counter to the following promise which, on behalf of Soviet Russia, constitutes a part of the exchange of notes between the two governments in November, 1933:

> 2. To refrain, and to restrain all persons in government service and all organizations of the government or under its direct or indirect control . . . from any act overt or covert liable in any way whatsoever to injure the tranquillity, prosperity, order, or security of the whole or any part of the United States, its territories or possessions, and, in particular, from any act tending to incite or encourage armed intervention, or any agitation or propaganda having as an aim, the violation of the territorial integrity of the United States, its territories or possessions, or the bringing about by force of a change in the political or social order of the whole or any part of the United States, its territories or possessions.[12]

It was only natural that the United States, face-to-face with a campaign of hostile propaganda of such a virulent character, endangering its legitimate interests both at home and abroad, should resort to measures of self-defense. The means adopted—radio programs carried by the Voice of America—would appear to be entirely reasonable and proper in the circumstances. From the more general point of view, the action of the American Government is solidly grounded on considerations of self-defense as fundamental as those invoked by Marshall in the early case of *Church* v. *Hubbart*.[13] More specifically, even if the Voice of America had contained material of a nature to engage in principle the international responsibility of the United States vis-à-vis the Soviet Union, its action could still be defended as a justifiable reprisal in response to illegal acts committed by the latter.[14] Since it is believed that an examination of the content of the American radio programs will reveal no evidence of illegal acts committed by the United States against the Soviet Union, the action of the American Government falls more properly within the category of retorsion, but of a special nature, namely, a type of retaliation through legal measures referred to by Professor Hyde as "the answer given to internationally illegal conduct."[15]

JOHN B. WHITTON

WILLINGNESS TO BEAR ARMS AS A REQUIREMENT OF NATURALIZATION

A landmark of the law of naturalization in the United States, established by the Supreme Court after a tortuous course of decision, has now found legislative confirmation in a provision in the Internal Security Act of 1950.

The oath of petitioners for naturalization provided for in §4 (3) of the Act of 1906 required a declaration of willingness "to support the Constitu-

[12] Department of State, Eastern European Series, No. 1 (Washington, 1933); this JOURNAL, Supp., Vol. 28 (1934), p. 3.

[13] 2 Cranch 187 (1804).

[14] Oppenheim, International Law (6th ed. (Lauterpacht), London, 1944), Vol. II, sec. 33.

[15] Hyde, *op. cit.*, Vol. II, sec. 588.

tion and laws of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same"; and the Act provided that the naturalization court must be satisfied that during his residence the petitioner has behaved as a man "attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same."[1]

For some years the question was put to petitioners, "If necessary, are you willing to take up arms in defense of this country?" A negative answer to this question led to a denial of the petition in *U. S.* v. *Schwimmer* (1929), 279 U. S. 644. This was followed in *U. S.* v. *Macintosh* (1931), 283 U. S. 589, and *U. S.* v. *Bland* (1931), 283 U. S. 636. Despite these decisions, no change was made in the required oath when the Nationality Act was revised in 1940. Yet the three earlier decisions were overruled in *U. S.* v. *Girouard* (1946), 328 U. S. 61, on the ground that the required oath might properly be taken by a person unwilling on religious grounds to bear arms.

The view taken by the Court in the Girouard case has now received the sanction of Congress. As amended by §29 of the Internal Security Act of 1950,[2] §335 of the Nationality Act of 1940 prescribes an oath by which, in addition to swearing to support and defend the Constitution, the petitioner must swear "to bear arms on behalf of the United States when required by law, or to perform non-combatant services in the Armed Forces of the United States when required by law," unless by clear and convincing evidence the petitioner can show "to the satisfaction of the naturalization court that he is opposed to the bearing of arms or the performance of non-combatant service in the Armed Forces of the United States by reason of religious training and belief." In this latter case, the text of an alternative oath requires the petitioner to state that he will "support and defend the Constitution of the United States of America against all enemies, foreign and domestic" without mention of willingness to bear arms.

In contrast with the law of the United Sates on this matter, it may be pointed out that the British Nationality Act, 1948, prescribes a simpler form of oath, by which an applicant for naturalization merely swears that he "will be faithful and bear true allegiance to His Majesty King George the Sixth His Heirs and Successors according to law."[3]

MANLEY O. HUDSON

[1] The Act of 1790 required an oath or affirmation "to support the Constitution of the United States." The Act of 1795 added that the naturalization court shall be satisfied that the applicant is "attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same." See H. B. Hazard, "Attachment to the Principles of the Constitution," this JOURNAL, Vol. 23 (1929), p. 783.

[2] Public Law 831—81st Congress, 2d Sess., p. 35.

[3] 11 & 12 Geo. 6, c. 56, first schedule.