



INTERVIEW WITH  
Clarence Manion

by

Maclyn P. Burg  
Oral Historian

on

April 2, 1976

for

Dwight D. Eisenhower Library

GENERAL SERVICES ADMINISTRATION  
NATIONAL ARCHIVES AND RECORDS SERVICE  
DWIGHT D. EISENHOWER LIBRARY



Legal Agreement Pertaining to the Oral History Interview of  
Clarence Manion.

In accordance with the provisions of Chapter 21 of Title 44, United States Code, and subject to the terms and conditions hereinafter set forth, I, Clarence Manion, of South Bend, Indiana, do hereby give, donate and convey to the United States of America all my rights, title, and interest in the tape recording and transcript of a personal interview conducted on April 2, 1976 at South Bend, Indiana and prepared for deposit in the Dwight D. Eisenhower Library. This assignment is subject to the following terms and conditions:

(1) The transcript shall be available for use by researchers as soon as it has been deposited in the Dwight D. Eisenhower Library.

(2) The tape recording shall not be available for use by researchers during the donor's lifetime. After the donor's death, access to the tape recording shall be for background use only, and researchers may not cite, paraphrase, or quote therefrom.

(3) During the donor's lifetime the donor retains all copyright in the material given to the United States by the terms of this instrument. Thereafter the copyright in both the transcript and tape recording shall pass to the United States Government. During the donor's lifetime, researchers may publish brief "fair use" quotations from the transcript (but not the tape recording) without the donor's express consent in each case.

(4) Copies of the open portions of the interview transcript, but not the tape recording, may be provided by the library to researchers upon request.

(5) Copies of the interview transcript, but not the tape recording, may be deposited in or loaned to institutions other than the Dwight D. Eisenhower Library.

Cameron Mackintosh  
Donor

Date

December 20, 1977

James B. Rhoads  
Archivist of the United States

Date

January 6, 1978



This interview is being taped with Mr. Clarence Manion in Mr. Manion's law offices in South Bend, Indiana on April 2, 1976. Present for the interview are Mr. Manion, Dr. Maclyn Burg of the Eisenhower Library staff.

DR. BURG: Mr. Manion, could I start by asking when and where you were born?

MR. MANION: I was born July 7, 1896; I'll be eighty years old next July 7th.

DR. BURG: In the state of Indiana?

MR. MANION: No, in Henderson, Kentucky, which is right across the river from Evansville, Indiana.

DR. BURG: And you grew up then in--

MR. MANION: Oh, yes. I grew up, went to school and went to World War I from there.

DR. BURG: Now had you had a chance to--no, you would not have had a chance to go on to college.

MR. MANION: Oh, yes. I finished college in 1915; I got an A.B. at St. Mary's College in Kentucky and then I got a graduate scholarship at the Catholic University of America in Washington.



It was a competitive scholarship that was provided by the Knights of Columbus and I think it still is. But I was there, from '15 to '17, third year of my Ph.D. work, second year rather, the war came along and we all checked out and went into the army.



BURG: I can well imagine.

MANION: And I was very young at that time, having been born in '96 you can figure it.

BURG: Right, twenty-one.

MANION: But everybody else was going to war and I didn't want to wait for the draft and so did I. I never went back to Catholic University.

BURG: Now, let me ask you, in what discipline was your Ph.D. work?

MANION: In American history.

BURG: Who were you studying under?

MANION: Dr. Charles Hallen McCarthy. He was an old-timer and a magnificent man, and I just fell in love with his interpretations--so much so that he wanted me to come back after the war and finish up and teach there. But by that time I had decided I wanted to be a lawyer.

BURG: Were the studies as narrow when you were in the graduate school? That is, would your field of specialization be as narrow as the American Revolution, the Civil War?



MANION: No. There were courses, various courses in history that we took, but McCarthy's course was a general lecture course, and it was intended to spark the interest of these graduate students in some particular period or thing, like the Declaration of Independence, for instance, or any other phase of history that people were interested in. And then we would elect to write what was first a Master's thesis, which he approved, and then we did our research work under his direction. He would advise us what to read and where to go and what to see and so on.

BURG: Did you do an M.A. thesis?

MANION: Oh, yes.

BURG: What was yours?

MANION: Mine was on the proximate sources of the constitution of the United States. And of course the ultimate sources were more remote, but I intended that as a thesis for my Ph.D.: to make it on the general sources of the constitution in an attempt to annotate what had been correctly said about where these men got their ideas and so on and so forth. But, as I said before, I had to satisfy myself with a Master's thesis. Since we were leaving the Catholic University in such numbers, the university, to these men who were two years along, they gave a series of oral examinations. Of course this was a long time ago and the graduate courses were not as stratified as they are now. But since people were in a hurry to get out in the spring of '17, they qualified these people for what we called a Master of Philosophy degree, a Ph.M., and I also got a Ph.M. when I left the university in the late spring of that year. But I never went back for anything more from the Catholic University.



I shopped around for a teaching assignment in American history for which I was qualified, in college, and finally selected Notre Dame because I could teach history at Notre Dame at the same time I studied law there.



BURG: Now this is after the war.

MANION: This was after the war. I got out in 1919.

BURG: Now let me ask you what wild thing did you do in 1917. What branch of the service did you--

MANION: Nothing wild. I was in what was known as the transportation corps. I enlisted as a private and ended up as a second lieutenant. The transportation corps that I was assigned to had a responsibility for first sending the troops out of the country at Hoboken--

BURG: Would that be from Fort Dix?

MANION: No, it was Camp Merritt, right outside the city where the Lindbergh baby was kidnapped later on. I forget the name, Englewood I think.



BURG: Yes, I think you're right.



MANION: So, then when the lid went down on the war, we were stalemated for a while. There were troops there planning to leave for over-seas and after the armistice was declared, of course, they were shipped back home and demobilized. So I was there for a full year after November, 1918 until September, 1919. Meanwhile I had corresponded and made arrangements to come to Notre Dame. I was discharged from the army August of '19, then came to Notre Dame and began teaching in September of that year.

BURG: So they had put you up there in New Jersey, kept you there for the course of the war actually.

MANION: I never got overseas.

BURG: Shipping out these people by the thousands and then having just shipped them out, you got them all coming back again.

MANION: Every one of them. Sometimes I met them coming both ways, people that I happened to know.

BURG: Did you find that personally frustrating, to wind up there in New Jersey and not be able to go yourself?

MANION: Oh, it was terribly frustrating. We used to make a great joke of it, you know, we were stuck with the job. But the ironical thing was that when the troops were going over, we were weighted down with high brass. The commanding officer of the transportation office, so-called, where I was a second lieutenant, was a colonel. Then when the war was over, these people, who in large measure had been promoted to commissioned officers from the ranks--they'd been in the regular army for twenty years and they needed commissioned officers to do routine things. So this colonel and the majors under him and so forth were not West Point. I think that there was only one West Pointer in the crowd. However, as soon as the war was over, these men immediately took off in diverse directions and were not replaced. So the transportation office wound up, when I left there in '19, with myself and another second lieutenant having the full responsibility of meeting all the trains and getting the troops off and then dividing them up.



They would come in as the 109th Infantry, for instance. And then at Camp Merritt they'd be divided up into Camp Taylor company or they'd be shipped to Seattle, Washington with all kinds of insignia on the shipping away cadres, and it was a very amusing experience. I don't know what happened to it when I left. It wasn't easy to get out after the others had gone, you see, because they weren't commissioning new people. There were people being discharged from the army and not brought in.

[Interruption]

MANION: When we were commissioned, down in Florida I made second lieutenant, there were five of us who were assigned to Camp Merritt to be shipped overseas, and this was what we all wanted, the experience. But we spent a couple of delirious days waiting in New York City. The time came to report for departure; we had all of our departing papers. I don't remember the exact geography of the approach to the ship because we were so close to it; it was just a question of corridors and alleys. But we finally came to the place to go on board, I and five others. And first one, two, and three



picked up their papers and marched on down the covered bridge. And just as I was about to step up and receive my packet, you know, clearances to get on the boat and all that, a field clerk suddenly looked up from a typewriter. He says, "Wait a minute. Joe," he says, "are those the fellows from such-and-such a camp, those five?" Then said, "Two of them are supposed to go to Camp Merritt."

And he says, "What ones?" Well he called off two names of the three who were already down the line.

So I said, "They're just right down there, I'll notify them."

Then said the field clerk, "Oh, no, wait a minute, wait a minute. It doesn't make any difference," he says, "it's just any two out of the five--what's your name? Manion. Okay. Waitman. Okay, you two go to Camp Merritt." It's just as simple as that.

BURG: Isn't that something!

MANION: Well ironically, one of the three fellows ahead of us was very promptly killed after he reached France, more or less of an accidental explosion or something. The delay might have been a fortuitous thing for Waitman and me. But it was



very, very frustrating. So my career at Camp Merritt opened with frustration and stayed that way until I got out.

BURG: Well I've heard many of your generation express that same kind of thing. That frustration. They wanted to go very badly. And you know, some of the young people of today with Vietnam on the horizon didn't feel the same way. It was difficult for them to understand why they were being sent abroad to fight.



MANION: Of course, the trouble with Vietnam, has been brought out in some of the discussions about Vietnam. I heard the other day that when [Lyndon] Johnson had inherited the war from [John] Kennedy and was being urged to win it--: Now there's no authority for this in the world except hearsay. This was told to me by a prisoner who had been returned from Vietnam and who knew Johnson very well. He says Johnson felt he couldn't fight a war successfully without an incident. If he didn't have a justifiable incident of some kind. Wilson had the Lusitania, and Roosevelt had Pearl Harbor. Those incidents electrified the country and supported each war from stem to stern. You see we crept into the Vietnamese war inch

by inch. This was the tragic thing. Then came the Bay of Tonkin. But that was a pistol shooting thing that had nothing like the blast of Pearl Harbor. But the point was that we were forced to engage in a war of that type which took so many men and such a great length of time. I think everybody agrees now we never should start a war that we're not going to win. But it was very difficult to finish the Vietnam war because it really had never been properly started. People said, "What are we still dribbling along over there trying to do?" And I think that that's why we didn't have the patriotic sentiment for the Vietnam war that we had in World War II for instance.



BURG: Or in that first war.

MANION: Or World War I.

BURG: Now you acquired your job here at Notre Dame by sending off a few letters to places that you had wanted to go?

MANION: Yes. Places that had law schools.

BURG: So that you could combine the two things.

MANION: Oh, yes. That was the condition precedent. I just didn't want to teach History. I wanted to be a lawyer and I wanted to use teaching as a means of getting a legal education at the same time that I was teaching. I had several favorable responses, but I weighed all the opportunities and finally decided on Notre Dame. And the principal reason was that Notre Dame had a very fascinating man as president of the university in those days. He wrote incomparable letters and I thought, "Gee, I'd just like to work for that guy." And so we closed the deal and I came to Notre Dame, stayed three years, got my law degree while I was teaching in the undergraduate school, and then was asked to come back in 1925 as a law professor. That's when I began to teach constitutional law. And, of course, I had done a great deal of work about the constitution as a graduate student and in the undergraduate school of Notre Dame when I was teaching history and what the university in those days called "politics", which was political science. So I was very happy teaching constitutional law in the law school then.

BURG: Who was the man who was president here when you first came?



MANION: Father John Cavanaugh. Subsequently, his own secretary who had the same name, later went into the university as a student. He was a great friend of mine; he's still living but he's very ill. His name was Cavanaugh, too. There were two John Cavanaugh's who were Presidents of Notre Dame. But the second John Cavanaugh was really one of my classmates. I graduated in '22 and he in '23 but not in law! He was in the Arts & Letters College.



BURG: Both of these men spelled the last name the same way?

MANION: The same way. One was John W. and the other was John J.

BURG: With a 'C'?

MANION: 'C'. And the first one, Father John W., was a very famous pulpit orator. Handsome fellow, a brilliant, Irish character who, well he's indescribable. And the people who knew him never forget him and certainly I don't.

BURG: Now the name sounded familiar to me, although it's possible it would have been the second man, but--



MANION: The second man undoubtedly is the one you've heard of, because he was president for six years. And he was president while I was dean of the law school. He didn't appoint me dean; he became president after I had been appointed by his predecessor. But we both left the university in '52; John Cavanaugh from the presidency and I from the Law school and the deanship. And it was almost immediately after that that the election of '52 occurred.



BURG: I wanted to ask you though, Mr. Manion, for one thing--when did you marry?

MANION: Oh, I didn't marry until 1936. I was forty years old.

[Interruption]

BURG: I'd like to ask you something else, and it's asking you to go back a long way to remember something that may be obscure. When you came here and when you began to teach as a professor of law, do you recall the text that you employed? My thought was that perhaps it was some leading text of its day in the field perhaps of constitutional law, and I wondered what it was.

MANION: We used the case book system. And this was the begin-

ning of the case book system. And we started to use Hall's Cases on Constitutional Law--I think he was a professor at Michigan. Previous to that time, there had been various types of hornbooks used in law teaching. In other words, they taught and you learned the principles and the cases were cited at the bottom, very much as they are in briefs. Then somebody got the idea that it would, since--



[Interruption]

MANION: --you're going to be concerned with trying cases, you might as well learn your law from cases. That was a fatal mistake in my judgment.

BURG: Oh, really?

MANION: Oh, yes.

BURG: Because I can remember some of my friends talking about this kind of thing.

MANION: Well they do that now, and of course they never do it any other way. But the result is that what the students learn is the last guess of the last judge. And I am sorry to say

that I had to make sure, even when I was teaching, twenty-odd years ago, by special examination, which I ran collaterally with the teaching of the case book, that the students had read the Declaration of Independence and the Constitution of the United States. They didn't think that was necessary; they regarded this as a kind of an incubus. They were saying, "Why does this fellow insist upon this?" Now it was constitutional law that we were teaching, but what they were learning was what a string of judges, going all the way back to John Marshall, standing up to what the people who happened to be on the court then and now were saying about him. And that--speaking of frustrations--is one of the reasons I persisted in the Manion Forum. It was because of the departure on the part of constitutional law study and teaching and what it resulted in. Right today for instance, the Supreme Court is considering the question of capital punishment, whether or not capital punishment is "cruel and unusual." And they reach over to the eighth amendment to determine that neither cruel nor inhuman punishment shall be inflicted. Well this was put into the constitution as a restriction upon the federal government. All of the first ten amendments during



2011-11-16

my years of teaching, right up until the time of my departure when the first merger of the 14th and the first 8 amendments was held. Then all of a sudden Justice [Hugo] Black and Justice [William O.] Douglas decided and began to hold in their dissents and convert other justices to believe that the fourteenth amendment was embraced in the first, second, third, fourth, fifth, sixth, seventh, eighth amendments, which was as gratuitous as anything could be. Justice [Felix] Frankfurter protested. He was supposed to be a great liberal, but he turned out to be a relatively conservative judge after he was confronted with the responsibility of deciding these merger cases. He protested with his last breath that this was a travesty upon cases that had been decided and repeatedly affirmed. The first line of the first amendment says, "Congress shall make no law respecting the establishment of religion" and so on and so on and so on. Second amendment, similarly a restriction upon Congress. Black says, "This is all a part of due process and the fourteenth amendment is embraced in the first eight." Well he didn't say that until eighty years after the fourteenth and the first ten amendments had ridden along in the constitution together, you see. So this business of teaching law



from the case books is dangerous. Now I've gone to law schools, talked to students about this "merger" doctrine. But this is the strangest thing--they look at me and say; "Why, what? You mean to say that you don't accept what the court held in such-and-such a case?"

My answer is, "Well, why shouldn't I accept what they held in Twining versus New Jersey fifty years before that and over and over and over and over again after that until Black and Douglas suddenly decided to change it?"

BURG: Did you feel that it was turning out a young lawyer who was far too narrowly based, his mind not broadened by experience with, well, the many, many decisions? Was it a lack of knowledge of the old English common law?

MANION: A complete lack of knowledge of that.

BURG: And of the great commentators on the English common law, I presume. Wasn't Blackstone read and studied by an earlier generation?

MANION: He was when I was a student, but by the time I became a professor of law, he was there when I would bring him in. For instance in the definition of such things as the pursuit



of happiness in the Declaration of Independence, which people take whimsically and even jocosely now when it's referred to as an inalienable right. Blackstone very clearly defined the pursuit of happiness six or eight years before the Declaration of Independence was written. And all that the people in America had by way of law was the Bible and the English commentators. And they struck off some very wonderful decisions, Robin versus Hardaway and others that George Mason and other great American lawyers were responsible for. For instance, Blackstone in his commentaries had written that almighty God had so intimately associated his commandments and the laws of nature with the proper course of human happiness that the two are joined together inseparably. And that God had thus reduced all of his commandments to one final precept, namely, that man should pursue his own true and substantial happiness. Now this puts an entirely different complexion upon "the pursuit of happiness" as it appears in the Declaration of Independence. It was a legal expression. And this is why it was put into the Declaration of Independence as a gift of God, along with life and liberty. Everybody says, "Well, John Locke said, 'Life, liberty and property.'" But Jefferson didn't say that.



His Declaration said, "Life, liberty and the pursuit of happiness." Everybody isn't entitled to property--you've got to qualify for it. You have liberty to acquire it and you have freedom from trespass after you have acquired it and not to have it confiscated and so on. But to give any man an inalienable right to property would have stopped the government dead in its tracks because the people would say, "Now wait a minute, where's my property? Here's my life, my freedom--"



BURG: But where's that forty acres and the mule?

MANION: Yes. Coldly calculated to be interpreted the way it was expressed in three legally definable, self-evident truths. This is the sort of thing that students miss now. They have no conception of how these inalienable rights were determined. And even here in the bicentennial year, people get up and talk very superficially about what we're celebrating. They forget, first of all, that it is the bicentennial of the Declaration; it's not the bicentennial of the Battle of Lexington or of Washington's farewell address or all those things together. July 4, 1776 was the day the Declaration of Independence was signed and we're coming close to the point where we're going

to commemorate that day and that Declaration. Well even some of the bicentennial committeemen never thought of that.

BURG: Many people are rather surprised to find we're celebrating something one year after the shooting started.



MANION: Yes. Oh, yes, you know, they don't see the importance of the Declaration. We hadn't achieved our independence. We'd merely declared it. We didn't get it until years later. So the importance of this bicentennial, in my conception, is what they declared. Was it true? Was it sound? Were their reasons justified? And somebody says, "Well, now after all they were very much influenced by this man and that man and somebody else and so forth." I say let's don't talk about that; let's construe the document. You can't change the terms of a written instrument by oral testimony. That's a basic legal principle which they learn and apply even today. We have something in writing and somebody says, "I know I signed that, but what we really meant was--." And we say, "Just a minute now friend, this is what you signed; now we're going to talk about this." And so this is what they declared and this is what they unanimously signed and it's what this docu-



ment says, especially in the area of "We hold these truths to be self-evident" so on and so forth, and also the validity of the charges they made against Great Britain and the way they expressed them. Fascinating subjects. And we've gone now two hundred years away and unfortunately the students don't get that because many of their professors haven't learned it. And they think it's a waste of time to talk about it because what is the emphasis today? "Civil rights." Nobody talks about natural rights. A civil right is something given by the government, like the right to vote, the right to fish, the right to drive an automobile. These are subordinated types of rights. The natural rights, the ones that came from God according to the Declaration, those are the ones that we should analyse and really talk about.



BURG: And I suppose by inference then, your feeling would be that in this Declaration, for example, one could go back to the kind of training that these men, for example Jefferson, had, and from the phrasing used and the words used you can often identify whether this was from Rousseau, whether it was from Locke, or who it was from. And therefore, it's wise to go

back and see, in the context of revolutionary America what these words meant then, what they had in mind and what background these words came from so that we have a firm understanding of, let's for the lack of a better word, use the mind-set of a Jefferson as he sits and contemplates this document and its wording he is reflecting his eighteenth century mind, his education, his life's experience, and the words meant something.



MANION: He was very familiar with Locke.

BURG: I would think, yes.

MANION: Of course. And these were learned men. He was writing Latin poems at fourteen and fifteen years of age and I don't see any kids doing that now. He was really an intellectual. But when he puts words in and deliberately leaves words out like life, liberty, and property; he puts life, liberty, and the pursuit of happiness instead of that--the reason why he left it out becomes important. Not that he didn't know about it. He knew about it, but he says it doesn't belong here. So the range of their understanding

was all taken into consideration when they finally boiled this thing down into what I think is the greatest document ever struck off at a given time outside of Holy Writ. I'm a nut on the Declaration of Independence as you can see.

BURG: It's perfectly fine to be a nut on it. It is a fascinating document.

MANION: A local Presbyterian church had me come over and make a speech recently. Afterward, the minister came up and said, "Well you didn't spend half long enough. Will you come back? I want you to take my pulpit for three Sundays."

I said, "Yes, I think that'll be time enough--two Sundays and another Sunday for questions," which I did and we had a riotous time. It so happened that the chairman of the local bicentennial committee is a member of that church which pleased me very much. Now she understands what we're talking about and is trying in her own way to explain it. We have, for instance, here in this bank--largely at my insistence, I am a director--something started over a year ago; a signing campaign. We have in every office and in every lobby of the bank's branches, a gigantic copy of the Declaration of



Independence and the people go up and sign it below the names of John Hancock and the rest of them. Twenty-one thousand people to date have put their names on it.



BURG: Did they read it?

MANION: I doubt it, but at least their heart's in the right place, and this is something. I asked a fellow one day, I said, "Do you know what you have just signed?" So he turned around and read it.

[Interruption]

BURG: About your teaching career, and let us combine with that the deanship too, is there a particular thing or particular things that stand out in your mind as particularly thrilling about that period of your life--or areas that you now look back on with great pride about that period in your life, your teaching career and your administration career here.

MANION: Well, they say the proof of the pudding is in the eating. Now the letters that I get from my former students. I get a sprinkling of them here and there and occasionally I say, "Look, these men graduated and have never seen a Manion

Forum manuscript." Well I'll send them; some of them have never heard it; didn't know I was on the air. But by and large their letters are encouraging. I find that they were very satisfied even though some of them are men who didn't make a lot of noise in class now write back and say some very complimentary things about my classes and how that this appears to be the generality of opinion. To me, that convinces me that I did a reasonably good job I think. I was strict. I had certain prerequisites for passing and we had to flunk people and sometimes they had to repeat the course. But there was no ill will and there never was any imputation of unfairness. At that time I was almost as young as my students, even after the war and all that. By the time these men got to law school and were ready to go off to World War II, I was five, six, seven, eight, nine years older than most of them, but we were really a part of the same generation. And I had never had a disciplinary problem. It was a very, very satisfying period of my life.

BURG: Did you teach basically the same course, or courses, that is all grouped up along the same general theme?



MANION: When I first went to Notre Dame as a freshman teacher, of course there were others there who were ahead of me. And when somebody retired who was teaching a course, it had to be taught by somebody else. The dean of the law school at that time and I became very good friends. He was a former Congressman. He liked to teach constitutional law because he had been a Congressman, and, really, I don't think he knew very much about it. He'd been a lawyer up in Wisconsin before he went to Congress. So he wanted somebody to take the property courses because the man who was teaching the property courses was leaving. And the property courses were very dull and unexciting--that is to most people. Nobody wanted to teach property courses but everybody wanted to teach constitutional law. And the dean was about to give it up anyhow because he was busy administering. I said, "Listen, I'll teach the property courses, all of them--personal and real, future interest--if you'll let me teach constitutional law." Well he thought that was a good excuse to give the others, so that's how I happened to start teaching constitutional law.

BURG: They could take the unpleasant package or they could pass up con law.



MANION: Yes. After all I wouldn't have missed that for anything because, as you undoubtedly learned yourself in your own teaching career, you really never know anything until you start to teach it.



BURG: Exactly.

MANION: That's when you learn it. You have to, to be ahead of the students. And property is the real solid ground under the feet of the whole common law system. It is what they grew up with in England. And so much of the property law becomes logical when it wasn't burdened by all these statutory regulations. But then you get into zoning and this sort of thing and it becomes modern. But in its early stages and its introductory stages, it was very fascinating.

BURG: So, your preparatory work would of necessity take you back into English history, a long way back into it.

MANION: Oh, yes. Yes, yes.

BURG: Entailment and--

MANION: Right. One has to go back to all those things--King

John and the rest and the feudal system. And the whole panorama of constitutional law and property law as far as basic common law was concerned was most important in England. And I think they took up a major portion of Blackstone's Commentaries, too. A fascinating book.



BURG: Well I gather it is, and I make no claim to ever having read it; I have seen old copies of it. But so many of the nineteenth century men that I studied had cut their teeth on Blackstone that I know it second-hand through many of these Whig lawyers.

MANION: Well it's first-rate. And I have it, three volumes of it. But, for instance, you have to tell these people about where in Blackstone this definition of the pursuit of happiness appears, "quote end quote." They just don't believe it. I have said, "This was not a preacher making this up. He was not a prophet. He was a lawyer." And he had noted the association between the ten commandments of God and the necessary commandments of the state. And he also observed that the people who kept the commandments, were out of trouble as far as the civil law was concerned. They didn't have to bother with it much.



So that surprises this generation because, let's face it, they're all secularized and they take this with a grain of salt and a glass of water in order to get it down. I enjoy reminding them of it and that's the only reason I stayed on the air. I have a daily radio foot note, too, now. I should have my head examined for taking this on but some of these radio stations, many of whom have carried the Manion Forum free for twenty years, requested it. In the beginning I gave all of the weekly programs myself but on most of them now I interview important people. But recently the stations said they would rather have something once a day for about three minutes from me personally. And the reason they like that is because they can get it sponsored. And so I now grind out five daily footnotes every week. Of course, as Robert Burns said, you need not have a servant or trained attendant, to have the glorious privilege of being independent. At eighty I don't give a damn, I tell the people what I think is right.

BURG: That's right. I can see it coming for me--I enjoy it very much.

MANION: I try not to be offensive, but I insist upon calling



it the way I see it like an umpire standing behind the pitcher.

BURG: Now you stayed here at Notre Dame through World War II.

MANION: Oh, yes. I was here all during World War II.

During the war we lost most of our law students because the government let them stay to finish their undergraduate college courses but not any longer. Then in 1945 they all started to come back again, just like Camp Merritt.

BURG: So law school enrollments declined during the war.

MANION: Yes it went way down. We were finally left with what we called the 5-Fs at one point. In other words the 4-F was the physically disabled fellow, but the fifth F was the fellow who had more wrong with him than the 4-F.

[Laughter] The university, at that time, scrounged through without any great endowments from Carnegie or Ford or the people they get it from now, but we managed. So, when you only had four or five fellows in a class, you could really take the time and the effort to even get a dullard to come close to an understanding of what you were talking about. And there were some very, very good students who weren't able to go to war.



BURG: I was going to ask you if, you know, if you've got four idiots at your feet, you aren't really getting anywhere even though you can reach them much more easily than you could with thirty of them out there.



MANION: That's right. They have to have something. I remember one thing I'll never forget. We used to have a great many South Americans at Notre Dame. It is a Catholic school and they were at least nominally Catholic down there. This chap kicked around in the undergraduate school and he had accumulated enough credits for admission to Law. At that time we had a three-year entrance requirement. He hadn't graduated and I doubt if he ever would have, but he thought he'd come to the law school. So he came in and he wasn't there very long. It didn't take very long to spot them in those days because they were so few--but I talked to him. And I said, "Adolpho, why do you want to be a lawyer?" He was a wealthy fellow and very handsome. I said, "You have a lot of talent." I said, "I think that you're just kind of feeling

your way around. Why are you studying law?"

"Well," he said, "I would not like to be president of Ecuador." [Laughter]

BURG: And this was his alternate choice!

MANION: He was perfectly straight-faced. If he would go home he felt that he would probably be president of Ecuador and he didn't want that job.

BURG: That must have cracked you up!

MANION: Oh, God, did it! And countless people since. But he was as serious as he could be and he didn't want to go back. He knew that if he quit going to Notre Dame his old man would make him come back down there. And in those days it was easier to be president of Ecuador for twenty-four hours than it is now.



BURG: Oh, that is a funny story. That is really funny. If only a person would write down things like that as they happen because they happen to you in teaching, something similar.

MANION: Oh, so many, many of them.



BURG: Now I meant to ask you, when did you begin the Manion Forum?

MANION: I began that after I was in and out of the Eisenhower administration.

BURG: It was after that?

MANION: Yes. If you want to talk about that a little bit--

BURG: Well, now, let's put it chronologically, and we're almost there, you continued your work here until '52.

MANION: Yes. And I left Notre Dame, really, because I wrote a little book called The Key to Peace, and that again was an accident. I tried to put the picture of American society into context--

BURG: Was this done at the end of World War II?

MANION: This was before I ever left Notre Dame.

BURG: Oh, really? During the war, then.

MANION: Yes. I made the speech over here to some service club, and the old man who owned the South Bend Tribune at that time was enthralled. He heard so many things that he hadn't heard before about the sequence of America's greatness, and I was trying to impress these fellows with the need to sharpen up on it if they wanted to save it. Well he rushed up afterwards. He says, "You made this point, that point, so on and so forth."

And I said, "Well I was glad to hear his interest."

Now he was a smart little fellow, and very wealthy. His nephew is now running the show, the only newspaper in South Bend. He said, "I want to publish this in the Tribune. I want you to write an article on each one of these subjects." And he says, "I will run them in the South Bend Tribune consecutively." He says, "Everybody should know this."

So I said, "All right." It was a compliment. I was the Dean of the law school at the time, and it was helpful for the college administrators to know that he wanted this done. So



I did it. And he ran them. It took about two weeks to get them run through, half a page daily. Somebody got a hold of them in Chicago and came to me proposing to make a book out of them. And he did. He was a magnificent editor. He was with the American Medical Association for years and he had been the editor of their publicity and their brochures and so forth. Well there was a political turnover in the American Medical Association at that time and he was retired. And so he wanted to take hold of this and did.



BURG: A thoroughly competent man, then.

MANION: Oh, God, yes. And it was marvelous to see somebody do something with a thing that you've written and make it so much better without changing anything. "Now this should be here--I've taken this third paragraph out and see it fits right in." He published the book and they sold over a million copies. Its success almost took my breath away. Now his method of disposing of them was the same. Not just by getting somebody to review it in the New York Times; he went to the presidents of corporations. He says, "This book should be in the hands--you can read it in one hour--in the hands of all of your supervisors." And so on and so forth. And one man would

tell another, the chairman of Standard of Indiana told somebody, and so on and on. You know. So I was called upon to speak. And my God, I was on the road half the time. I became self-conscious. So by the time '52 rolled around I had to do one thing or the other. I had to follow up on this writing and speaking or else quit teaching. That was all.



BURG: Permit me to be impertinent. May I ask what kind of financial arrangement you had on this book.

MANION: Ten percent of the gross. The purchasers were giving it away by the thousands to their employees, et cetera.

BURG: But Standard, for example, would buy ten thousand copies of it--

MANION: It was so much a copy; I would get ten percent of the money that Standard and others paid for it. Now the publishers with the other ninety percent of their income did a lot of promoting; they did all that. But I stayed away from any three cents per copy arrangement and all that business because of the necessity for vast promotion. No doubt many of these more than a million copies were passed out gratuitously. But



I did very, very well even as it was. So I had to leave. Now I had spoken before conventions of every association (and I say this carefully and advisedly) that had a national organization in this country, except the Ku Klux Klan perhaps and a few others. The Farm Bureau Federation, the manufacturers association, the medical association, the cotton manufacturers association--I was on the road all the time, I mean. I've got one list of one year out there on the wall and I can't believe that I got to all those places--Seattle one day and Los Angeles the next day and then Dallas the third day. And I loved it.



BURG: Now that book and that kind of hectic life, was that during wartime?

MANION: No, no, this was in '52--'50, '51, and '52. This is how I came to the attention of the politicians.

BURG: Evidently you were catapulted into a position of--

MANION: Oh, yes. I ran for Congress when I was a cub teacher here. The old dean of the law school said, "You know what that Congressman needs, some opposition; you ought to run against

him, just to keep him tuned up." So I announced and ran, and then later on I ran for the Senate. And when [Paul] McNutt was governor--I was very prominent in the McNutt Democratic party--and so we went to the state convention. That was when Sherman Minton was also a candidate along with three, or four, or five other people in the convention. He was a good friend of mine--and after four ballots I tossed my delegates to him and he was nominated and subsequently elected. Now this was long before '52. This was back in '34 and '35 in those early Roosevelt days. Minton insisted that I had to get something. So I was made Indiana director of the National Emergency Council with the approval of the president of the university. He says, "You can adjust your teaching schedule to that." He said, "We need some people in this political picture," he says, "somebody from every college in the country is in this administration; we too ought to have somebody in it." So I took that on in addition to teaching. And I was down in Indianapolis three days a week and continued my speaking here, there and everywhere. Then World War II came and I couldn't go with Roosevelt in his yen for World War II. I just said, "I'm against it." And I had a talk-fest with my boss in



Washington. He says, "Well we've got to have somebody in there to help the President out; we're going to declare war." I mean, you know, that was before Pearl Harbor. The time of the Destroyer Deal. They were planning, Roosevelt was planning to get into the war. And I knew it; I could feel it.

BURG: Felt it in '41 or even earlier, Mr. Manion?



MANION: Yes, long before '41. I left the government service in 1940 and went back to teaching fulltime again. In the meantime (1936) I'd married. I was made dean of the Notre Dame Law School in '41. I resigned in '52 as dean and as professor.

But, meanwhile, I had formed an association by correspondence and personally with Senator Bob Taft. I liked the guy very much; he was a solid fellow. When he made a mistake he would admit it. We had letters back and forth. And then when he decided to run for President again--he had been a candidate perennially but this time it was for keeps in '52. I was a registered Democrat and still am. I didn't bother to change my registration. I had no political ambitions; I didn't want to change parties. But Taft wanted me to be on

his pre-nominating committee. I wrote and told him, "Senator, I'm a registered Democrat. I have no business being on a Republican's pre-nominating committee." I said, "They'll shoot you full of holes for that."

"Oh, no," he says, "the hell with that. This is a lawyers' committee." He had a prominent lawyer from Houston or someplace as chairman and the guy wanted me on the committee, too, and so I served on that committee for Taft.

And then, of course, when he lost out at the convention-- and this is pure hearsay, but the person who can give you this even more accurately would be Ezra Benson because he and I were in the same category. He was a Taft man, too. And I was a Taft man. And there were other people--. After Eisenhower was nominated, he and Taft had a meeting at Morningside, New York, and the President was like anybody else running--he wanted to get every damned bit of support he could have. He had the Republican nomination, to which he'd been more or less pushed by Paul Hoffman and some other people and I knew Paul Hoffman very well. So Ike went to Taft and said, "Well I want to line up some principals. I want a list of people that you think I ought to appoint." So Taft told me and then I heard



subsequently that he had given him a half a dozen names of people that he thought would be ornaments to his administration and a concession to the Taft people and help them support Eisenhower. A lot of people were very angry because they thought Taft should have had the nomination, you know. So shortly after Eisenhower was elected, I received a couple of calls from Sherman Adams.

BURG: Had you known Adams at all before?

MANION: No. And you know he's a pretty brusque fellow. Incidentally, I saw him two summers ago and I hadn't seen him since I left the White House that fateful day, but the guy was really minding his business. There was never a more unjust, misunderstood execution than the one they gave to Adams.

BURG: That one over the coat.

MANION: Adams was the man who really, you might say, fired me from the administration. But I respected his integrity. He was in that White House at seven o'clock every morning and he never left it until seven o'clock at night. At that time



his wife was ill with tuberculosis and he would go to her and stay with her and read to her. He never went to parties. I think the only time I ever saw him in Washington at a party was at the Gridiron Club one time. Well you had to respect him. We got to be on the first name basis, and I was appointed chairman of the Commission on Intergovernmental Relations.

BURG: That was what he called you about.

MANION: That was what he was calling me about and I wouldn't bother even to call him back. I had no idea what he wanted.

BURG: Let me ask you, how did he handle that phone call with you? Was he as brusque with you in that initial call?

MANION: Oh, he said, "Where in the hell do you keep yourself?" He says, "I left a call for you over at the Statler. Didn't you pick up the call?"

And I said, "I didn't--I just dropped my key and ran, Governor."

"Well," he says, "hell, man--when you get a call from the White House," he continued--oh, he began to tell me off--he says, "you're supposed to answer it."



I says, "Oh, well, I suppose I am, but they're so unusual, I'm not familiar with White House protocol." I was just bouncing the ball around. I didn't know him at all.

BURG: Yes, it's hard to believe he would take that line with you on the first contact.

MANION: Oh, the very first--gross, but friendly. He continued--"I wanted you to come over to the White House. The President wanted to talk to you." He says, "When are you coming back to Washington?"

I says, "Well, I can't. I've got speaking engagements in the other direction for the next ten days."

"Well," he said, "listen, Manion," he says, "the President wants to talk to you and he isn't going to be here ten days from now."

I said, "Well, where's he going?"

He says, "He's going to Colorado Springs for a little rest. That's where the summer White House is supposed to be," out there where they've got the Air Force Academy now. I said, "Well, that's closer to me than Washington and I would just as soon talk to him at Colorado Springs."



"When?"

And I said, "Well, let me get the calendar. When would you suggest? I'll be home such-and-such a time."

"Well, can you come out there during such-and-such a time?"

I said, "Yes, I'll come out."

Well I had then heard from some people as to what was up. I was to be offered the chairmanship of some committee. And I was disposed not to take it because I figured that I would be the bastard at the family reunion, you know, with a lot of these people like Hoffman and others who were running the show.

BURG: Not only were you a Taft man, but a Democrat to boot.

MANION: That's right, you know, and I wasn't at all sanguine about it although I really hadn't made up my mind. But I went out and Adams met me at the plane. He was very genial, stopping to point out places of interest et cetera. We went in and it didn't look like a Presidential palace at all. It looked like a barrack room, but that was where Ike had his office. After a few minutes we went in to see him. And I'll never forget it because he was sitting there in his shirt





sleeves with his arm under a hot lamp. His elbow was bothering him; he had bursitis or something. And he explained it. He said, "I got to hold it this way the doctor tells me if I want to play any golf." He said, "That won't bother you will it?"

I said, "No. No, indeed. Go right ahead."

So then we had an extended conversation, first of all about his family and about his brothers whom I knew and about the Bricker Amendment. And I told him, when he began to talk about this assignment--and Sherman Adams had already told me what I was being called in for. He wanted me to be chairman of this new commission that Congress had created, the Commission on Inter-governmental Relations. And I said, "I don't know." And Ike was very frank and forthright. I said, "Mr. President, what is this commission for?" I said, "I haven't read the act."

"Oh," he said, "Sherman, give him a copy of the act." So Sherman handed me the act, a typical action of Congress, whereas and so on and so on and so forth. I thumbed through it and looked at it. "Well," he said, "I'll tell you what this commission is going to do." He said, "We got so many over-lapping agencies, the federal government, and the state governments; they're doing the same thing." And he says,



"Herbert Hoover'll tell you this," he says, "with his commission he is trying to line up some kind of coordination in the federal agencies. But," he says, "this is to try to do away with these overlaps and conflicts with the states, this intergovernmental relations commission."

I says, "What do you think the trouble is?"

Ike said, "I want to tell you that I was very, very much impressed by your speeches on states' rights." I had made some speeches for Eisenhower, by the way.

BURG: Oh, you did?

MANION: After he was nominated and when he was running. And at that time I had been appointed as an adviser of the American Legion. They latched on to me when I left Notre Dame. I got a retainer from them and I was an adviser to their Americanism commission, made speeches for them, et cetera. And I never should have ceased to be because it was a tremendously potent place to be. They had a million members. Nice guys, and all they want to do is something for the country. We had great rapport. Well, during the campaign some of Eisenhower's people got hold of me and said, "We want to have a Legion



program on the air," radio then--television wasn't going at that time.

BURG: During the campaign.

MANION: During the campaign. And he said, "We want you to get a couple of these former national commanders of the American Legion, now they'll do whatever you say."

John Stelle, former governor of Illinois, and another fellow who had been district attorney in Tennessee or something. Very prominent men.

So I said, "That's all right; I'm for the President." I says, "I was for Taft, but I'm certainly not going to vote for that Stevenson."

And they said, "Well do this under the auspices of the Democrats for Eisenhower, but we want this as a national hook-up on NBC."

So I got hold of Stelle and the other chap from Tennessee and we made the date to do the broadcast from St. Louis. I thought it was going to be something very much like you and I are doing now, that I would talk to the commanders, "What do you think about the President?", so on and so forth. But this isn't the way it was at all. We got in and the man



MANION: And the Legion, the Democrats for Eisenhower, the whole combination apparently made it effective. Then old Senator [Homer] Capehart, who was in the Senate then, met here later. "God," he said, "that was a great speech you made for Ike." He says, "The President said that it got him a million votes."

I said, "Oh, I've heard that one before," you know.

"Oh, no, no," he continued, "the President said it to me."

Well this was before Adams called me. I thought it was nice, the President thinks kindly of me. It was nice; I voted for him; was for him; didn't pull any punches. He mentioned that speech; thought it was a good speech; I said I was delighted to make it. I said a lot of it was about states rights and national independence. And I said, "By the way, Mr. President, I don't think anybody ever ran for President in my recollection, who ever stressed states rights as forcefully and effectively and as frequently as you did during your campaign." And I says, "I want to compliment you on that and I hope that you'll be able to implement those ideas because we desperately need them." I was a great friend of



Harry Byrd's, old Harry, and sympathetic with his political philosophy, particularly about states rights. I says, "We've got to get these vital rights back to the states."

Then Ike said a very significant thing. He says, "Yes, yes, Manion, I agree we got to get them back. But before you give the states their rights back, you got to leave them with something to execute them with. They've got to have the revenues and they've got to have access to tax sources in order to raise the money to execute those rights."

I said, "Well that's a very, very interesting thing. I think you're entirely right." I said, "Do you mean to say then that the states should have a wider exclusive range of things to tax without the federal government's participation?"

"Right," he said, "that's right!"

I said, "Such things as Notre Dame football tickets, for instance?" Well that got a laugh.

He said, "That's what I mean. What's the federal government got to do with that?"

And I said, "Then there is estate taxes. The states have all to do with who gets what. When one man dies the federal government has nothing to do with it except tax it."



"That's right. That's right. States should do that. They should have a right to do that. You've got to give them exclusive tax sources."

Now this all came back to me when Ronald Reagan, whom I never met, began to talk about bringing back all these millions to the states along with their responsibilities. But he didn't stress what Ike stressed many years ago, namely that the states would have tax sources exclusive of the federal government to get this money.



BURG: Was he as vehement about that as you have just been?

MANION: Yes, vehement! He said, "That's right. That's right."

BURG: He really slammed it home.

MANION: And Sherman sitting right there. He So I said, "Well, Mr. President, that does it." I said, "Then I should say this is a states rights commission that you're trying to get me to be chairman of?"

"Right," he says, "but don't forget, just not going to talk about this thing." He says, "We're not just going to throw these things at the states and tell them to do it." He

says, "They're going to have to have the revenue sources to do it." This was none of the Federal revenue-sharing approach like Nixon came in with later which takes money from the states and then gives some of it back to them. Ike was going to leave exclusive revenue sources there in the states with them.

BURG: If necessary, would he back the federal government away from things it had its hands in already?

MANION: He knew--we specified that. I talked about the estate tax particularly because I had had a hunch, and I verified it, that at that time the federal government, believe or not, was losing money on the estate tax. It cost them more to collect it than they collected.

BURG: That's what they used to say about the Stamp Act tax.

MANION: Oh, yes. Then I accepted the chairmanship. I mentioned the Bricker Amendment, too, told him that I had a lot of speaking commitments and I had promised Frank Holman to stay with it until this Bricker Amendment thing was passed. "Oh, the Bricker Amendment. I know all about that," he says. "My



brother Ed's for that."

And I said, "Yes, I know Ed is. I've met him," and so forth.

BURG: He had not yet been inaugurated, had he?

MANION: Oh, yes, he had been inaugurated. He had been President for several months.

BURG: Okay. So it's '53 and in the spring.

MANION: Fifty-three in the spring when he was out there starting off his summer vacation.

BURG: Yes, okay.

MANION: He said, "That won't make any difference," he says, "you'll only have to be in Washington two or three days a week or a month." He said, "It's not a steady assignment," he says, "you just supervise this thing. Sherm will take care of your staff," you know, and waved at him, and all this. So I announced that I'd take the chairmanship and do my best.

So then we concluded with this expression. I said, "Mr. President, you want to restore the constitutional





integrity of the states as I see it. This is the purpose of this commission. People are going to ask me about it."

"That's it! Constitutional integrity of the states."

He says, "That's it. That's it."

Then I said, "Well, that's just great. That's fine. Now I know what to say and what to do. And thank you very much and I'll go down there and go to work and try to get the committee organized."

"Well, you've got to pick some committee members," he said. "You'll be the first one picked and the House picks five, the Senate picks five, and--." He picked twelve I think, including me.

So then the newspapermen came in and the President made the announcement. We had our picture taken. And one of the fellows said, "Well, Mr. President, what's this committee supposed to do?" He said, "This committee is going to restore the constitutional integrity of the states." And by George, I just couldn't wait. And I went from one end of the country to the other and quoted the President, and I had a witness, and the people ate it up. I mean the meetings, it was exactly what they wanted. We were getting along fine with everybody



except the bureaucracy. They found out what this Manion Commission was trying to do and they began to say, "My God, what's going to happen here?" The Bureau of Roads, for instance, they asked, "Are you going to have the states build their own roads?" I said, "Oh, yes."

The road tax was one of the things that came into our conversation. The federal government would quit taxing gasoline; they were taxing gasoline two cents a gallon at that time. Let the states pick that up; let them build the roads. And this was the theory of the whole procedure. I began to talk that way and then I heard from the Executive Club in Washington. [Marion] Folsom, who was an assistant secretary of the treasury, was appointed to my Commission. This I thought was a mistake although I didn't want anything to say about who was going to be on the committee. I said, "Mr. President, you appoint them and I'll get along with them." We had a good committee. Folsom says, "You're talking about repealing Federal taxes on gasoline?" He was a southerner; he had his carefully refrigerated Georgian accent and he still used it although he had been with Eastman Kodak Company for years. Nice guy, I saw him more than anybody else. Folsom says, "You can't do that."



He says, "If you take the estate tax away from the federal government," he said, "we can't balance the budget."

I said, "Well, you're not balancing the budget very often now anyhow, but the states will be taking this stuff off your hands."

Then he says, "By the way, the Executive Club wants to hear from you."

I says, "Who belongs to the executive club?"

Well he says, "Everybody who works for the government that makes more than twenty-five thousand dollars a year." This was back in '53.

I says, "We're going to have a jury in other words, I take it."

At that time, that's what the cabinet was getting, you know.

"Oh, no," he says, "these are specialists, scientists."

My God, there were three or four hundred people there. And a lot of them when they interrupted me and questioned me could hardly speak English. Well I let them have it. One fellow says, "Well you talk about taking these things back to the states . . . Biologists, where in Virginia would



you have a biologist?"

And I says, "Where do you live, doctor? Do you live in Virginia or Maryland?" And I says, "They find you; you can work for the state instead of the federal government."

"Ohhhhh," he says.

BURG: Many of these people were foreign scientists who had come over here--

MANION: Certainly. The woods were full of them. And I soon found out then that the Washington bureaucracy is a powerful, cohesive entity, although faceless and nameless. They operate as a group and they protect themselves. They have a vested interest in Federal spending. Ironically, they couldn't care less about the President; they go right on regardless of who is President. Because the President appoints two or three or four fellows in the state department, and three or four guys in the post office department, and so on and that's it. The rest of them all move up in civil service. But they watch out for themselves.

Well, then of course the Bricker Amendment came up. And they saw an opportunity to mention that because I was making



no apologies for the fact that I was working for the Bricker Amendment--I had cleared that with the President. Meanwhile Dulles and some more of these people had turned the President around about the Bricker Amendment. They said that this will be an attempt to interfere with your power over foreign relations. [Editor's Note: Dr. Manion has suggested that at this point the reader's attention be drawn to his book, The Conservative American, New York: The Devin-Adair Co., 1964. He specifically recommends Chapter Nine, "The Menace of Treaty Law", passim, as a source of information regarding his own role in respect to the Bricker Amendment, and in connection with his removal from his position as chairman of the Committee on Intergovernmental Relations.]



BURG: Had it been your impression that the President originally supported the Bricker Amendment?

MANION: He didn't know anything about it, but he said it was all right, he knew about the Bricker Amendment. He says, "Ed's for it," he says, you know, "Don't worry about that."

BURG: And Edgar sure was for it.

MANION: Oh, yes.

[Interruption]

BURG: Let me remark that the Ed that we're talking about, Edgar, is Edgar Eisenhower. Mr. Manion knew him.

MANION: Oh, yes. And I had met Edgar Eisenhower in connection with the Bricker Amendment with Frank Holman who was at that time president of the Bar association and who was the spearhead of the drive for the Bricker Amendment. I was completely sold on the Bricker Amendment, the need for it. The constitution says, "That the constitution, the laws made pursuant to it and treaties made with the advise and consent of the Senate shall be the supreme law of the land." And not one person in ten thousand understood that a treaty can supersede a law under that language. And that we might at any time, by the negotiation of a treaty, supersede some very important laws that people believed were there for good. And so the Bricker Amendment meant to change that thing, and put treaties under the constitution rather than superior to the constitution and laws. And that's all that the Bricker Amendment really aimed at in its simplest form.



BURG: You qualify that by "its simplest form." Are you referring to those, was it two amendments that were tacked on to Senator Bricker's original composition?

MANION: Bricker's original amendment was very long, but the amendment that was finally voted on was very simple. It simply says that, [according to the text printed on p. 108 of The Conservative American]

Section 1. A provision of a treaty which conflicts with this Constitution shall not be of any force or effect.

Section 2. A treaty shall become effective as internal law in the United States only through legislation which would be valid in the absence of treaty.

Section 3. Congress shall have power to regulate all executive and other agreements with any foreign power or international organization. All such agreements shall be subject to the limitations imposed on treaties by this article.

All it did was provide that no treaty shall be made in violation of the constitution of the United States, even though it's made under the authority of the United States, that is by the President with the concurrence of two-thirds of the



Senate. Under the Bricker Amendment it would have been made invalid and contestible if it, in effect, it transferred powers from the states, for instance, and put them in the federal government or made them exercisable in collusion with some foreign nation.

BURG: Where before, the way it was written, a treaty which got by two-thirds of the Senate became operable and actually did supersede prior laws. It took precedence.

MANION: They did that, and there were and are now many cases on record. For instance one of the precedents, the case of Missouri vs. Holland, it had to do with a treaty with Canada for migratory birds. We were trying to get a coordination between the game laws of Canada and the game laws of the United States so they would protect birds that flew across the border without knowing they were going from one country to another.

BURG: Yes, I think that was Mr. Justice Holmes' decision ultimately.

MANION: They held that this was not a proper regulation of





Congress. Congress passed a law to the effect that no birds would be shot except in accordance with this treaty if they were migratory birds. Congress said this was a regulation of foreign and interstate commerce. The Supreme Court said that this was not commerce that they were regulating; they were regulating hunting and so on and so forth and they threw the law out. Then subsequently the state department negotiated a treaty with Canada providing for the coordination of this and that and Congress passed an enforcement law pursuant to the treaty. And the court reconsidered again--here the case came up now as a treaty--and the court says oh yes, this is a treaty made under the authority of the United States and Congress has legitimately implemented the treaty by legislation. It's not regulating interstate commerce now; it's implementing a valid treaty. Well what of course could be done with migratory birds could have been done with anything else through the treaty route so that the states would have been by-passed. While they would be immune from congressional regulation, they would not be immune from treaty regulation. This was why the Bricker Amendment got off the ground. And it was approved by practically everybody. Two-thirds of the



United States Senate joined in the introduction of the Bricker Amendment, some of these senators ultimately were prevailed upon to vote against it. It only lost in the Senate by one vote short of the necessary two-thirds. It was an extremely popular proposal.

BURG: It had the support originally of the American Bar Association--

MANION: Yes, by the Bar Association two or three times running.

BURG: --Daughters of the American Revolution favored it, there were a number of groups.

MANION: And there were only a half a dozen organizations--I list them all on pages 107 and 108 in The Conservative American--who disapproved of it. But this was being climaxed while I was having my beginnings in Washington as chairman of the commission. At that time people like [Marquis] Childs and [James] Reston and other columnists who were appearing in the Washington Star and Post began to jump on Manion because he was not a team player. Eisenhower had expressed some



distaste for the Bricker Amendment, and by that time he had become opposed to it, although I never discussed it with him after that.

BURG: Or with anyone else in the administration, Mr. Manion?

MANION: No, nobody else. Of course, there were the senators, but the Senate was Republican at the time, you see, by a narrow margin. And they were certainly much more administration-minded than I was; I was the Democrat, was appointed as a Democrat--this was a bipartisan commission. And I was going ahead and advocating the amendment as I had done before. So then they began to come out with statements that Manion's being asked to resign, has been asked to resign. Well I made Childs eat that. I said, "Nobody's asked me to resign." I said, "You made that up."

"Oh, but my sources in the White House--"

I said, "My sources in the White House haven't made any such suggestion, and I'm in touch with the White House one way or another almost daily."

Finally, I went in to see the President at the suggestion of Sinclair Weeks. Weeks, of course, was for the Bricker



Amendment; Weeks was also for the states rights view of our Commission. He was running the government's participation in the roads program, the commerce department does that. And he was going along with our committee which was being prepared by our committee and sub-committee, that the federal government would repeal its two-cent gasoline tax, leave the taxation of the gasoline to the states, and leave the building of the roads to the states. Our Commission had tentatively recommended that there'd be no more federal-state roads unless the federal government wanted to build one that it needed like it would build a battleship and pay for it all, no mixture of funds. And the Bureau of Roads would be retained, according to the recommendation of the committee, as an advisory and research organization, like the national academy of science. So Weeks wanted me to see the President about that. I made a speech in Houston and flew back to Washington to keep this appointment that Weeks had made for me with the appointments secretary, a man by the name of Stephens.

BURG: Stephens, Tom.

MANION: Tom, yes. So I found a note under my hotel room door



when I got home at seven o'clock in the morning to take a shower bath before I went over to the White House. The note was from Sinclair Weeks. It said, "You're to see the President at nine o'clock" or ten o'clock or whenever, he says, "but don't mention the roads, please." Good God, I thought, that's what the appointment is all about. Then and there I made my fatal mistake; I should have thrown the note in the wastebasket and gone right ahead and told the President about the roads and what we were trying to do and so on and so forth. Weeks was afraid of Adams (Adams had told him to hell with this cutting down on road buildings, we're going to build more roads than any previous administration in the country). Adams had said, "We're in political trouble and we've got to build roads." Well Weeks wanted me to get to the President on the two percent gas tax thing on the theory that he--but he said, "Don't mention the roads, please." And he later said that would have given it away that he had arranged the meeting and he didn't want Adams to know that. That's how much afraid Weeks was of Adams.

BURG: Did you have an opportunity to try to get Weeks, call him on the phone and try to find out--



MANION: Not then. Not then, time was too short.

BURG: You had no time to reach him and find out--

MANION: No, all I did was pick up the note on the way to the White House. And I was never more constricted, taking up the President's time and having made an appointment, so then we talked generally about the commission. And then we began to talk about Roy Cullen and he said, "Well, how is Roy?"

I said, "Well, he's fine. He sent you his regards and he also told me to tell you that he thought you were selling him out on the states rights thing."

BURG: You had just seen Cullen down in Houston.

MANION: Yes, the night before--had dinner with him. And he says, "Roy Cullen hasn't had a political throught since 1873." Oh, brother, he really railed. He'd swing in his chair and bang the table--

BURG: His face get red?

MANION: Yes.

BURG: He was fired up then.

MANION: Then, of course, I realized that while he was spending time with Roy when he was running for President something had



happened between them, because Roy was a great needler, you know. He'd try to call a President every day and all that sort of thing. Well it was an unpleasant meeting. It was the last time I saw the President. But the only thing he said, "I hope you get that thing going." And he said, "what does he mean, we're selling out on states rights?" And what could I say--here I am with Adams sitting right behind me under Weeks's instruction not to mention roads. What I should have said is, "Well, I've come over here to tell you that Mr. Weeks was told by Mr. Adams that you're going to build more roads than any administration that had ever been in Washington," and I made the mistake of my life by not doing it.

BURG: Adams didn't say a word.

MANION: Not a word. Not a word. So I saw Adams a couple of times after that because somebody got off the committee and somebody else got on, or died or something, wanted to know if it would be all right to replace that fellow this way? And I said, "Yes." But then, finally he called me over and he said, "Clarence, you're a pretty busy fellow, you are in the papers every damned day." He had something more, another needle to



put in me, that Manion last night told the Houston Chamber of Commerce or so on and so on he told this and that about what the President told him to do, "namely to restore the Constitutional integrity of the States" and what the committee was going to do and what they were about to recommend for that purpose and I was apparently getting the point across to the country. He said, "You're a pretty busy fellow." He says, "We think you should resign." I said, "We? Who else?"

BURG: Where did he lay that on you, Mr. Manion?

MANION: Right then. Right there in the office.

BURG: Yes, but what date was this approximately?

MANION: Oh, it was about--I don't remember the exact date that I got out. But I said, "All right, I don't want to be persona non grata, but I don't want any information of my resignation given to anybody until I have a chance to meet with the commission which is coming in next Thursday or some ten days later. At that time we will hear and discuss the reports as usual and at that time I'll present my resignation." Adams agreed. And it was done accordingly. All this stuff





about having asked for the resignation and so on was never mentioned to the Commission. But I did resign and I got out. The general excuse given by the White House was that the committee wasn't moving fast enough. Well the trouble was the committee was moving too fast. I had, if I may use a personal pronoun, the support of at least two-thirds of the committee on every kind of thing that we suggested as far as the roads, the states, the tax, the whole bit was concerned, including the Bricker Amendment. We had fellows like Senator [Andrew] Schoeppel and Noah Mason and Governor [Allan] Shivers of Texas, Governor Driscoll in New Jersey. It really was a states rights committee.

BURG: Can you name others who were on it. Of course, we can check that out, find out who they were.

MANION: Oh, you can find that, yes. Noah Mason immediately resigned as soon as I resigned.

BURG: What was the reaction when you announced your resignation?

MANION: Oh, the committee got up and protested unanimously.



Some of those who had opposed me on some things protested my resignation most vehemently. "What promoted this?" et cetera. And they almost had a resolution ready for the press.

I said, "This is a purely personal decision. I hope the committee goes ahead with the work we have started." We had our sub-committees on roads and education and various other things where there were state and federal overlaps that we were studying and they were functioning. Many of those sub-committee members quit immediately. The point that we weren't moving fast enough became ironical because it was at least six months before my successor was appointed by the President. The committee has no chairman in the meantime. Finally the President appointed [Meyer] Kestnbaum from Chicago, a clothing man, and they eventually put out a report, which wasn't too bad. But of course it wasn't the kind of a report that they would have put out if I had stayed in. And that was it, as far as my experience with the Eisenhower administration was concerned. I had no further contact with the President beyond that.

BURG: You had become an embarrassment.



MANION: Oh, yes. Because it was the President who had changed his mind. He could very easily have told me, but you see he had not formulated any opinion on the Bricker Amendment at the time of my appointment. He was taking it on faith of Edgar, his brother, and others, that it was all right, which it was. But Dulles and others had changed his mind about it because they were trying to accomplish some things through treaties inasmuch as the United Nations had been set up and was then going strong and so forth that they didn't want to relinquish. Now Dulles himself made the strongest plea for the Bricker Amendment that had ever been made and we kept quoting that.



BURG: Was it a press club speech he had--

MANION: One he made in Louisville where he said--

BURG: Yes, I think that's where it was.

MANION: --"A treaty can repeal the Bill of Rights; the treaty can take rights of the states and give them to foreign governments." Oh, he went the distance, and this was about six or eight months before the Amendment was voted upon happened.

BURG: Yes. He later backed off, did his best to back away from it.

MANION: Oh, he backed off and so on, but he couldn't deny the fact that he had said it. He admitted that the statement was true but he said, "This administration isn't going to make any bad treaties." He said, "I'll give you that assurance." He gave a pledge to the Senate Committee that none of the pending U.N. treaties would be submitted for ratification during the Eisenhower Administration. But Dulles and--this was before I was appointed to the commission--and certainly everybody by that time should have known where I stood, including the President and Adams and Dulles and everybody else. The Senate committee was hearing from witnesses pro and con on the Bricker Amendment. And everybody had appeared who had been for the amendment--Holman and Bar Association figures. I was on the road so much that I never could be in Washington at the time when Holman would tell me, "They're going to have another session, you ought to be there."

"I can't be there."

Well finally he called me up and he said, "Listen, you're conspicuous by your absence." He says, "You're talking about



the Bricker Amendment all over the country," but he says, "here's this senatorial committee wants to know why you haven't testified. Now," he says, "they're going to have one more meeting to hear Dulles because he hasn't testified either. But I have spoken to the chairman and he can make room for you that day (April 6, 1953) if you'll get to Washington."

I said, "That being so, I'll be there." So I got to Washington and the committee was fully present, naturally, to hear the secretary of state. I was on the rostrum first while they were waiting for Dulles to arrive. And of course I said, "I notice the secretary's going to be here," and so I read again what the secretary had said.

BURG: Little nasty of you.

MANION: And then so at that time I was, I'm sure I hadn't been appointed because I was authorized by the Legion to make this appearance. The Legion was for the amendment.

BURG: Yes, and the Veterans of Foreign Wars, I think also.



MANION: Veterans of Foreign Wars. And old Senator [Herman] Welker of Wisconsin [Idaho], he was the one who had been touted off from the Bricker Amendment, formerly one of the proposers. But he had been married for the second time to an English woman, and she was given credit for having changed his mind.

BURG: Really?

MANION: Oh, yes. All the other senators, [Pat] McCarran and Jenner and the others on the committee, were very, very hospitable and asking friendly, leading questions. Well finally Welker got around to me and he said, "Mr. Manion, what kind of a lawyer are you?"

I said, "Well, not very good I suppose."

"Oh, I don't mean that," he says, "what kind of law do you specialize in?"

I said, "Well, we're in the general practice and we handle corporations or anything else. We don't have any criminal cases that I know of."

Well he said, "You're just here representing yourself."

I said, "Oh, no, that isn't the point. You asked me



what kind of a lawyer I was and what law I specialized in."

I says, "I'm not representing myself. I wouldn't be presumptuous enough to take your time to do that."

"Well who are you representing?"

I says, "I'm here as the official representative of the Americanism Commission of the American Legion. And the American Legion has passed a resolution supporting the Bricker Amendment and they asked me to come here and articulate for them and to tell you why they are in favor of it.

He says, "How many men are in the American Legion?"

I said, "About a million."

Well he gasped and said, "No more questions." So I really had a picnic at that meeting and then when Dulles came in--. And incidentally when Dulles came in, half of the senators got up and left. It was done deliberately--men like McCarran and some of the Democrats on the committee. A full account of this Senate session is described by Marquis Childs in a footnote on page 117 et seq of The Conservative American.

[Interruption]

MANION: My appearance before the Senate Committee took place



before I took the appointment from the President, and thus I was fully exposed as a Bricker Amendment advocate before I was appointed as chairman of the Intergovernmental Relations Commission. So I wasn't taking anybody by surprise or under false pretenses or anything at all. It was just that [Herbert] Brownell, who was attorney general, talked to me one day in the corridor--this again was before I was appointed--and I told him, we were down there for some Legion meeting or something, I said, "The people are very much disturbed that the administration is opposing this Bricker Amendment." I said, "Congress wants to pass it and this is a states rights measure. And you're opposing the Bricker Amendment and the administration's getting credit for backtracking." I was not a part of the administration then, I was just telling him as a private citizen. So the next day ironically, Senator [Homer] Ferguson of Michigan introduced a milk-and-water substitute for the Bricker Amendment and said he was speaking for the administration. Ferguson had been a very strong advocate of the Bricker Amendment too but he--. But Brownell thought we better get on record here with something that sounds like the Bricker Amendment, you know, to get the heat off. But the amendment





that was finally voted upon in the Senate was the amendment which Holman had really written for Senator Bricker, short and to the point. And it would have been probably strengthened by the House when it got to them and gone to conference, because the House was stronger for the Bricker Amendment even than the Senate.

I was undoubtedly eliminated from the Chairmanship by the pressure of the state department because of my attitude towards the Bricker Amendment. I was just a little bit too strong for their tolerance. But they should have known that this had been my attitude all along and remained so.



BURG: If we looked at the cabinet, those members that you knew, you knew Weeks and Weeks stood for the Bricker Amendment.

MANION: Oh, yes. He was counted for it.

BURG: And Ezra Taft Benson--

MANION: Ezra, yes, yes.

BURG: --stood for it. George Humphrey was against it, I believe, was one of those who opposed it.

MANION: He could have been. I have no expression from him. I've met him frequently and admired him and liked him. A very strong man.

BURG: How about Charles Wilson? Do you happen to remember?

MANION: No, I had never met him.

BURG: Or Douglas McKay?

MANION: I don't know that they were active in the Bricker thing one way or another.

BURG: Nor do I; I'm sorry I don't remember that either.

MANION: The American Federation of Labor was one of the six organizations in opposition. Too bad--I should have brought the book down with me that had the whole record in it. You will find them all listed on pages 109-110 of The Conservative American, everybody that voted for and against it.

BURG: Yes. I don't remember whether Durkin, then, would have stood for or against, or whether when it came right down, I don't remember when he left.



MANION: He died, didn't he?

BURG: No. He left, and I think he may have pulled out of the cabinet prior to the final vote being taken. He didn't stay very long.

MANION: Well we can verify that; it's a question mark. But the reason I remember this is after I was made chairman of the committee, Adams called me. I was at the state fair in Indianapolis, and again the bulls were bellowing and I was answering the phone over there. We were showing some horses at the fair. And of course Adams would simply pick up the phone and say, "Get Manion and don't tell me where he is, just get him." So I was paged and I went to the phone and picked it up right there in the aisle. There were cows bellowing and the horses neighing and general bedlam. He says, "Where in the hell are you?"

I said, "I'm down here in the state fair at Indianapolis."

And he said, "Well, can you talk?"

I said, "Yes, can you hear; that's what worries me. Go



ahead."

Well he says, I want to tell you, we got a," oh, yes Warren was on the commission named by the President, Earl Warren. This was when we were formulating the membership in the committee which they did largely after I was made chairman. The committee wasn't fully appointed yet. House and Senate had appointed their members, but the presidential appointees had not all accepted.

So he says, "We got to take Warren off the commission, Governor Warren."

And I said, "Well, why is that?"

"Well," he says, "he's going to get another job."

The reason I know Durkin had either died or resigned or something prior to that time, I said, "Is he going to be secretary of labor?"

"Well," he said, "we don't know, but he's going to get something else anyhow." And I never thought for a minute that Warren was going to be made chief justice, which he was.

BURG: Really not? What reason did you have for being rather sure that that wouldn't be the job they gave him?

MANION: Well, they, just nobody ever thought of him as a lawyer.

BURG: The image was more that of a politician, a practicing--



MANION: That's right. And a very practical politician.

BURG: --state official.

MANION: And he was a middle-of-the-roader in politics. I suppose he was a good governor, I don't know. I never met Warren. We exchanged pleasantries through third persons because he didn't like me nor did I like him, that is his decisions. But subsequently I learned this--came to me indirectly I think from Charlie Halleck, the people who were in on the know--that Warren expected the next vacancy on the Supreme Court as a result of the California delegation having refrained from voting for Taft in the convention. And the next vacancy on the Supreme Court happened to be the Chief Justice [Fred] Vinson who had died. And my recollection again is that Vinson had died and Durkin had died within the same week. I may be wrong about that. Anyhow there were two vacancies. What they usually do in such a case is move up somebody into the chief justice job and then appoint an ordinary associate justice to take the place of the associate justice who, by seniority, moved up to be the chief justice. This had been routine in the recollection of the man who was talking to me. But Warren insisted that he had been



promised the next vacancy and the next vacancy happened to be the Chief Justiceship. And apparently Eisenhower didn't like this at all. By that time I think he had cooled off on Warren; subsequently said it was the worst appointment he ever made--if he had it to do over again he would never have done it. But Warren threatened, according to this informant, that if he was not given this vacancy he would announce to the country that he had been duped. He never would have done such a thing, but he was throwing his weight around with this opportunity which he really savored. So he was appointed chief justice. And the people on the bench at the time, of course, were the ones that were irritated that this happened this way because they figured that one of them should have been moved up.

BURG: Did you place great reliance in your informant?

MANION: Oh, yes. At that time unquestioning reliance.

BURG: This was somebody who was in a position to know this sort of thing.



MANION: Yes, they did. And I don't think there's very much question about it at all.

BURG: You would not wish to name the informant?

MANION: No, I wouldn't because it's been a long time and one of the men involved is dead, and it isn't that important. Undoubtedly other sources that you will contact, like other people that you've mentioned or are to see could perhaps be free to tell that. But this was the story, the generally accepted story by people in the press, members of Congress who were prominent Republicans, who gave me that information.



BURG: Did you ever talk with John Foster Dulles, did you know him personally?

MANION: No.

BURG: You never talked with him, discussed things.

MANION: No.

BURG: Did you and Edgar Eisenhower ever get together and discuss the Bricker Amendment?

MANION: Oh, yes. Yes. You see we met in Wichita every fall, and we still have one more meeting to go.

BURG: As members of that trust.

MANION: Member of the Gaty Trust advisory committee.

BURG: What was the name of it--Gaty?

MANION: Gaty, G-a-t-y, and it's the Fourth National Bank, as they call it, in Wichita. I think it's the largest bank in Wichita, the trustee of Gaty's estate. And we go down and meet once a year to make our allocations to the various organizations, foundations, and so forth, who get this money. The bank makes a great thing out of it. We have a dinner the night before, and they have all their directors there and a lot of camaraderie, cocktail parties, and Edgar enjoyed this very much. He used to come a couple of days early, and he was squired around Wichita and was very popular. When we got there--I usually get there on Friday night--he was there for Friday night dinner and we visited, talked about Frank Holman and about the Bricker Amendment. He remained for the Bricker Amendment up until the last time I talked to him.





BURG: And what was the first meeting of that group? I've forgotten the year in which you went on the board of trustees and met Edgar Eisenhower.

MANION: Well it would be ten years ago next November. When would that go back to?

BURG: '76 back to '66.

MANION. '66.



BURG: So he was telling you then as of 1966 or '67 about these events of--

MANION: Oh, yes, we were reminiscing.

BURG: --of ten years, or more than ten years before.

MANION: That's right.

BURG: Because you know the President has said in his memoirs that the correspondence with his brother with regard to the Bricker Amendment got so heated, because Dwight would not bend and Edgar wanted him to bend, that finally they had to call that off as a subject of conversation in the letters.

MANION: I wouldn't be surprised, yes.

BURG: They had to stop.

MANION: He was that strong, you see.

BURG: Of course Edgar, I think, was probably always more conservative, far more conservative than his brother--

MANION: Oh, yes, yes.

BURG: --and there were several tangles that they had.

MANION: You see this man, as you notice in that group he appointed there, Gaty was a very conservative person. He said that he wanted this money given to anti-Communist patriotic organizations. And that's the only qualifications he put upon the money, left it to the discretion of these people. But Goldwater and [John] Tower and Strom Thurmond--

BURG: Bill Buckley.

MANION: --Bill Buckley, these give you some idea of the kind of conservatives that he picked. He certainly wasn't making any exceptions as far as that was concerned.



BURG: Yes, he wasn't. And now you have one more meeting of this group.

MANION: Next November will be the last time. We wind up what's left of the estate and have a farewell party and that's it. It's been a very enjoyable experience. One of the people appointed to the committee by Gaty was J. Edgar Hoover, but J. Edgar Hoover would not accept it. He would never take any kind of an appointment of that kind. He declined to accept it and the committee voted to make Lewis Nickell, who had been Hoover's long-time assistant, they put him on the committee to take Hoover's place. Then when Ed Eisenhower died--I think he's the only person on the committee who did die, all the rest are still living--they just didn't appoint anybody to take his place. It went on functioning with what we had.



BURG: I meant to ask you this.

MANION: Missouri versus Holland was the case decided that since Congress passed the law pursuant to a treaty the regulation of the game with Canada was okay and the state game laws

were suspended. The name of the previous case which had been a regulation by Congress of interstate commerce, I don't recall the name of that case, but I think Holmes wrote both opinions.

BURG: He may have, and I know there was a problem because the language of that first decision was rather broad and, being broad, it left latitude, I suppose.



MANION: Well it was a different situation. He was entirely correct as a matter of constitutional law because the Constitution says, without any equivocation, treaties made under the authority of the United States shall be the supreme law of the land. The reason for that, you recall as a historian, we had treaties at the time the constitution was adopted with England, a peace treaty for instance.

BURG: Yes, that was the difficult one.

MANION: Yes. And we didn't want to abrogate that.

BURG: That required the return of loyalist property and recompense paid, and in return the British were going to

abandon the forts out on the frontier. And as long as some of the states, as I recollect, did not recompense, did not return expropriated property and therefore the British refused to abandon the forts. I may be wrong, but I think that's what happened.

MANION: Yes--a lot of trouble out there. But they didn't want to interfere with the things that had been done during the Articles of the Confederation period with foreign nations because they had trouble enough after the constitution was adopted. But it was an unfortunate lapse. It was retroactively justifiable but prospectively it became very, very dangerous. And still is.

BURG: There are two things that occur to me in this respect. One of the defenses made, and I think the President made this defense in opposing the Bricker Amendment, would be that the executive power granted by the constitution would be weakened by the passage of the Bricker Amendment.

MANION: That was the argument they used.

BURG: What do you think of that as an argument?



MANION: I don't think that there was anything to that at all. I mean, the fact is that it's true that the state department and the President who would negotiate the treaty and so forth would not have, with two-thirds of the Senate, the authority that they had previously. It cut down that diplomatic power to override a law of Congress. And now, inasmuch as the Bricker Amendment was not passed, we're talking about what is still the case. The President, the state department under Mr. [Henry] Kissinger now, under Secretary Dulles then, could make a treaty, approve it by the Senate, which would change any law that we have on the books.



BURG: That it seems to me would imply on your part the fear-- I think I can use that word--the fear that we would have both an unscrupulous President, an unscrupulous two-thirds of our senators.

MANION: That's right. But here--first of all Dulles said, he didn't take back anything he said at Louisville, but he said, "We aren't going to make any bad treaties. We're not going to make any treaties that will interfere with laws of Congress." And he was sanctifying the Eisenhower administration. Nobody accused Eisenhower of having any such thing in

mind. We were thinking of the indefinite future like today. But Dulles said the people would have the impression that we didn't trust this fine new President that we had, which was not true at all. There have been treaties ratified by the Senate with one senator on the floor. At the time I remember we looked up the records--two-thirds of the senators present and voting. And if the man in the chair, which at one of the times I remember was Senator [John] Sparkman. He was presiding in the chair of the Senate at the time this treaty came up for ratification--and all those in favor, aye. And there was one senator on the floor at the time and he voted aye, and he said, "Unanimous ratification." It was an unimportant treaty with the Irish Free State I think it was, but it might have been very important. But it isn't two-thirds of the entire Senate; it's two-thirds of those present and voting that ratify treaties. So the senatorial ratification process is not as protective as it would appear to be on paper.

BURG: I see. What about the argument that was advanced, as I remember as a defense, an attack on the Bricker Amendment, that to pass the amendment would be to invite a barrage of



state objections and legal fights from individual states against various treaties. That it would be, in effect, a return to the situation of the Article of Confederation or return, if you will, to a time where Virginia says, "All right, we are not going to return the property of those loyalists who fought against us and fled the country." Did that at the time or now does that seem to be any kind of a problem to you had the Bricker Amendment gone through?



MANION: No, I don't think it would operate retroactively number one, and secondly, because it would say that no treaty shall be made which will conflict with the constitution of the United States, words to that effect. Now the states would have been pacified by such an amendment because their vested rights would be protected from possible future treaty violation. If the states were excitable, they would be excited now because, for instance, this issue of regional government which has got people frightened to death that Nixon marked out in an executive order, merge similar regions, and his revenue-sharing plan was calculated to be given to the region rather than to some governor of a state to do with as he pleased. He thought if he regionalized this between Michigan and



Indiana, Maycog [?] they call it, and Illinois is bound up with Missouri and others in the same kind of an arrangement. This is not a treaty, of course, but it could be very easily made into a treaty when you get up close to Canada or down near Mexico and you rope them into this situation with a treaty. You would impinge upon the rights of the states in that way. So it is the present situation that ought to excite the states. They would be very pacified if they knew that they were immunized from that kind of an interference even in spite of a law of Congress which established it. Take the civil rights people. If they ever thought that by some treaty you could change the civil rights acts of 1964 they would be up in arms. But this challenges the power of Congress and substitutes the power of the state department plus two-thirds of the Senate. And the senators are under no illusion about ratification by that two-thirds present and voting. That might very easily be done with very few senators.

BURG: I was going to ask you, too, and this may be an unwelcome intrusion into private affairs. On the occasion



when you were in Houston and you had talked there with Mr. Cullen, had you also talked to H. Jack Porter? I was thinking about--

MANION: Oh, frequently.

BURG: --the oil, the oil depletion affairs, and that also got into the area of states rights and I wondered if--

MANION: We had no contact while I was chairman of the commission with the oil problem.

BURG: Oh, you never did?

MANION: Never. Perhaps that would have come up as an inter-governmental relations matter, but at that time there was not much question about that except the depletion allowance and those things which had no intergovernmental relation effect prima facie. It might have developed into one. For instance, if a state was the owner of oil resources, as I think the state of Texas is, the University of Texas owns a lot of producing oil wells--

BURG: Yes, and one of their big concerns, of course, is the



off-shore oil.

MANION: Oh, yes.

BURG: --and whether that was to be state controlled or whether that was--

MANION: Internationally controlled.

BURG: --how far out on the shelf, on the continental shelf would you go with it. And I know that that was one of Mr. Porter's interests. I've met and talked with him.

MANION: Yes. I remember him at the time. He was the chairman and he was a friend of Judge Fouts, who was a friend of mine; he's dead now. And there were many, many people in Houston who were very active and I used to see. I used to go to Houston very often, make speeches and visit. But I don't remember the oil being introduced at all in contemplation as far as jurisdiction of the committee was concerned. Probably would have come eventually.

BURG: Yes, the association of that town and the timing was such that I thought, and you had not mentioned oil in discussing some of the things that intergovernmental relations had



to deal with in the first months of your chairmanship. But you're quite possibly right; it might have in time. Louisiana, of course, had an interest too; so did Georgia.

MANION: Yes, the off-shore thing would have been a challenge. It wasn't prominent then because there was plenty of oil being produced on the ground and places in Texas and the rest. It was a question of finding out where it was and there was plenty of it being found at the time. The situation now is quite different.

BURG: Right. Oh, indeed it is. Sir, I've taken a great deal of your time. I think I'm going to bring this session to a close, thanking you very much for your help.

