

Investors are concerned. They are angry, and rightfully so. They wonder, can I trust the information companies are giving to me? How do we know if our stocks are valued appropriately? Which company is next?

What we are doing in the Senate is nothing less than trying to ensure the long-term viability of our capitalist system. We have a system that is the strongest and the best in the world, but something is broken. We need to act. A corporate culture of earnings mismanagement and gamesmanship, unfortunately, has prevailed in some quarters. It is casting a pall over too many other publicly traded companies. That is not right, and it has to stop.

We know the majority of companies have integrity. They are doing the right thing. They are providing accurate information. Our corporate leaders who are acting responsibly are the most concerned about what is happening. Too many honest, hard-working people at good, solid companies are indirectly suffering due to the malfeasance of a few greedy people.

As we move ahead, I look forward to working with my colleagues on both sides of the aisle, and with our Presiding Officer, to make sure what we did in committee can be done on the floor, and as quickly as possible.

Republicans such as the Senator from Wyoming, MIKE ENZI, have shown true leadership in joining with the chairman and 15 others on the committee. This is the first step. We need a strong, good debate on this bill and an overwhelming vote to send a message to investors, to pension holders, to hard-working employees and companies everywhere, to those corporate executives who are working hard and doing the right thing, that we are united and that we are serious about making sure their interests are protected. We will still have to reconcile this with a much, unfortunately, more modest version passed in the House, and we will have to send it to the President.

I hope the President will join us in the strongest possible bill. It is incredibly important that we help bring back the integrity and confidence so important in our markets. We are the greatest country in the world. We have had the greatest capitalist system, but there are serious problems today and serious questions. We have the responsibility to act in a way that will stabilize the economy, give investors confidence, let employees know that their pensions will be protected and their hard work will be recognized for the future, and that we will do the kinds of things that will allow us to continue the strongest economy in the world.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

Mr. BYRD. Mr. President, is the Senate conducting morning business at this point?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Are Senators permitted to speak therein?

The PRESIDING OFFICER. They are, for up to 10 minutes each.

Mr. BYRD. I thank the Chair. I ask unanimous consent that I may speak as long as I may desire.

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

CONNECTING THE DOTS ON IRAQ

Mr. BYRD. Mr. President, over the last several weeks, a number of revelations have surfaced about how our intelligence agencies failed to analyze and connect the pieces of information that they obtained. According to these news accounts, while the September 11 attacks were a shock to the American people, they may not have been a total surprise to the intelligence arms of our Government.

While there is no smoking gun to indicate that the FBI, the CIA, or anyone else or any other agency knew the totality of the September 11 plot before it was carried out, it now seems fairly clear that there were known pieces of information, which, if thoroughly and properly analyzed, could have put our Government on a higher state of alert for a major terrorist attack upon the United States.

President Bush himself has acknowledged that our intelligence agencies were not connecting the dots that would have prepared our homeland for a devastating act of terrorism. In partial response, the President has proposed the creation of a Department of Homeland Security with a new bureau that is intended to sort through the intelligence reports and hopefully connect the dots that are sometimes overlooked or unappreciated by the FBI and/or CIA. The proposal has some merit. However, I am troubled with the manner in which this and other proposals are being crafted by the administration. Shrouded often in ambiguity and cloaked often in deep secrecy, this administration continues suddenly to sometimes unexpectedly drop its decisions upon the public and Congress, and then expect obedient approval without question, without debate, and without opposition.

The Senate is not like that. We scrutinize, we debate, we ask questions.

For months, the President has been sending signals that U.S. efforts to topple Saddam Hussein's regime in Iraq will involve direct military action. In his State of the Union address on January 29, 2002, the President listed Iraq as a member of an "axis of evil" that seeks to attack the United States with acts of terrorism and weapons of mass destruction. The President punctuated

his bold words with a warning that he "will not wait on events, while dangers gather," and that "the United States of America will not permit the world's most dangerous regimes to threaten us with the world's most destructive weapons."

That is saber rattling. This saber rattling prompted many questions for the American public, for Members of Congress, and for our allies. The question being: Will we invade Iraq? When will it happen? Will the United States go it alone? These are some of the questions.

On February 12, 2002, during a Budget Committee hearing, I questioned the Secretary of State about the administration's designs on Iraq. Unfortunately, the answers I got were not sufficiently clear to put to rest my questions. Secretary of State Powell stated that the President had "made no decisions about war."

Now, Mr. President, when I was in a two-room school in Algonquin, WV, in 1923, I could read through that answer. That should not require the mind of a genius to interpret.

Secretary Powell stated that the President had "made no decisions about war." So my question remained unanswered.

The Secretary, for whom I have a great deal of respect and with whom I have been associated for many years in several difficult decisions that have arisen over those years, the Secretary of State also stated that he—meaning the President—"has no plan on his desk right now to begin a war with any nation."

I go back to that two-room schoolhouse in Algonquin in southern West Virginia. I can figure that out. That is not answering the question. Everybody knew it. The Secretary of State knew it. He did not intend to answer that question. While I have a great deal of respect for Secretary Powell, his answers provided more in the way of qualifications and confusion than in the pursuance of clarity.

Earlier this month, President Bush added another dimension to our national security policy. On June 1, 2002, he addressed the cadets at West Point on the progress of the war on terrorism. In his remarks, the President argued that deterrence and containment by themselves are not enough to fight terrorism. He said, "In the world we have entered, the only path to safety is the path of action." And he urged Americans "to be ready for preemptive action when necessary."

In order to be ready for such action, the President said that the U.S. military "must be ready to strike at a moment's notice in any dark corner of the world."

According to a Washington Post article on June 10, the National Security Council is drafting a new defense doctrine to emphasize the use of preemptive attacks against terrorists and rogue nations. According to this article, the Department of Defense is also now studying how to launch "no warning" raids using a "Joint Stealth Task

Force" that includes aircraft, ground troops, and submarines.

Mr. President, these "no warning" raids will be a devastating application of military force from the air, the ground, and the sea.

On Sunday, June 16, the Washington Post followed up on its reports about this new national security strategy with an article entitled, "President Broadens Anti-Hussein Order." According to this article:

President Bush earlier this year signed an intelligence order directing the CIA to undertake a comprehensive, covert program to topple Saddam Hussein, including authority to use lethal force to capture the Iraqi president, according to informed sources.

The Post article continued:

One source said that the CIA covert action should be viewed largely as preparatory to a military strike.

It then discussed the difficulties involved in carrying out an attack on Iraq, including the large number of U.S. forces that would be required, the size of the Iraqi military, and the contentious relationships between Iraqi opposition groups and the United States.

So what we have is a lot of dots—a dot here, a dot there—about what the foreign policy of the United States is; a dot here, a dot there about what military action our Government might pursue.

I am constrained to ask, Is this a way to run a constitutional government? Is this a way to lead in a Republic? I hear so many of our Senators talk about this "democracy." This is not a democracy.

I ask unanimous consent to have printed at the conclusion of my remarks certain excerpts from SA No. 10 and SA No. 14 of the essays by Jay and Madison and Hamilton, the Federalist essays.

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

(See exhibit 1.)

Mr. BYRD. Senators for themselves can, once again, if they ever have read, read what Madison says about a democracy and what he says about a republic. In those two essays, Senators will find the distinction between a democracy and a republic. I believe this should be required reading on the part of all Senators and all other public officials, essay No. 10 and essay No. 14 by Madison. If Senators want to know the difference between a democracy and a republic, turn to those two essays. Madison is quite clear in the difference.

Saddam Hussein has now had 11 years since the end of the gulf war to rebuild his war machine. New military action against Iraq would be costly in terms of national treasure and blood. It is exactly because of these kinds of considerations that the Constitution vests in Congress the authority to declare war, and the responsibility to finance military action.

We have heard Members of the Senate on both sides of the aisle express their support for military operations against Iraq. The case has yet to be argued, at least in any serious detail, or in open debate before the people. Bold

talk of chasing down evildoers, stirring patriotic words, expressions of support for our men and women in uniform, these all have an important place in our national life, but the American people deserve to hear why we need to be an aggressor, why we need to risk the lives of their sons and daughters, why we need to take preemptive action against Iraq.

Now, perhaps we should do so. I am not saying we should not, but I am saying that Congress needs to know about this, and the American people need to have more than just patriotic expressions with visual backup, assemblies and/or words.

If it is the President's intent to oust Saddam Hussein, he would be well advised to obtain the support of the American people, and that would involve seeking congressional authorization to use military force.

I very well understand there are some military actions that we must take on virtually a moment's notice in the interest of protecting this Nation and its people, and the Commander in Chief has that inherent authority under the Constitution. But there comes a time when the Commander in Chief still needs to level with the American people and Congress.

We saw what happened in the case of the war in Vietnam when the support of the people back home declined, when the support of the American people began to go away from pursuing the Vietnam war. That support of the American people is necessary, and that support is expressed in many cases by their elected Representatives in both Houses of Congress. Yet this administration persists in an unwise and dangerous effort to keep the public largely in the dark.

I have to repeat to the administration time and time again, the legislative branch is not a subordinate body. It is not a subordinate department. It is not subordinate to the executive branch. It is an equal branch of the Government. So I think the administration, in embracing secrecy so much and so deliberately, is acting unwisely. It makes no sense. It is dangerous.

We have all seen the folly of military missions launched and maintained without sufficient support of the people. Time and again history has demonstrated that in a democratic republic such as the United States, the sustained support of the people is essential for the success of any long-term military mission.

I recall all too well the nightmare of Vietnam. I remember all too well how Congress, without sufficient information and debate, approved military action in that conflict. I recall all too well the antiwar protests, the demonstrations, the campus riots, the tragic deaths at Kent State, as well as the resignation of a President and a Vice President. I remember all too well the gruesome daily body counts in Vietnam.

The United States was a deeply divided country, and I would say we better read the Constitution more than we

read the polls, instead of vice versa—reading the polls first and last and the Constitution somewhere in between.

I recall all too well the words of Senator Ernest Gruening of Alaska, who was sworn in in the same class which I was sworn, 1958. He was one of the two Senators who voted against the Gulf of Tonkin resolution that gave the President the authority to take military action in Vietnam. Senator Gruening said this:

By long and established practice, the Executive conducts the Nation's foreign policy. But the Constitution and particularly, by constitutional mandate, the Senate has the right and the duty in these premises to advise and consent. Especially is this true when it is specifically called upon by the Executive . . . for its participation in momentous decisions of foreign policy.

I recall all too well the words of the other Senator who voted against the Tonkin Gulf resolution. In urging Congress to investigate and hold hearings before endorsing the President's plan, Senator Wayne Morse of Oregon expressed his concern that the Pentagon and the executive branch were perpetrating a "snow job" upon Congress and the American people. If the Senate approved the Tonkin Gulf resolution, Senator Morse warned that "Senators who vote for it will live to regret it." I was one of those who voted for it, and thanks to the good Lord, I am still living. I am the last of that class of 1958. I regret that vote on the Tonkin Gulf resolution. I wish I had had the foresight to vote against it, as did Senators Morse and Gruening.

I am determined to do everything I can to prevent this country from becoming involved in another Vietnam nightmare. This determination begins with Congress being fully and sufficiently informed on the undertakings of our Government, especially if it involves a commitment to military action.

We have to depend upon the leadership of the Senate and both sides of the aisle to insist that the Senate be informed. We also have to depend on the leadership of the other body on both sides of the aisle to insist on these things. We represent the American people. They send us here. No President sends me here. No President can send me home. No President sends the distinguished Senator from Nebraska here. No President can send him home. He comes here by virtue of the people of his State. They vote to send him, and he is here to represent them. He is not here to represent a President.

I realize, as our Founding Fathers realized, that in a government of separated powers, one branch of government has to be able to act swiftly and unilaterally at times. Of course, that is the executive branch. In this age of terrorism and weapons of mass destruction, these abilities are needed more than ever. We all know that.

But I also realize, as did our Founding Fathers, the need for another

branch, this branch, the legislative branch, to be able to put the brakes on the executive branch. Those brakes include investigation, hearings, debate, votes, and the power of the purse. That is the greatest raw power, may I say to the pages on both sides of the aisle; the power of the purse is the greatest raw power in this Government—the greatest. Cicero said, “There is no fortress so strong that money cannot take it.” Remember that. There is a new book out on Cicero; I must get it. I have heard about it. Remember, I say to these bright young pages—some of them will be Senators one day—Cicero said, “There is no fortress so strong that money cannot take it.” He was right.

So, I have heard a lot of talk about the need for this country to speak with one voice on matters of war and peace. Debate on such important issues, say these people, might reveal differences in views on how we ought to act. Our opponents would revel in our discord and the President would lose credibility as he went toe to toe with our enemies. It is as though some think that Congress is an impediment to the interests of this country.

I am sure the executive branch believes quite strongly from time to time that Congress is an impediment. But we still have the Constitution. Thank God for the Constitution. I hold it in my hand, the Constitution of the United States. And also in this little booklet is the Declaration of Independence. I will refer to that a little later. Here is that Constitution. Thank God for the Constitution. The legislative branch can always turn to this Constitution. That anchor holds. There is an old hymn, “The Anchor Holds.” Well, this is the anchor, the Constitution which I hold in my hand. This is the anchor. It holds.

I don't think debate is a weakness. Debate is our strength. Debate shows that we are a nation of laws, not of men. It shows that no man, no king—we do not have a king in this country. We have some people who are apparently monarchists. I think we have some in this Chamber who are sometimes monarchists when it comes to voting. They want to support the executive branch. The executive branch will take care of itself. Remember that, may I say to the young pages.

There are three branches of Government: The judicial branch—it will always uphold the prerogatives of the judicial branch, the executive branch—it will always uphold the prerogatives of the executive branch, and grab for more; but it is here in the legislative branch that sometimes half, or a large portion, of the membership does not speak for the prerogatives of the legislative branch under this Constitution; they speak for the prerogatives of the executive branch.

“We must support the Commander in Chief,” they say. “We must support the Commander in Chief.” But, fellow Senators, this Commander in Chief is only

here for 4 years. I have served with 11 Commanders in Chief. We have Commanders in Chief, but we do not have to support the Commander in Chief. I don't care if he is a Democrat. I don't have to support the Commander in Chief. And I sometimes don't, even if he is a Democrat.

Well, debate shows that we are a nation of laws and that no man—neither king nor Commander in Chief—has the right to send us to war by virtue of his decision alone.

This Republic—not this democracy; forget it. Read Madison's essays, No. 10 and No. 14—this Republic. There it is, we pledge allegiance to the flag of the United States of America and to the Republic—not “the democracy.” The city-states in the time of Athens could have democracies. My little town of Sophia, with about 1,180 persons, could be a democracy. It is small enough. All the people could come together and they could speak for all the people, but not in this great country of 280 million people. This is a republic. We ought to get in the habit of speaking of it as a republic.

We are a model to the world in this respect. By debating and voting on issues of war and peace, Congress is able to express the will of the American people and galvanize support for what could be a costly conflict. Debate and well-meaning disagreement on important issues do not weaken the resolve of the American people. It is secret motives—here is where problems begin—secret motives, clandestine plotting, and lack of confidence in the public that are the swift solvent of our national morale.

If it is the path that this Nation is to take, President Bush ought to present his case to Congress before we must use military force to overthrow Saddam Hussein. That is why the Congress must ask important questions. At least there are some leaders in both Houses, in both parties, who need to be taken into these secrets.

That is why the Congress must ask important questions, including if we are successful in getting rid of the authoritarian who is now in power in Iraq, who will take his place? Have we covertly hand picked a leader for the future of Iraq? If so, who is he? Once such a military operation is undertaken, how will we know when the mission is accomplished?

Let there be no doubt, from what I now know and understand, I would support a change in regimes in Iraq. I suppose every Member of this body would probably do that. There is no doubt in my mind about the serious and continuing danger that Iraq poses to the stability of the Persian Gulf region. Saddam Hussein has sought to build weapons of mass destruction and long-range missiles. His military regularly attempts to shoot down our fighter planes that patrol the No Fly Zones over Iraq. He has worked to heighten the conflict between Israel and the Palestinians. He has promoted the starva-

tion of Iraqi children so that he and his cabal can live in palaces. Saddam Hussein is a scourge on the people of Iraq and a menace to peace. We know that. I know these things. I wasn't exactly born yesterday. But it is the duty of Congress to ask questions. Members of Congress need not be intimidated by polls. We are expected to ask questions.

It is the duty of Congress to ask questions so that we, the people's branch of government, and as a result, the American people, will know what we may be getting ourselves into. It may be that the President already has answers to these questions about Iraq, and that we might awake one morning to see those answers printed in the morning newspaper. As we learned all too well in Korea, Vietnam, and Somalia, it is dangerous to present Congress and the American people with a fait accompli—that is a dangerous thing to do, no matter what the polls say. Those polls can drop suddenly—present Congress and the American people with a fait accompli of important matters on foreign affairs.

When the Administration is asking the American people to send their sons and daughters into harm's way, knowing that some will never return, it is essential that Congress know more, not less, about the Administration's planned course of action. Congress must not be left to connect dots!

All that Congress has been promised so far is that the President would consult with Congress about military action against Iraq. This promise falls well short of the mark, particularly because of what the Administration offers in the way of consultation. Like other members of the Senate, I was taken by surprise by the President's sudden announcement of his plan to create a massive new Department of Homeland Security. I favored such, but it was all hatched in the bowels of the White House. And according to the press, there were, I think, four persons who provided the genius behind the creation. In an unbelievable twist of logic, the Administration maintains that it actually consulted with Congress on the proposal. The administration knows better than that. The President's chief of staff was quoted in *The Washington Post* on June 9, 2002, as saying, “We consulted with agencies and with Congress, but they might not have known that we were consulting.” How do you like that? I have been in Congress 50 years now. I have never seen anything like that, where the administration says we have consulted with Congress but they might not have known we were consulting.

This does not even deserve to qualify for George Orwell's definition of double speak. Such a claim is plain, unmitigated garbage.

In the aftermath of the carnage and turmoil of the Vietnam war, Congress approved the War Powers Resolution, that provided procedures for Congress and the President to participate in decisions to send U.S. Armed Forces into

hostilities. Section 4(a)(1) required the President to report to Congress any introduction of U.S. forces into hostilities or imminent hostilities. Section 3 requires that the "President in every possible instance shall; consult with Congress before introducing" U.S. Armed Forces into hostilities or imminent hostilities.

In face of this Congressional resolution, this administration refuses to consult with anyone outside its own inner circle—well, let its own inner circle provide the money when the time comes—anyone outside its own inner circle about what appears to be its plan for imminent hostilities. This Administration convenes meetings of its trusted few in little underground rooms, while sending decoy envoys to meet with Congress and members of the press, and the public.

I have not seen such Executive arrogance and secrecy since the Nixon Administration, and we all know what happened to that group.

I remember too well the Executive arrogance and extreme secrecy that lead to the Iran-Contra scandal. Selling weapons to a terrorist nation in exchange for hostages, and using that money to finance an illegal war in Central America. What a great plan that was! I guess I can understand why the Reagan Administration did not want to tell Congress about that foreign policy adventure.

I have no doubt that as I speak, there are some within this Administration who are preparing to carry out some sort of attack against Iraq. Well, that's all right. We have to make plans before we do things. I am not sure who they are, but I am connecting the dots, and I am concerned about the picture that is developing.

If the President needs to take decisive military action to prevent the imminent loss of American lives, he will receive broad support. But if this country is moving methodically and deliberately toward some kind of showdown with Iraq, Congress is entitled to good-faith consultations from the executive branch. We must consider and debate whether we should use military force against Saddam Hussein. And, barring the most exceptional of circumstances, Congress must vote to authorize the President to use military force against Iraq prior to the outbreak of hostilities if, after appropriate debate and consideration, Congress comes to that conclusion.

As Senator Gruening pointed out, it is the role of the Senate to advise and consent in foreign policy. And those words did not originate with Senator Gruening. Read the Constitution.

As the War Powers Resolution points out, it is the role of Congress to be active participants in foreign affairs, and certainly such adventures as making war.

So, as we proceed, let us connect the dots.

As the Constitution demands, it is the role of Congress to declare war.

Yes, we have a Commander in Chief. But what Army and what Navy does he have to command if Congress does not provide the money?

When the President is ready to present his case to Congress, I am ready to listen. But I think we all must be tired of trying to connect dots in the dark.

EXHIBIT 1
THE FEDERALIST NO. 10
JAMES MADISON

From this view of the subject, it may be concluded, that a pure Democracy, by which I mean, a Society, consisting of a small number of citizens, who assemble and administer the Government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert results from the form of Government itself; and there is nothing to check the inducements to sacrifice the weaker party, or an obnoxious individual. Hence it is, that such Democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security, or the rights of property; and have in general been as short in their lives, as they have been violent in their deaths. Theoretic politicians, who have patronized this species of Government, have erroneously supposed, that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions.

A Republic, by which I mean a Government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine the points in which it varies from pure Democracy, and we shall comprehend both the nature of the cure, and the efficacy which it must derive from the Union.

The two great points of difference between a Democracy and a Republic are, first, the delegation of the Government, in the latter, to a small number of citizens elected by the rest: secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.

The effect of the first difference is, on the one hand to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice, will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice pronounced by the representatives of the people, will be more consonant to the public good, than if pronounced by the people themselves convened for the purpose. On the other hand, the effect may be inverted. Men of factious tempers, of local prejudices, or of sinister designs, may by intrigue, by corruption or by other means, first obtain the suffrages, and then betray the interests of the people. The question resulting is, whether small or extensive Republics are most favorable to the election of proper guardians of the public weal: and it is clearly decided in favor of the latter by two obvious considerations.

In the first place it is to be remarked that however small the Republic may be, the Representatives must be raised to a certain number, in order to guard against the cabals of a few; and that however large it may be, they must be limited to a certain number, in order to guard against the confusion of a

multitude. Hence the number of Representatives in the two cases, not being in proportion to that of the Constituents, and being proportionally greatest in the small Republic, it follows, that if the proportion of fit characters, be not less, in the large than in the small Republic, the former will present a greater option, and consequently a greater probability of a fit choice.

In the next place, as each Representative will be chosen by a greater number of citizens in the large than in the small Republic, it will be more difficult for unworthy candidates to practise with success the vicious arts, by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre on men who possess the most attractive merit, and the most diffusive and established characters.

It must be confessed, that in this, as in most other cases, there is a mean, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors, you render the representative too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. The Federal Constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular, to the state legislatures.

The other point of difference is, the greater number of citizens and extent of territory which may be brought within the compass of Republican than of Democratic Government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former than in the latter. The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed, the more easily will they concert and execute their plans of oppression. Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other. Besides other impediments, it may be remarked, that where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust, in proportion to the number whose concurrence is necessary.

Hence it clearly appears, that the same advantage, which a Republic has over a Democracy, in controlling the effects of faction, is enjoyed by a large over a small Republic—is enjoyed by the Union over the States composing it.

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THE FEDERALIST NO. 14
JAMES MADISON

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The error which limits Republican Government to a narrow district, has been unfolded and refuted in preceding papers. [See Essays 9 and 10.] I remark here only, that it seems to owe its rise and prevalence, chiefly to the confounding of a republic with a democracy: And applying to the former reasonings drawn from the nature of the latter. The true distinction between these forms was also adverted to on a former occasions. [See

Essay 10.] It is, that in a democracy, the people meet and exercise the government in person; in a republic they assemble and administer it by their representatives and agents. A democracy consequently will be confined to a small spot. A republic may be extended over a large region.

To this accidental source of the error may be added the artifice of some celebrated authors, whose writings have had a great share in forming the modern standard of political opinions. Being subjects either of an absolute, or limited monarchy, they have endeavored to heighten the advantages or palliate the evils of those forms; by placing in comparison with them, the vices and defects of the republican, and by citing as specimens of the latter, the turbulent democracies of ancient Greece, and modern Italy. Under the confusion of names, it has been an easy task to transfer to a republic, observations applicable to a democracy only, and among others, the observation that it can never be established but among a small number of people, living within a small compass of territory.

Such a fallacy may have been the less perceived as most of the governments of antiquity were of the democratic species; and even in modern Europe, to which we owe the great principle of representation, no example is seen of a government wholly popular, and founded at the same time wholly on that principle. If Europe has the merit of discovering this great mechanical power in government, by the simple agency of which, the will of the largest political body may be concentrated, and its force directed to any object, which the public good requires; America can claim the merit of making the discovery the basis of unmixed and extensive republics. It is only to be lamented, that any of her citizens should wish to deprive her of the additional merit of displaying its full efficacy on the establishment of the comprehensive system now under her consideration.

As the natural limit of a democracy is that distance from the central point, which will just permit the most remote citizens to assemble as often as their public functions demand; and will include no greater number than can join in those functions; so the natural limit of a republic is that distance from the center, which will barely allow the representatives of the people to meet as often as may be necessary for the administration of public affairs.

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THE PLEDGE OF ALLEGIANCE

Mr. BYRD. Mr. President, we all know that on Wednesday, in a 2-to-1 decision, a three-judge panel of the Ninth Circuit Court of Appeals held that the United States Pledge of Allegiance was unconstitutional. The court held that the pledge was unconstitutional because in 1954 the Congress had the audacity—imagine that—to include a reference to God in its provisions.

Some say these are just mechanical, ceremonial provisions. Get out of my face. That may be what some people think, but the majority of people in this country I don't believe are thinking in terms of ceremonial language.

I was a Member of the U.S. House of Representatives at that time. I am the only Member of Congress today in either body who can say that I was a Member of the House of Representatives on June 7, 1954, when the words

"under God" were included in the Pledge of Allegiance.

Now I see in the morning paper that the next thing these misguided atheists are wanting to do is to challenge the words "In God we trust."

I was a Member of the House of Representatives on that same date, coincidentally, June 7, 1 year later, 1955, when the House voted to add the words "In God we trust" to the Nation's coins and currency. Every time you take out a dollar bill—that is a pretty popular bill in my lifetime, a dollar bill; here it is—on it we read the words "In God we trust." It is all there. It is on the coins.

I was a Member of the House of Representatives when Congress voted to make that the motto, and here it is, inscribed, which is said in marble, "In God we trust," right here over this door to the Chamber.

Over to my left are those words, "Novus Ordo Seclorum," a new order of the ages.

"E Pluribus Unum," all in one, one in all.

Over here, "Annuit coeptis," God has favored our undertakings.

Here are these inscriptions. Bring in your stone masons and take these off the walls. That is what these pernicious atheists are saying. They want everything to suit themselves.

God have mercy on them. But if they have their way, we will have to have stonemasons come into this Chamber and chisel off these words.

They are not going to have their way. The people of these United States are not going to stand for this. And the courts had better take notice and kind of draw back a little bit. After all, if the American people do not believe in it and if they do not support it, that court decision is not going to be obeyed.

The courts, starting with the Supreme Court, need to take a new look at this first amendment. If anything will ever result in amending the first amendment, then continue to go down this road, I say to the courts. They ought to draw back just a little bit distant from going down the road they are presently on.

I am proud to inform my colleagues that I was in the House when Joint Resolution 243, which was entitled "A Joint Resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America" was enacted. That resolution was approved by the House on June 7, 1954—almost half century ago.

The plaintiff in the case that was just decided is a self-described atheist. His daughter attends elementary school in California. The public schools there, as elsewhere, begin each school day with the Pledge of Allegiance to the Flag. If this court's outlandish and ill-conceived decision is allowed to stand, it will mean that children in public schools in at least nine states will no longer be allowed to recite the pledge of allegiance by referring to

America as "one Nation, under God, indivisible, with liberty and justice for all."

That is too much power.

Specifically, the court in this case has held that the words "under God" are unconstitutional because they support the existence of God but deny "atheistic concepts." Unbelievably, the Court has held that this runs counter to the intent of the First Amendment of the U.S. Constitution, because, according to this court, the Establishment Clause of the First Amendment prohibits the government from endorsing any particular religion, including a belief in one God—which the court calls "monotheism"—at the expense of atheism.

Take a look at this Bible, which I hold in my hand. Here it is, the Holy Bible. It is the King James version—King James of England. Here is what it says in Psalm No. 127:

Except the Lord build the House, they labour in vain that build it: except the Lord keep the city, the watchman waketh but in vain.

Those are the words written long before the U.S. Constitution was written—written by wise men in many instances, Solomon, Son of David—long before the Constitution was written, long before the court system was established in these United States. Those are the words:

Except the Lord build the House, they labour in vain that build it.

Hear me, Judges!

In reading the court's decision, I was astonished by the tortured reasoning of the majority as opposed to the lucid opinion recorded by Judge Fernandez, the lone dissenter. In responding to the arguments of the majority, Judge Fernandez did not see fit to hold that the phrase "under God" violates the Constitution of the United States.

How silly, how lucidly silly.

If the schoolchildren of America were to be required to commemorate to memory, as they used to be required to commit many things to memory, the Declaration of Independence, would that ninth circuit judge render such an absurd decision concerning the constitutionality of the Declaration of Independence?

Let's just select three or four phrases from the Declaration of Independence.

The Declaration refers to "Nature's God." The Declaration also refers to "the Supreme Judge of the world," meaning God. The Declaration refers to "a firm reliance on the protection of divine Providence." This is the Declaration of Independence. It was not written by Congress in 1954, as the words "under God" were inserted into the pledge. This Constitution was not written then. This Declaration of Independence was not written then. And who wrote it? In the main, it was written by Thomas Jefferson, along with John Adams, Benjamin Franklin, Philip Livingston, and one other. But there are at least four or five references to "Providence," to "the Divinity," to