lives in Vietnam, they’d have brought those boys home! Never sent them there in the first place! [applause]

For every American soldier, gun, plane, every piece of war equipment was an act of outlawry on the part of the United States in Vietnam; for we had neither the international law right nor the constitutional law right without following article 1, section 8 of the Constitution in sending them over in the first place. Well, I want to make one other point very quickly, because I have said many times and repeat this morning that the Vietnam War started under Dwight Eisenhower in ’53 when we proceeded to enunciate the doctrine that involved our trying to contain Communism in Asia. Well, what did he do? He proceeded to conduct, without the knowledge of the American people, paramilitary action, sabotage action, destructive action in North Vietnam even prior to the Geneva accords. In fact, while Dulles was sitting at the Geneva accords, supposedly trying to represent us in working out a fair peace settlement of the Indochina war, Eisenhower had North Vietnam honeycombed with CIA and paramilitary personnel from this country, acting in a clandestine manner. Destroying bus engines, blowing up ammunition, conducting one act of sabotage after another. We didn’t know it at the time. All I knew at the time was that obviously Eisenhower was acting unconstitutionally. I didn’t propose to support a policy based upon a usurpation of presidential power. But now that the Pentagon Papers are out, you know how Eisenhower engaged in secrecy, concealed from the American people the truth about what we were doing in Asia. That’s an example of why we have to limit the power of these presidents, hold them under the check-and-balance system within the Constitution.

Let me very quickly make one other point, and then I’ll take your questions. Many people say, “Wayne, how did you happen to know so much about what was going on in the Gulf of Tonkin?” Well, I didn’t. I didn’t have to have the facts as to what was going on in order to have a pretty good idea of what was going on, because we lawyers think we develop the intuition and the ability to tell when witnesses are lying to us. And our bread and butter is somewhat dependent upon it. When I went into that hearing on the Gulf of Tonkin and listened to the administration witnesses I knew I was being lied to. That’s a harsh thing to say, but it’s an undeniable fact and the record now shows it. Of course, I had one little bit of information, as I said to a few students earlier when they asked me this. On the night of August 4, 1964, a very high military official in the Pentagon building called me. Remember, I served on the armed
services committee for many years before I went on the foreign relations committee. He said, “Senator Morse, I understand you’re going to oppose the resolution tomorrow.” I said, “I am.” Well, he said, “There’s not much I can say to you. I’m in uniform. But it is appropriate for me to suggest that you ask the Secretary of Defense two questions. Ask him to produce the log of the Maddox for the inspection of the committee. And ask him to tell you what the mission of the Maddox was.” He said, “I’m sorry, but that’s all I can say to you.” I said, “Thank you very, very much. You’ve told me a book full.” I know Pentagon building lingo. And what he had said to me by those two questions, by clear implication: Senator, the Maddox wasn’t where they are going to testify she was. And she wasn’t, but we didn’t know it. And second, she wasn’t on the mission they’re going to tell you she was on, and she wasn’t, but we didn’t know it at the time. So when I asked McNamara to produce the log of the Maddox, he was a very good actor. He just took a startled attitude as though he hadn’t heard me right, and I repeated it, and why he said, “Senator, that’s fantastic. We’re going to tell you what the log will show. We can’t get the log here in time for you to look at, considering this emergency.” I said, “What emergency?” [laughter and applause]

There’s no emergency now. The President has committed an act of war completely unconstitutionally; didn’t have the slightest right to order those 64 sorties. His place or his representatives’ place is before that security council. If he really thought that our rights on the high seas had been violated—and they had not been violated, as has subsequently been shown—then he should have taken that international law issue to the tribunal that could have settled it. You know why he didn’t? He wouldn’t have gotten more than one or two votes on that security council, and those would be votes from countries that were very economically dependent upon us, which has been a characteristic of a lot of our voting strength in the United Nations until recently. That’s long overdue too.

Well. I said that “I want you to know, Mr. Secretary, that I know of no emergency. The Turner Joy and the Maddox are far out to the high seas, and that’s where they always should have been. I want you to know, Mr. Secretary, my suspicion is the Maddox was a decoy ship.” And you should have seen those military heads come together in that room. They all... I knew I was on top of pay dirt. [laughter] So I moved in. But I had to test out Bill Fulbright then. Bill Fulbright, remember, was a hawk of hawks on August 5, 1964. All the more credit for his change of mind. But he used the great power of the foreign relations committee to prevent the kind of hearing that should have been held. So I said, “Well, Mr. Chairman, what are your plans for this hearing? I’ve got a group of witnesses here I want to call. International law authorites, Constitutional law authorities, some American historians. Some military witnesses, three witnesses that I wanted to call: Gavin, Ridgway, and Shoup.” I knew what their views were about the usurpation of power by commanders-in-chief. Well, Bill lowered the boom on me,
and he said, “All the witnesses that are going to be heard are in this room.” And who were they? State Department witnesses? Pentagon building witnesses and CIA witnesses, and the joint chiefs of staff. I said, “This is no hearing then, Mr. Chairman. This is just a Star Chamber proceeding. And we revolted against the British crown once for that reason, in part.” It didn’t do any good. He just made clear that he was going to carry out his power, and he did. He said we’re going to get this out of here tonight or by tomorrow noon at the latest, and they got it out the next day.

So then I had to go—what we say in hearings—I had to go fishing. I had to take the time; they couldn’t stop me from asking questions and I proceeded to ask them at some length. And I asked him about the mission of the Maddox, and he said it was on a routine patrol destroyer mission like destroyers perform 24 hours a day and night on the high seas of the globe. What do you think would have happened if McNamara had come clean? And told that committee that the Maddox had been taken weeks before to Taiwan and fitted out as the top spy ship of the United States Navy, and her activity in the Gulf of Tonkin was a spy activity? Keeping in radio communication with Operation 34, which was that South Vietnamese bombardment of the two islands of North Vietnam and the two security posts on it? What do you think would have happened if he had explained to us the cablegram, and radiogram rather, the radiogram communications between his own Pentagon building and the commander of the Pacific and the commander of the Maddox? What did he say on the opposite side? I said, “What connection, if any, Mr. Secretary, did the Navy or any other branch of the military service have with Operation 34A?” Here is his answer, paraphrased; I’ll give you the citation as I close it. “The United States Navy and no other branch of the service had any knowledge of, was aware of, or participated in any way whatsoever with Operation 34A.” Completely false! The Maddox stood in radio communication with Saigon all the time. The United States Navy had supplied the boats, trained the crew, and helped prepare the plans for the bombardment. If the Johnson administration had told that committee 5% of the truth about America’s aggressive course of action in the Gulf of Tonkin, that resolution never would have gotten out of committee. We don’t have to make the arguments now. If you want to do your research, because it’s all been said out since.

Well, I close to take your questions by saying these are just but a few of a legion of examples that I could give of the illegal activity of the presidents, condoned by the Congress of the United States. How are you going to stop it? There are many ways. Congress just shouldn’t pass legislation that delegates to the President what amounts to legislative power, because under the Constitution, Congress can’t do that. You’ve already learned in your Constitutional law that all that Congress can do is delegate to the president ministerial and administrative powers, not legislative powers. I can get into the domestic scene, as I shall for the months ahead, and talk at great length about the great domestic issues that confront us. That’s why the next twelve years
are so vital to your generation in this country, because we either get this government back to a
government of checks and balances, based upon three coordinated and co-equal branches of
government, with each exercising its checks on the other two, or you’re going to end up with a
government by executive supremacy and secrecy, which means a government by mere men
and women. With all their human frailties. Ruling you by their arbitrary, capricious discretion.
And you’re getting that now on the economic front with the help of the Congress. If I’d been in
the Senate when the Congress in ’69 and ’70 and ’71 passed that legislation giving legislative
power—which they can’t do constitutionally—to the President to control the economy of this
country on the basis of his judgement. There’d have been a ten-day seminar on
constitutionalism on the floor of the Senate. [applause]

Of course you’ve got to have controls if you’re going to fight a war! I was against the war. But
from the very beginning I said, “You’re going to protect the American people economically,
you’ve got to put in controls.” And all labor was against me! And business was against me, and
the public generally. Just an elementary economic fact that you can’t spend over a hundred
billion dollars on defense—and that’s what we’ve been spending now for some years—don’t
pay any attention to the budget the President sends up! Find out what he spends during the
fiscal. That’s the test. They add to it by supplements toward the end of the fiscal that never
are called very much to your attention. And they do it segment by segment: one for South
Korea, one for Vietnam, one for Latin America, one for NATO. And they get it piled up until
finally you’ve spend over a hundred billion dollars. You can’t spend a hundred billion dollars on
military expenses and less than twenty billion dollars, because here again presidents—I’m
speaking the plural—have been acting unconstitutionally in impounding funds out of your
domestic budget, which they don’t have the slightest Constitutional right to do.

Once they sign that appropriation bill, sole power over appropriations under the Constitution,
cease the appropriation is signed, given to the Congress. Then the duty of the President is to
spend the money as directed, unless he sends up a special message saying that unforeseen
conditions have developed and I want permission not to spend item such-and-such. That they
don’t do, they just impound it, and Congress let ‘em get by with it. I used to fight on this. You’ve
just got to stop being [...] for the greatest check the Constitutional fathers gave the Congress
over policies of a President that they disapproved of is the check of the purse strings. You deny
him the money. That’s why I tried to get them to deny the money to kill more boys in Vietnam. I
close by saying: don’t pay any attention to your elected representatives in Congress as to what
they say about the war. I’m glad that they finally—those slow learners—have learned, but don’t
pay any attention to them unless they vote the way they talk. That’s going to be one of the
major issues. [applause]
That’s going to be one of the major issues in the 1972 elections in this state and every other state and in the national election itself. I close by saying I think you realize I didn’t come asking for agreement; again, I never do, but you have given me all any speakers is entitled to: a fair and courteous hearing, and for that I thank you very much. [applause]

BUNCH: I’d like to paraphrase a person I think you’ll all recognize. This person said, “Let me make it perfectly clear,” in regard to his nomination to one of the two recent appointments to the Supreme Court, “that ten years of Mr. Powell is worth thirty years of any of those other fellows.” He was making a remark that inferred some question about Mr. Powell being in his late sixties. Well, we all know that Senator Morse has had a great deal of experience in the Senate, but there’s no doubt—you can see as well as any of us can see—that that Congress in this country needs ten years more of Morse, and ten years of Morse in the Senate is worth thirty years of a lot of other people I can think of. [applause]

That was an unsolicited political comment...

MORSE [in background]: I just found my new campaign manager!

BUNCH [laughing]: We’ll take questions now and I’ll try to hear your question and repeat it so everyone can hear it.

[pause while audience member poses a question]

BUNCH: The question is, what does Senator Morse think of the nomination of Mr. Butts as the new Secretary of Agriculture?

MORSE: I’ve already issued a statement to the press in opposition to it. If I were in the Senate, I’d vote against the nomination, and I’d vote against the nomination primarily because I am opposed to vertical and horizontal monopolies taking over any segment of our economy, and that’s exactly what is taking place in agriculture, and he happens to be one of the strongest advocates of that approach in his agri-business philosophy. You’re going to find that after all the independent farmer is going to be squeezed into, and under the control of vertical and horizontal monopolies in agriculture, if this nomination isn’t stopped. Next question.

BUNCH: As a longshoreman, I would like to know what you think of the wage controls that President Nixon has put down on labor.
MORSE: Well, I’ve already pointed out first that the power that the Congress sought to give him by the control laws, in my judgement, is unconstitutional, but how are you ever going to get ‘em declared unconstitutional under the Burger court? [applause] That’s the problem. That’s the problem that confronts us now. But that doesn’t change the fact you can’t reconcile him with the Constitution. You’ve got to have some checks on the court, too, may I say, as far as passing whatever amendments are going to be necessary to check this packed court that’s now going to impose itself upon the American people for the next 20 years. Don’t forget, watch out for a judicial oligarchy! For once you get a judicial oligarchy established, then you’ve got the basis for real dissent in your country. I’d have you keep in mind that we came close to that in the early 1930s, and you know what happened in our country at that time; there were areas of this country which a United States marshal didn’t even dare go out and serve papers! Because there was a growing feeling that they weren’t getting justice in the courts. But be that as it may, they have given this power to Nixon, and so you’re getting wages and prices and the other controls fixed by the arbitrary discretion of one man. Don’t forget, Nixon wouldn’t even allow his appointees to the control boards to go before your elected representatives in the Senate for confirmation! What else do you need to know? He didn’t dare send them up for confirmation. Because too much would be disclosed about them. I shall make a major labor speech in this state on January 8, and the subject is going to be the unjustifiable discrimination of the economic control program against labor and consumers. They are the two that are really going to suffer the most if these policies aren’t changed. Next question.

BUNCH: Mr. Phil Lund over here. Is there collusion between the oil interests and President Nixon? You wouldn’t care to include the previous president in that question? No.

MORSE: I’ll cover it very quickly. I can’t talk about collusion, but I think I can cover Mr. Nixon by pointing out that when Jack Kennedy made one of his few, but major, mistakes was when he appointed a man by the name of Connally as his nominee for Secretary of the Navy. I led the fight against that confirmation, and I was joined by Bill Proxmire. That was one of these hush-hush affairs too. Great support in the cloakrooms of the Senate, I had. I had lots of friends there; they just didn’t vote with me on the floor of the Senate. And what was the basis of my opposition to Connally of Texas as Secretary of the Navy? With the hundreds and hundreds and hundreds of millions of dollars of wealth owned by the American people, the taxpayers, in Navy oil leases? I said you will find on the floor of the Senate that this man, who in my judgement is a servant of the oil industry in this country, should not be made the Secretary of the Navy. Because he won’t be the servant of the American people. And I feel the same way about him now as the Secretary of the Treasury. If I’d have been there I wouldn’t have voted for that confirmation either, because here is a good example of a conflict of interest that you can take judicial notice of! And of course I needn’t tell you the dependency of the President politically
upon the oil industry; even what they disclosed in 1968 will show the extent of his campaign contributions from the oil industry, and when I get to writing that chapter on political financing, I’ll be writing about the number one cause of corruption in American politics! That’s why your generation has got to see to it that we bring this matter of campaign contributions under full public disclosure at all times! Next question. [applause]

BUNCH: Yes. Does Congress have any control over the Atomic Energy Commission, and if Congress does, why doesn’t it enforce it?

MORSE: Congress has complete control if it wants to exercise it, subject to legislative surveilling; it could rewrite the Atomic Energy Act any time it wants to. And what I have been pleading for, and you’re going to have to come to power development from nuclear energy, but you shouldn’t have it until it can be demonstrated beyond a shadow of a doubt that each project is environmentally acceptable. Because you can have a great—not only a pollution problem there—you could have even problems that are serious if you do not see to it that as nuclear power is developed, the safety of the people is at all times the foremost in governmental policy. I think that the Congress has got to offer some changes in the Atomic Energy Act that will subject to legislative surveillance the establishment of every one of those plants before you start to lay the first foundation. Next question.

BUNCH: The gentleman right here? The question concerns Senator McGovern calling attention to Secretary Connolly’s comment that profits are too low in this country, and that social welfare is taking too much of the budget and should be cut back in order to increase profits. What do you think of that question?

MORSE: I didn’t plant it… [laughter] and I have to be… I have to keep my watch in front of me all the time and I’ll handle it very briefly. Well, of course as far as Connolly’s economic philosophy is concerned, profits couldn’t get too high. This illustrates a great abstract issue, and it’s difficult to discuss these abstract issues and get people at first to really see all the implications, but here is a great abstract issue that involves the general welfare clause of the Constitution. I used to drill into the heads of my law students to remember that it’s the general welfare clause that really sets forth the basic philosophy of the Constitutional fathers as to the major purpose of a system of Constitutional self-government. That it is set up designed to promote the general welfare of all the people, not just some. That doesn’t mean just some of the economic groups, but all the people as a totality. And that represents one of the major differences between my philosophy of Constitutional liberalism and the predominant philosophy of the Republican party. For it is a party that, generally speaking, is a party that stresses the philosophy of materialism, and I want to make my party, the Democratic party—more than it even is now, but
its record is superior, I think, in this field—a party of human rights and human values. Which means that legislation recognizes as you develop the economic capacity for production of the mass of the people, then you give our country a system of both economic and political freedom. Next question.

BUNCH: The gentleman right here. ...In harmony? [pause while audience member poses a question] The question dealt with the historical difference between the Constitution and the Articles of Confederation. The point being that the Articles of Confederation were recognized as weak, therefore we created the Constitution giving the president, giving the government more power; so is your example from the Articles of Confederation legitimate in talking about limitation on presidential power?

MORSE: May I say, respectfully, that I think you overlooked what I... the point that I made when I discussed the commander-in-chief doctrine. That is that its meaning as far as the discussion in the Constitutional Convention was exactly the same meaning that the Continental Congress gave to it when it gave the commission to George Washington. And don’t forget that a good many of the men that sat in the Constitutional Convention also sat in the Continental Congress, and it’s also elementary in the interpretation of intent and meaning of language, whether it’s in a constitution or in a law, it is based upon the intent that was expressed by its framers at the time that it was passed. For example, let me make very clear in regard to a treaty—and I’m surprised that so many people don’t realize this—that once you have a treaty, then that treaty is a part of the Constitution of the United States as long as we are a member of the treaty, and it’s just as binding on us as far as constitutional law concepts are concerned as any other section of the Constitution.

What does a treaty mean? Its language has to be interpreted in light of what the administration that proposed it represented at the time of the hearings on that treaty. For example, take SEATO, which the Johnson administration finally at long last tried to fall back on with a completely unsound legal basis for a justification of the war in Vietnam. We cross-examined Dulles at great length, and he made very clear that SEATO was not NATO; that SEATO was not a military compact; that SEATO would not involve the use of troops on the part of the United States, and had he not given that meaning to it, he never would have gotten out of our committee.

That’s also true of the commander-in-chief doctrine. The commander-in-chief doctrine at the Constitutional Convention was given the intent of meaning that I’ve expressed in my statement, and that’s why the presidents are bound by the meaning of the commission that was given to George Washington. Next question.
MORSE: Yes, I’ll be glad to comment on it. I am perfectly satisfied that this much of what Meany said was true: that the President sought that occasion in order to try to put labor in a hole, and engaged in the kind of speech that he did—read that speech; a sophomoric speech—that he gave to duck the issues that he ought to have been talking about. He ought to have been talking about the justification of his proposals for control, that’s what labor was entitled to hear from him. I think Meany was quite right to this extent. I always try to use diplomatic language, and I’m not commenting upon George’s semantics, but if you know George, you never have any doubt as to what he means from the language that he uses. And he recognized what the motivation of the President was, and he gave the President his hearing, but he wasn’t going to turn it into a Republican convention for the President. He saw when the President got through and he made very clear he was going on with his business. And I happen to think that Meany was right in the sense that his motivation was to come down there and take political advantage of the invitation. I’d be less than honest if I didn’t say that I wish George had used more drawing-room language, but that’s not George Meany.

But he certainly was right in pointing out, as he did in the subsequent proceedings of that convention, what I pointed out here this morning. That one Richard Nixon has been using a shocking discriminatory policy against labor and the consumers under his control program thus far, and it is a program thus far that plays into the hands of the wealthy and plays into the hands of the powerful corporations of this country, and don’t forget that what Meany has been trying to point out is that the Congress ought to exercise the control. And that’s the position that I’ve always taken. I served on a control board in World War II, the War Labor Board, and let me tell you, you couldn’t possibly have had the policies that Nixon is proposing under that old War Labor Board. George Meany was one of the labor members of that board and I was one of the public members. I think what you’ve got in Miami was an attempt of the President to take political advantage of the convention, and his hand got called, and he doesn’t like it.

AUDIENCE MEMBER: I’d like to ask this question, Mr. Morse. I know you’ve spoken about the presidential power that he has taken, but of course most of us realize that it is not just a president. Congress has voted him the powers for the laws right now about prices; Congress allows him to keep the powers on the matter of the war going on in Vietnam and the draft and
these kind of things. What we do feel is that in the last many years, a great addition to power has come about with the political parties in Washington, and you can’t just talk it away or vote it away, we have to balance it with another power, the power of more citizens—whether it’s through consumer groups that organize, or whether it’s through student activity...

BUNCH: What is your question?

AUDIENCE MEMBER: My question is, what do you feel would help the consumer, the individual citizen, to build up his own power on the home level, on the university level, on the school level? What would help in this?

BUNCH: What would help the consumer? And I hope—if I can interject—that you would also mention Ralph Nader and John Gardner’s Common Cause, and your feeling about those.

MORSE: I was at the University of Honolulu in March; I gave a public lecture on the subject “Is Naderism the answer?” in which I talked about the great need of consumer rights, and I think I’ll give you this very brief answer to your question. The people themselves are going to have to organize themselves into a political front of political activity, checking up upon the votes of their representatives in Congress and other parliamentary bodies, to see whether or not they vote as they talk, and make very clear that they want legislation which is long overdue to protect the consumer interests in this country to a much greater degree than they are being protected. Of course, that’s what Naderism stands for. I called him before my sub-committee on small business several times as a witness; he’s a terrific witness because he always comes with his facts. And I want to say that Naderism and what he has disclosed already has put shockwaves through a good many areas of this country where economic exploitation for too long has been the rule of the day. And to this generation—because you mentioned the students—I want to say what I said at the beginning. Here is a powerhouse that can turn the balance in American elections from now on, if you in turn will take the facts on these issues to the public. Because they want to learn, and they want to know, and there is no substitute, may I say, for political education. You have a terrific influence, because don’t forget that still in this state—and we’re the second most literate state in the nation—the majority of our parents still do not have a high school education. And they have great pride in the opportunities that their children are receiving that they didn’t have. You can be great political educators, particularly in this field of consumer interests. And out of your classrooms and your studies, you ought to take those facts to the elected of this state, and if you do, then I think you’re going to find what I meant when I said at the beginning of my lecture, Here is a political powerhouse. Get registered, campaign, and vote. Thank you very much, and good day. [applause]
BUNCH: One brief announcement by Mark...

MARK [HOST]: Please. Actually, three. One, the pink cards that are here, if you haven’t got one you can get one, and there will be people at the door to take them from you if you want to work for Wayne Morse. Two, on Friday at noon in the Political Science department there will be a meeting of Portland State students and friends interested in electing Wayne Morse. And the final announcement is, for those who are interested in shaping the future of Portland, there is a metropolitan organizational meeting at the Morse headquarters. That’s next Monday, December 6, at 8:30 p.m. That’s on 3rd and Salmon. Thank you.

[about 30 seconds of silence on tape; program ends]