THE SPECIAL ENVOY

By HENRY M. WRISTON

Reprinted from FOREIGN AFFAIRS
AN AMERICAN QUARTERLY REVIEW
JANUARY 1960
THE SPECIAL ENVOY

By Henry M. Wriston

Among all the instruments available to the President in his conduct of foreign relations, none is more flexible than the use of personal representatives. He is free to employ officials of the government or private citizens. He may give them such rank and title as seem appropriate to the tasks; these designations may be ambassador, commissioner, agent, delegate; or he may assign no title at all. He may send his agents to any place on earth that he thinks desirable and give them instructions either by word of mouth, or in writing, or through the Department of State, or in any other manner that seems to him fitted to the occasion. Some have been exceedingly formal; others completely informal. Many agents have borne commissions like those of Government officers, ensuring them diplomatic rights, dignities and immunities. Because of these circumstances many have mistakenly considered themselves officers. Others have had mere letters of introduction and have enjoyed no diplomatic privileges. Some have gone with no written credentials whatsoever, their errand described only verbally. Their functions have varied in importance from the trivial to the vital.

Their missions may be secret, no one whatever being informed of them. They may be open and accompanied by a blare of publicity. Neither their private character nor public attention affects the position of the representative. The President may meet their expenses and pay them such sums as he regards as reasonable. In this matter there is no check upon him except the availability of funds which has never proved an insoluble problem. In short, he is as nearly completely untrammelled as in any phase of his executive authority.

The special envoy is not an American institution but a universal practice. Particular interest in the employment of this type of agent by the United States arises from the constitutional provision that the President "shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls." Yet in a single year the President has appointed over 25 persons, with the rank of ambassador, without placing any of their names before the Senate or asking its advice and consent before appointment.
The resolution of this apparent contradiction rests upon precedent, accumulated practice and legal distinctions. Like many executive interpretations of the Constitution, the initial precedent was set by George Washington. When he became President we had no representative at the Court of St. James’s; John Adams, our minister, had come home after being treated with studied incivility. There was no British minister here. It was essential to establish working relations without further impairing our prestige. In these circumstances, Washington sent Gouverneur Morris as a “private agent.” He bore no commission, only a letter on “the authority and credit” of which he was to converse with the British officials with a view to establishing normal diplomatic relations. This appointment, made in October 1789, was not reported to the Congress until a presidential message on February 14, 1791. There was no vocal protest, though the sour journal of William Maclay indicated storms that were to follow. Referring to Morris, Maclay noted: “He has acted in a strange kind of capacity, half pimp, half envoy, or perhaps more properly a kind of political eavesdropper about the British Court for sometime past.”

This employment of Morris was a very thin edge of the wedge. But in dealing with the Barbary States, a title—“consul”—was conferred on an agent and a regular commission was issued to him. Moreover, full power to negotiate a treaty was granted, with the extraordinary privilege of naming a substitute; yet no nomination went to the Senate. Here were two very significant additional precedents, the use of the title of a constitutional officer, and the initiation of a treaty by an agent without the advice and consent of the Senate. For a century and a quarter thereafter precedents accumulated. The number of special missions has now run into the thousands.

The range of matters committed to special missions has expanded enormously since the United States became so deeply involved in so many ways in so many parts of the world. The number in any one administration has been to some extent dependent upon the special circumstances of the time. To an even greater degree occasions for their use stem from the habits of thought and work of the President and his deputy for foreign affairs, the Secretary of State. The President is always in charge of foreign relations, whether he chooses to act directly or through channels, whether he relies upon his Secretary of State or has greater confidence in people outside his immediate official family.
Along the historical path accumulating instances did not go unchallenged. A long series of congressional debates discussed this use of the President's power; some were of a high order of excellence. Occasionally, Presidents retreated; at other times they asserted their power more vigorously. For example, Woodrow Wilson specifically directed the Secretary of State to disobey a law which he regarded as legislative trespass upon his executive authority in this matter. Ultimately the Congress acquiesced and for over 25 years, now, while there has been some sharp sniping at individuals, there has been no such classic discussion as marked earlier eras.

This indicates that there is now general consensus about the legal status of agents. The basic fact is that the President's personal representative is not an officer of the Government. This remains true even when he performs duties normally performed by officers. Indeed, he may be superior to officers and have regular officers of the Government working under his direction and control. His rank and title—say that of ambassador—may be the rank and title of an officer, but this fact does not confer office upon him. At times this insistence that a man performing official duties, with officials to help him, is not an officer skirts the borders of legal fiction. But it has proved so useful that it has been perpetuated. There are now so many precedents for so many situations that it has come to be fully accepted that the agent has an employment, not an office.

The second basis for the unofficial status of an agent is that his duties are temporary. The word "temporary" has more flexibility than the ordinary use of the word would indicate. For example, the late Myron C. Taylor was appointed personal representative of the President to the Vatican and accredited to His Holiness the Pope in December 1939. He continued to discharge his responsibilities in that assignment for about seven years. It was virtually a full-time employment, with the rank and title of ambassador, and he had a staff regularly assigned to assist him just as did every other ambassador. Because, however, the post was not authorized by Congress and no nomination was sent to the Senate, it was "temporary" despite its continuance year after year. When Mr. Taylor ceased to be the President's personal representative, there was no vacancy, and when no successor was appointed that was deemed clear enough evidence that the employment had been temporary. The appointment of Eric Johnston to the Middle East
with the rank of ambassador continued for some years. It was different from Mr. Taylor's in that it was not full-time and did not carry accreditation to a single state; yet it clearly strained the word "temporary" beyond the usual connotation of the word.

The precise boundaries between the circumstances when, on the one hand, a personal representative is employed and, on the other hand, an official is named are shadowy and difficult to draw. For example, the late Norman Davis performed a whole series of very important missions over a considerable period of time; he was often referred to as "ambassador-at-large." Yet on many of those occasions he was a presidential agent, not an officer. On the other hand, when Philip Jessup was named ambassador-at-large in 1949 to perform many of the same sorts of duties, his nomination was sent to the Senate and he was an officer. John Foster Dulles, though he had wide discretion and large responsibility as in fact deputy to the Secretary of State for negotiating the Japanese peace treaty, was not an officer. It is clear that the choice of the one or the other of two methods is a presidential prerogative.

The difference between a presidential agent and an officer is closely analogous to the distinction between an executive agreement and a treaty. No one has ever yet succeeded in drawing a clear, sharp line. Many executive agreements have dealt with the same subjects with which treaties have dealt; many executive agreements have been more important in our international affairs than many treaties have been. It can be shown from the record that on several occasions executive agreements were resorted to not for intrinsic reasons but specifically to avoid the difficulties, complexities and embarrassments that are occasionally produced by the treaty process as defined in the Constitution. In the same manner the President has used a personal representative to do what he would normally ask a regular officer to do when he hesitated to nominate the man to the Senate lest it produce complications. In this century there has more often been a legislative challenge to the use of executive agreements—the "Bricker Amendment" is a conspicuous example—than to the employment of personal representatives. The use of the one means or the other—both with executive agreements and personal representatives—is to be found in the motives or convenience of the President. Neither is always clear from the record.

This development of an almost perfectly free hand in means and methods is merely one facet of the growing power of the Presi-
dent in foreign relations. That dominancy was demonstrated in Woodrow Wilson’s description of his status when signing the Treaty of Versailles: “The Honorable Woodrow Wilson, President of the United States, acting in his own name and by his own proper authority.” In a sense every man who signs a treaty is a presidential agent, for no officer save the President, not even the Secretary of State, can affix his signature by reason of his official position; it requires a separate “full power” from the President.

II

There are two fundamentally different types of special envoys. One group is composed of persons employed to perform duties which, for one reason or another, it is inappropriate or inconvenient for regular officers to perform. While they carry the designation “personal representative of the President,” it is a technical credential rather than a vivid description of their status. The other group is much smaller; it consists of persons who not only in form, but in fact, represent the President personally. In some instances the relationship has been so intimate that the envoy was almost an alter ego.

The use of such very personal representatives reflects the working habits of the President. President Eisenhower, for instance, moves through channels. When he engages in direct correspondence with other chiefs of state or heads of governments, there is the fullest coöperation and coördination with his official family. Even when he employs his brother, as he has on several occasions, it is with particular care not to trespass upon normal lines of communication.

Woodrow Wilson and Franklin D. Roosevelt stand at the other extreme in the use of distinctively personal agents. It was well known that Mr. Wilson was not close to any of his Secretaries of State, and that this was particularly so in the case of William Jennings Bryan. He established a working partnership with Colonel Edward M. House. On one occasion a correspondent asked President Wilson how far Colonel House could speak for him, and got this reply: “Mr. House is my second personality. He is my independent self. His thoughts and mine are one.” Such intimacy has been equalled only by the relationship between Franklin D. Roosevelt and Harry Hopkins.

When war broke out in Europe in 1914, there were special reasons for a personal representative. The reorganization of the Government had been sweeping. The new Secretary of State was appointed for domestic political reasons and his aptitude for the office was slight. He used the patronage system in filling diplomatic posts, making some good and some very bad appointments. The average period of service of our ambassadors and ministers abroad was then less than a year; no chief of mission was a professional. Mr. Bryan was not operating the Department of State effectively; its career staff was given little scope. Mr. House sought to fill the vacuum created by this set of circumstances. He did it without any formal commission or title or personal rank. Indeed it was not until his third mission abroad that he accepted payment of his expenses. His “instructions” were verbal, or typed by the President on his own typewriter, sometimes with no carbon copy, and with no consultation with the Secretary of State.

Despite this informality, Mr. House was accepted as the President’s spokesman in London, Berlin and Paris. He dealt with the Kaiser and even had a secret code with which to communicate privately with Sir Edward Grey. He corresponded with American ambassadors without clearing his or their communications with the State Department. One of his biographers speaks candidly of his “quiet usurpation” of many of the prerogatives of the Secretary of State who, immersed in his own concerns, seems not to have resented the intrusion. House went over the head of Ambassador Walter Hines Page in London continually and with the full approval of the President.

The relationship between President Roosevelt and Harry Hopkins was in some respects similar, but in others quite different. Hopkins was not a roving statesman like House, working at large concepts or plans which he hoped to insinuate into the President’s mind. Robert Sherwood speaks of him as seeking to be “a catalyst” or “marriage broker,” and “to prove to Roosevelt that it was possible to be utterly at ease with Churchill.” He sought also to do something to make a better and more relaxed relationship between Roosevelt and Stalin, though he never expected to make either “utterly at ease” with the other.

Hopkins had neither rank nor title. In an almost offhand manner, he proposed his first mission to Britain. The President’s acceptance of the suggestion was equally casual. A letter from the President embodied this authorizing phrase: “I am asking you to
proceed at your early convenience to Great Britain, there to act as my personal representative.” While in London, Hopkins suggested his first mission to Russia. A cable to Stalin from the Acting Secretary of State asked, on behalf of the President, that Hopkins be treated with the “identical confidence you would feel if you were talking directly to me.” Everywhere he went he was accorded extraordinary privileges. Ambassador Steinhardt reported: “He was received promptly by Stalin, who granted him very extended interviews and discussed with a frankness unparalleled in my knowledge in recent Soviet history the subject of his mission and the Soviet position.”

Though Secretary Hull strongly disapproved of President Roosevelt’s habit of sending special envoys, he made an exception in the case of Hopkins. In his memoirs, he wrote: “Although Hopkins’ work was now on an international scale, I never had any friction, much less clashes, with him. . . . To the best of my knowledge, he did not undertake to interfere with any important policies of the State Department . . . our agreeable working relations thus continued to the end.”

This lack of friction rested to some extent upon personalities. Hopkins was so unassuming in manner that he disarmed resentment not only on the part of the Secretary, but also the ambassadors. The harmony also depended upon accepted nuances which were sometimes so subtle as to be distinctions without difference. For example, after long private consultations with Stalin, Hopkins reported, “I told him my mission was not a diplomatic one in the sense that I did not propose any formal understanding of any kind or character.” Such a definition reduces the scope of “diplomacy” beyond normal recognition. There is no question that he dealt with matters of high policy. He said, for example, of one of his missions to Britain, “Our main proposal here should take the heat off Russia’s diplomatic demands upon England.” Moreover, he mingled freely in extremely sensitive discussions about the future of India. The President was pressing for self-government there, and Louis Johnson (another Presidential envoy) was working with Sir Stafford Cripps in India, whereas Hopkins was dealing with Churchill. This was far from a military matter, and if it was not technically “diplomatic,” it certainly was high politics.

2 Ibid., p. 346.
Both House and Hopkins bring out one phase of the President's relationship to foreign affairs which seldom appears with like clarity in the work of the regular establishment, namely, the significance of individual idiosyncrasies and personal rivalries, of mutual trust or suspicion, among statesmen. In most discussions of diplomacy stress is laid upon "the national interest," "public opinion" and other large and generalized concepts; the extraordinarily human aspects of international dealings are pretty well concealed. A real personal representative exposes intensely human characteristics and the vital role they often play in international relations. They supply sharply etched pictures of the isolation of the head of a government, clear evidence of how difficult it is to get candid counsel, hints of his relationships with his own official associates, and of his personal prejudices. At times the pettiness that shapes some significant episode is deeply shocking.

There have been a number of men who have gone on many special missions. Among them were Hugh Gibson, Norman Davis, John Foster Dulles (before he was Secretary of State), Milton Eisenhower, Myron Taylor, Robert Murphy, among others. Some of these had wide authority, such as that assigned Mr. Dulles in 1950 to advise the Secretary of State on "broad problems" and "specific courses of action" in "Europe, the Far East and other areas of the world." Yet, despite their repeated employment and the importance of their assignments, no other personal representative of the President has ever matched the distinctive roles of Colonel House or Harry Hopkins.

III

One reason for the great expansion in the number of personal representatives arises from the progressively more direct participation of the President in international relations. This is essentially a product of the twentieth century. True, Washington sent Gouverneur Morris, but that was because his Secretary of State, Jefferson, was not yet functioning. Other episodes in the eighteenth and nineteenth centuries could be adduced, but they would be rare, and, for the most part, not significant, and certainly not typical. Theodore Roosevelt altered the custom. He corresponded directly with the Kaiser, with the Mikado and with the Tsar. His relationship to the revolution in Panama was more direct than that of his Secretary of State, so much so that he later boasted, "I took Panama." Woodrow Wilson carried activity still further
by going beyond correspondence to travel abroad and engage directly in negotiations.

This raised a new problem, namely, the status of those who accompanied the President to the Peace Conference in Paris. They were named by the President alone; he had much advice but reached his own decisions. Each member of the mission was given a commission as “commissioner plenipotentiary” which was mistakenly described as an “office.” The secretary of the commission was accorded the rank of “minister plenipotentiary,” though his British opposite held the rank of ambassador. In addition, there was a large staff of experts, advisors, administrators, intelligence agents and others. All were presidential agents. This constituted an important and sweeping precedent.

President Franklin Roosevelt highlighted this status of his companions. At the Atlantic Conference he did not take the Secretary of State, but Under Secretary Welles. Nor did the President take Cordell Hull to Casablanca, Cairo or Tehran, though the British Foreign Secretary accompanied his chief in each instance. Mr. Hull invited attention to that fact and suggested that he should be in the President’s party. The suggestion was explicitly negated; Hull recorded that he “learned from other sources than the President what had occurred” at those meetings. Even more striking as a demonstration that those who accompanied the President did so as his agents, not as officials, was the invitation to Mr. Morgenthau to attend the second Quebec Conference in September 1944. The purpose was to present proposals for post-war Germany, which were out of harmony with the views of the Departments of State and War. This was particularly galling to Mr. Hull who complained that the Secretary of the Treasury “often interfered in foreign affairs, and sometimes took steps directly at variance with those of the State Department.” In this instance, Mr. Hull felt Mr. Morgenthau achieved his goal by “monetary weapons which he brandished.” Both Secretaries Hull and Stimson protested vigorously.

James Byrnes’ trip to Yalta was determined in a casual, almost offhand manner. Only later, when he became Secretary of State, did he learn of a “top secret” protocol by which the Soviets were to take over the Kurile Islands. The key document had been kept in a White House safe and not communicated to the State Depart-

---

9 Ibid., v. 2, p. 1379.
ment. Nothing could have demonstrated more dramatically the freedom of the President in his choice of instruments for his policies.

IV

The first Vice President used for diplomatic purposes was Henry A. Wallace. The initiative for his trip to Latin America in 1943 was his own; it did not originate with the President, much less the Secretary of State. The next year, Mr. Wallace proposed to go to China. Mr. Hull was strongly opposed: "I never at any time favored excursions into foreign affairs by Wallace, especially through trips abroad.... A network of questions and conditions existed... which necessarily had to be handled with extreme care and delicacy. I was convinced that no person outside the State Department and the White House could break into these affairs without serious risk." The Secretary tried to dissuade Mr. Wallace. Failing, he expressed his view to the President who, however, had already given his permission. On the trip the Vice President performed a number of ceremonial courtesies, made some gifts, then conferred with President Chiang and issued a joint communiqué with him at the end of his visit. The Secretary of State remarked acidly that the journey "was without beneficial effect."

The travels of Vice President Nixon followed the Wallace precedent in some respects, but sharply differed in others. His journeys had the full sanction of the Secretary of State. His staff included foreign service officers as aides, not chaperons. In scope, significance and number his trips far exceeded those of Mr. Wallace. A world tour in 1953 took him into most parts of non-Communist Asia. In 1955 he went to the Caribbean, seeking especially the improvement of relations between Costa Rica and Nicaragua. The next year he journeyed to Brazil to the inauguration of President Kubitschek; he also went to Manila in July for the celebration of the tenth anniversary of Philippine independence, and proceeded to South Vietnam, Taiwan, Thailand and Pakistan. Late in the same year he was in Austria. During 1957 he visited Morocco, Ghana, Liberia, Uganda, Ethiopia, Sudan, Libya and Tunisia, as well as Italy, and made a comprehensive report. The year 1958 saw his dramatic visit to Latin America, which had important influences upon policy. He also visited London.

Inevitably, so much travel abroad led to questions regarding his

status. In a press conference on July 22, 1959, the President made it clear: "He has a position of his own. He is not a subordinate of the President, and he is not a part of the diplomatic processes and machinery of this country. He cannot be sent out on a special mission, except as he agrees to go as a special agent of the President." All his authority to perform acts which bear upon United States policy arises from his status as an agent of the President. Naturally, because of his exalted office, he carries no other rank or title.

When any official is made a personal representative of the President, whether he is given a special title or not depends upon the nature of his task, and his position in the Government. The usual practice is not to give the Secretary of State or the Under Secretary or the Deputy Under Secretary additional titles. This, however, is a matter of precedent and convenience; when the President is minded to do so, he can depart from that practice, as he has in specific instances.

It was many years before the employment of Senators and Congressmen as agents of the President was attempted. In all the early discussions of the status of agents, members of the legislative branch were in the position of critics of the Executive. Since they were not directly involved, their own status did not come under discussion or review. Just at the time that his Secretary of State, John Hay, was denouncing the Senate as the graveyard of treaties, President McKinley was seeking to soften relationships with the legislative branch. He appointed both Senators and Representatives as presidential agents. The result was the opposite of his hope and expectation. Members of his own party in the Senate denounced the practice. In particular, Senator George F. Hoar of Massachusetts declared: "The suggestion that these gentlemen are not officers seems to me the merest cavil. They exercise an authority, they are clothed with a dignity equal to that of the highest and most important diplomatic officers, and far superior to that of most of the civil officers of the country. To say that the President cannot appoint a Senator or Representative postmaster in a country village . . . and then permit the President to send him abroad; to enable him to maintain the distinction and enjoy the pleasure of a season at a foreign capital as a representative of the United States, with
all his expenses paid, and a large compensation added, determined solely by the executive will; and to hold that the framers of the Constitution would for a moment have tolerated that seems to me utterly preposterous.”

In addition to this challenge to their legal status, he stressed a further point: “If the practice continues, it will go far, in my judgment, to destroy the dignity and independence of the Senate.” Senators so appointed tacitly agreed to “obey the commands of the Executive;” “they then come back to their seats and carry on as Senators the policy which they have adopted in command of another power, without any consultation with their associates or learning their associates’ opinion.” By law Senators had forbidden themselves to serve as counsel in any case in which the United States was interested; Hoar and others felt that a presidential appointment was analogous to that service, and whatever the legal status, the practice was ethically improper.

Senators, however, did not like to censure themselves; so without formal action it was agreed that one of their number would read the President a curtain lecture. Senator Hoar called on President McKinley and reported the general view that such appointments were improper. The President was equal to the Senators in delicacy. He understood the point being raised; he had come to be acutely aware of it in recent months. While he made no commitment, he gave the impression that he would not make further appointments of that kind. As a matter of fact, he did not; nor did his successors for some time.

Times and circumstances change, and after those who participated in this declaration of conscience were out of the Senate, the new crop felt differently. No Senator was appointed to the Peace Commission after the First World War, whereas three Senators had served on the commission to negotiate peace with Spain after the war of 1898. There were clear evidences of dissatisfaction. The failure to name a Senator handicapped the Treaty of Versailles when it was brought up for advice and consent.

This was a clear enough hint. When the Disarmament Conference of 1921–1922 was organized, President Harding appointed Senators Lodge and Underwood members of the commission. Not only did they accept the appointment; they were happy to have the rank of ambassador. No word of criticism was uttered in the Senate. The presence of two very powerful Senators on the negoti-

ating team helped the subsequent acceptance of the treaties by the Senate. The success of that experience led to the custom of appointing Senators to participate in many negotiations. In particular, there are always Senators on the delegation to the Assembly of the United Nations, and the law providing for the appointment of representatives clearly assumes such appointments.

Senatorial complacency did not dispose of Senator Hoar's other objection—that Senators could not independently review treaties after they had participated in their negotiation under executive instructions. The practical resolution of this difficulty offers a striking instance of historical irony. For nothing is clearer than that the first Senators in the Administration of President Washington desired and expected to participate in negotiations. A series of historical accidents rather than deliberate constitutional interpretation defeated their expectation. Of course they did not anticipate that in participating in negotiations they would be acting under instruction of the Executive, but rather as a council and in their own right.

It is sometimes cited as a mark of the expanding power of the President that Senators have acted under his instructions. Indeed the law governing representation in the United Nations, after referring to service by Senators and members of the House, explicitly directs: "The representatives . . . shall, at all times, act in accordance with the instructions of the President . . . and such representatives shall, in accordance with such instructions, cast any and all votes. . . ." Here was made explicit what Senator Hoar and others had feared was implicit. However, the reality is not identical with the form. For example, Senators Lodge and Underwood influenced markedly the course of the negotiations in which they participated; their advice was taken very seriously by the Secretary. The delegation to the San Francisco conferences to establish the United Nations contained two especially influential Senators, Vandenberg and Connally, who virtually exercised a veto power. When they advised that the Senate was not likely to consent to some provision, it was dropped or modified to suit their view of what the Senate would accept. There is now a large enough body of experience to make it clear that Senators who serve as negotiators have a large influence in shaping their own instructions.

When they are in disagreement with policy, they have been

*United Nations Participation Act of 1945 (Public Law 264—79th Congress).*
known to express their own views, rather than follow the Executive. In 1946 Senator Chavez of New Mexico was a delegate at a Western Hemisphere meeting of the International Labor Organization. He was well aware that it was settled policy to pay citizens of the United States working in the Canal Zone higher wages than the Latin Americans who were there employed—a double standard established when the Canal was built. Senator Chavez denounced American policy as discriminatory. Having taken this position, he left the conference; the other delegates were hard put to maintain the official position which was subsequently modified.

In January 1946 the Preparatory Commission of the United Nations to provide for the creation of the United Nations Atomic Energy Commission was to meet in London. Before going to Moscow for negotiations in advance of the London session, Secretary Byrnes had a meeting with the Senate Foreign Relations Committee and the Committee on Atomic Energy. Differences of opinion between the Secretary and the Senators were not fully resolved. Secretary Byrnes then negotiated an understanding in Moscow, but before he could return from the Soviet Union and explain what had occurred, the rest of the delegation to London, which included two Senators, left Washington. Senator Vandenberg made it clear that he was not going to alter his position, with which Senator Connally, also a delegate, was in accord. Newspapers made much of a "split" in the American delegation. Secretary Byrnes went to London, conferred for four hours with the Senators, and reached an agreement with them. In effect their "instructions" were what they would agree to.

The wheel of history had come virtually full turn. Acting through its representative members—as it does also in most other matters—the twentieth century Senate was playing the role of council in advising in advance of negotiations and during them, as well as consenting when the final treaty had been signed. The frustration of eighteenth century hopes and expectations was to some extent, at least, repaired.

Because they do not participate in advising and consenting to the ratification of treaties, the employment of members of the House never offered the same problems as the use of Senators. None the less, at the time President McKinley was being warned not to employ Senators, the House also became concerned over appointments of its members. The Judiciary Committee was directed to ascertain whether any member of the House had ac-
cepted "any office under the United States," and "whether the acceptance . . . has vacated the seat of the member." The most sensitive cases were not presidential agents but appointments to commissions established by law, the nominations of whom had been sent to the Senate. Moreover, they had taken "oaths of office," and were commissioned for two years. None the less, the conclusion was that the employments were "merely transient, occasional or incidental in nature" and therefore not offices. This was drawing an exceedingly fine line indeed. In any event, it left House members who served as presidential agents well on the safe side. The issue has not been seriously considered during this century, and members of the House have been employed repeatedly.

The relationship of the House of Representatives to foreign affairs shows elements of historical irony like that which marks the role of Senators. In the earliest days of the Republic the House sought to use its power to initiate appropriations as a means of exercising an independent judgment in foreign affairs. The attempt was repulsed and the control vested with the President and Senate. With the passage of time, however, foreign relations and domestic matters became more and more inextricably interwoven. Inevitably the power of the House to affect foreign relations became very important. There has grown up a strong tendency, therefore, to use members of the House as presidential agents in the hope of favorable action on legislation and appropriations.

The legal status of Senators and Representatives having been determined and sensitive consciences having been quieted, some problems still remained. How should appointments be distributed between the majority and the minority? Generally positions are distributed equally between the parties. In designating Senators and Representatives, may the President disregard seniority? He does so at his peril. In any specific instance, what committee should be represented? Should it be the subject matter committee—such as the Committee on Labor, the Committee on Agriculture—or should appointees be drawn from the committees dealing specifically with foreign relations? The working rule is that the Foreign Relations Committee of the Senate or the Foreign Affairs Committee of the House is usually selected for the United Nations meetings, such as the one for the organization of the United Nations at San Francisco, as well as subsequent meetings of the Assembly. For other occasions, the specialized committees are used. At the Bretton Woods Conference, for example, it was mem-
bers of the Committee on Banking and Currency who were ap-
pointed; and for the Food and Agriculture Organization confer-
ences, members of the Committee on Agriculture. These actions
rest upon precedent, but in time precedent may become as binding
as a written rule.

VI

The use of special envoys has increased so much that a defini-
tive classification of the occasions that call for their employment
is impossible. Nevertheless some characteristic situations can be
identified.

Ceremonial occasions are frequent. Our tradition of "republican
simplicity," epitomized in Marcy's famous "black coat circular"
which prohibited uniforms for our diplomats, made the United
States hesitate to send ceremonial envoys. The long delay before
Congress authorized the appointment of ambassadors, in 1893,
made protocol difficulties because the personal representative of
the President could not have the highest rank. It was said, "Our
envoy was not only dressed like a waiter, protocol gave him hardly
more consideration."

Nevertheless, exceptions did occur. In gratitude for the attitude
of Russia during the Civil War, Congress adopted congratulatory
resolutions on the escape from assassination of Tsar Alexander II
in 1866. A special envoy was sent to convey the address to the
Tsar. No protocol difficulties arose because no other nation sent an
envoy at the same moment. In 1883, a special envoy was sent to
the coronation of Alexander III; despite emphasis that such mis-
sions were "unusual in our intercourse with other countries," he
was snubbed by not being invited to the ceremony. Before 1893
there were only three other ceremonial missions. Two went to
Hawaii, one for a coronation, the other for a fiftieth birthday. The
third mission was to the Bolivar centennial in Venezuela. The po-
litical motivation shows clearly.

After ambassadors were authorized, special envoys with am-
bassadorial rank were used freely and protocol difficulties disap-
peared. With the passage of time, the acceptance of the United
States as a great power, the multiplication of embassies, and the
proliferation of ceremonial occasions, such special missions have
suffered a decline in prestige. Appointments, for the most part,
originate with the protocol officer in the Department of State.

Closely allied to ceremonial missions are delegations to interna-
tional expositions, fairs and athletic contests. Noted athletes were sent, for example, as "personal representatives of the President," to the Olympic games in Melbourne. One of the President's brothers represented him at the dedication of a mountain in Canada bearing his name. Former President Hoover performed the same function at the Brussels fair in 1958.

A second general group of agents are those sent to a whole area, rather than a single nation. There were early precedents. In 1832 a New Hampshire sea captain toured the Far East and Southeast Asia as a six-dollar-a-day diplomat with instructions to make treaties with all and sundry. His "full powers" had blank spaces for the names and titles "appertaining to their Majesties" which were not known in the State Department.

In the twentieth century two areas in particular have seen this kind of envoy—Latin America and the Near East. One of the earliest missions of John Foster Dulles was to Central America in 1917. During the present Administration, the names of Milton Eisenhower, Eric Johnston, James P. Richards, Loy Henderson and Mr. Nixon are associated with such area missions, each of which attracted wide attention. Their experiences show how difficult it is for a presidential envoy to do his work quietly. When a special representative visits a sensitive region speculation tends to run riot. This does not imply that such missions are unwise but does indicate limitations upon their usefulness.

A third group of special envoys results from the growing complexity of international relations. Between 20 and 30 government agencies have people operating abroad. As a practical matter, it is impossible for all of them to work through the Department of State. Yet the United States should speak abroad, if not with one voice, at least with a harmony of voices. In order to deal with situations that straddle the interests of a number of departments, the President is sometimes virtually forced to appoint personal representatives to look at matters not from the point of view of one agency but of the total interest of the United States.

International conferences have become the most prolific sources of special envoys. The United States now participates in about 350 such meetings each year. While laws, treaties and international instruments of one sort or other stipulate some kinds of appointments, the designation of persons for international discussions is peculiarly a presidential prerogative. President Wilson specifically directed the Secretary of State to ignore as "utterly
futile” a law which he regarded as a trespass upon his authority in this matter.

Because of the numbers involved, President Truman, in 1948, formally delegated to the Secretary of State authority to designate the representatives to most international conferences. The President reserved the right to name them when for any reason he thought it wise. As a matter of practice a good deal of the Secretary’s authority in this matter is actually exercised by the Assistant Secretary for International Organization Affairs.

Other characteristic occasions for the use of a special envoy are in dealing with a non-sovereign or unrecognized state, an unrecognized government or in reopening ruptured relations. Thus special missions went to India in 1942 before independence, to Martinique in the same year during the Vichy régime in France. In 1944 a special mission to Bolivia made a long report on the situation in that nation; it led to recognition of the government by the United States and by the other American states.

After the Korean armistice a political conference was to be convoked. Arthur H. Dean was delegated to make the arrangements. He was to act not only on behalf of the United States, but also, because of authorizations filed with the Secretary of State, on behalf of the other nations whose forces had participated in the fighting. This was perhaps a unique instance of a special envoy negotiating on behalf of so large a group of states. But in other respects it was, if not typical, very close to normal procedure in the effort to liquidate war politically after the fighting had ended.

Another large group of special envoys are those who deal with technical matters where a high degree of expertness is required, particularly on subjects so difficult that a regular diplomat could not be adequately briefed. Fiscal and economic questions, as well as scientific issues, supply instances. Other envoys have been sent to supervise elections, such as those in Greece in 1946 or the Sudan in 1953.

Sometimes a special envoy is authorized to replace a regular officer. The famous “Paramount” Blount got that soubriquet because President Cleveland sent him to Hawaii with powers “paramount” to those of the minister. President Wilson, faced with scandalous behavior by a regular minister, sent a commission; the minister was directed to “confer with them on important matters,” which meant he was to do as they said. He was later recalled. Usually there is an effort to disguise such situations, but it seldom
succeeds. The very circumspection, not to say circumlocution, with which such special missions are launched rouses suspicion. Then the mere presence of a special envoy produces speculation. Whatever the facts, the position of the regular officer deteriorates. If he resigns, it will be said he "quit under fire;" if he does not, officials in the government to which he is accredited lose confidence in his authority. Almost always his position becomes impossible.

This highlights one reason that regular officers, with very few exceptions, resent the appearance of any special envoy. No matter how clear the explanation, there is always some feeling that the mere presence of an "outsider" reflects some inadequacy upon the part of the ambassador. Charles Francis Adams, when in London during the Civil War, expressed his resentment at having a "whole cabinet" of special representatives about him, some of whom did not keep him informed. Admiral Standley, as Ambassador to Russia, 1942–1943, has made public his feelings. "For long months, I saw Special Representative after Big Dignitary come to Russia, leapfrog over my top-hatted head. . . . I also watched the situation deteriorate." He complained that he was "behind an opaque curtain of lack of information." He was particularly bitter because some special envoys had "instructions not to show the Ambassador anything, not to tell him about the nature or progress of negotiations." These complaints are particularly bitter because wartime produces an extraordinary number of missions; he was in an enormously difficult post; and both his own Chief of State and the one to which he was accredited believed, as he said, "in personal diplomacy, either directly or through his own 'personal foreign office.'"

The candor and acerbity of these observations are unusual, but the feelings they reveal are not. Nevertheless, the use of special envoys is essential; the fact that every administration in our history has employed them is evidence enough. That their use has sometimes been excessive is beyond question, that some have been swollen with pride and arrogance is plain upon the record. What is even more clear, however, is that the institution has, on the whole, justified itself.