that this pledge will have a desirable effect upon the electorate in West Germany and will give to Adenauer’s candidate a genuine lift and lift. Undoubtedly, President Eisenhower promised Chancellor Adenauer a declaration of this sort when the Chancellor recently visited the White House.

It is interesting to note that in the political situation confronting Chancellor Bismarck, the German political and military strategists claimed that the cornerstone of Germany’s foreign policy should be “a reinsurance treaty” with Russia. Now the political strategists of West Germany under Chancellor Adenauer believe that the linchpin of the Federal Republic’s strength is “a reinsurance treaty with NATO and the Western allies. I believe by the end of the year the Federal Republic will have become the most important continental member of NATO. West Germany is bound to dominate the “Little Europe” of the Coal and Steel Community, Eura­tom, and the Euromarkt. West Germany will be able to exert a great influence on United States policy. If develop­ments in Germany properly proceed, Germany’s great miracle of recovery, with a re­markable Adenauer victory, could be used by the United States and the Western allies to deal with and cut down the toughness of Russia.

Mr. Kruschev, wise and foxy, knows of the strength in Adenauer and timed his recent visit to East Germany in an all-out effort to defeat Adenauer in the fourth election in as many years. The voting of the Western Germany is part of the Soviet campaign to wreck the North Atlantic Alliance. Fortunately, his loudly hailed demonstrations of so-called indestructible Soviet and East German friendship were deemed a flop. Surrounded by steel-helmeted members of the East German Red Army—creation of the Soviets—Kruschev denounced both Chancellor Adenauer and the United States for rearming West Ger­many. The language of his attack against us was most vitriolic. He sounded off in a way to help, indirectly, the opponents of Adenauer, namely, those led by Ollenhauer. That visit of

Khruschev to East Berlin and East Ger­many is clearest justification of our more than friendly attitude toward Adenauer and our rooting for him for reelection. It may be that this kind of interven­tion in the politics of another country is very new to us. We get a little embar­rassed when we are reminded of it. But we are not the only country that has to contend with this. The world is a smaller place.

The Adenauer story is like a romance. It is the country hicktown boy who made good. He first saw Paris and Rome and Washington when he was 75 years old. For 70 years he was the life of medi­ocrity in and around Cologne. He was its town councilor. He arose to lord mayor and remained such 16 years. The Nazis deposed him. He remained in the political background during the Hitler regime, was twice arrested by his hood­lums and twice set free.

In 1945 American occupation forces rediscovered him and again set him up as lord mayor of Cologne. He became chairman of the biggest branch of the Christian Democratic Union and in September 1949 he formed the first government with a majority of two votes in the Bundestag. He has been Chancellor ever since. His has been a consistent policy of reconciliation with the West.

As was stated by Terence Prittie re­cently:

He preserved in the face of the occupiers of his country a dignity that was virtually unique, thus marking himself out as the best man in the Bundestag of his fellow Germans. In them he inspired confidence alike by his refusal to complain about mate­rial privations and his refusal to get on with the tasks of political or­ganization. Work and responsibility were making him into a younger, healthier man.

He was given a greater chance for the cold war. This put him on the path which made this statement when he was President:

As the statement was not made by Mr. Taft while President. The statement was made by Mr. Taft in a congressional speech at Cincinnati, Ohio, on Tuesday, July 28, 1948, in acceptance of the Republican nomination for Presi­dent. Mr. Taft at the time was Secre­tary of War. He did not become Presi­dent until March 4, 1909.

In the first place the statement was not made by Mr. Taft while President. The statement was made by Mr. Taft in a congressional speech at Cincinnati, Ohio, on Tuesday, July 28, 1948, in acceptance of the Republican nomination for Presi­dent. Mr. Taft at the time was Secre­tary of War. He did not become Presi­dent until March 4, 1909.

In this political speech Mr. Taft also said a trial by jury in contempt cases was never known in the history of the jurisprudence of England, or America, except in the constitution of Oklahoma. See Presidential Addresses and Papers, William H. Taft, 1910 ed., page 26.

Also in this speech Mr. Taft stated the popular impression that a judge, in pun­ishing for contempt of his own order, may be affected by a personal feeling was unfounded.

Did Mr. Taft change his mind when he became Chief Justice? He most assur­edly did. He not only changed his mind but also changed his mind about judges having personal vindictiveness in con­tempt orders.

While Chief Justice of the Supreme Court Mr. Taft delivered the opinion in the case of Zimmerman (1224) 267 U.S. 87 and cited eight cases at common law to show that in England a jury trial was had

SENATE
THURSDAY, AUGUST 29, 1957
[Continuation of Senate proceedings of Wednesday, August 28, 1957, from 2 a. m. Thursday, August 29]

MR. THURMOND. Mr. President, I now wish to take up Chief Justice Taft’s opinion in Ex parte Grossman (1924) 267 U.S. 87. Considerable has been said about what Chief Justice Taft said concerning con­tempt and jury trials. Chief Justice Taft was at one time President of the United States, and he was Chief Justice of the United States. He was a great man and a great American. His opinions are highly revered, but some of his opinions have been quoted out of context or when not completely. I wish to take up this time his opinions on jury trials in contempt cases.
in contempt cases. This decision was rendered by him in upholding a pardon granted by President Hoover to a man imprisoned by Army authorities. The district judge in Illinois for contempt in a summary proceeding. Chief Justice Taft declared at page 118 of volume 267, United States Reports:

The King of England before our Revolution, in the exercise of his prerogative, had always exercised the power to pardon contempt of court, just as he did ordinary offenses, and the power descended to the present day. In the mind of a common-law lawyer of the 18th century the word "pardon" included all categories of offenses. In a list of the King's grace of the kingdom of such derelictions, whether it was a man who had been 751, v. the King of England before our Revolution, in the exercise of his prerogative, had always exercised the power to pardon contempt of court, just as he did ordinary offenses, and the power descended to the present day. In the mind of a common-law lawyer of the 18th century the word "pardon" included all categories of offenses. In a list of the King's grace of the kingdom of such derelictions, whether it was a man who had been

Some of the material in this opinion necessarily discusses the background of the cases. However, I believe it appropriate to read this material because it is necessary to a full understanding of the decision which upheld the conviction. Chief Justice Taft declared at page 118 of volume 267, United States Reports:

The Supreme Court of the United States, Nos. 701 and 711, October Term, 1925—Currie Reid, Superintendent of the District of Columbia Jail, Appellant; v. Clarice B. Covert, Nina Kinsella, Warden of the Erie, was remanded to the House of Lords. In the person of such derelictions, whether it was a man who had been

Mrs. Dorothy Smith killed her husband, an Army officer, beating jurors, striking a person, and threatening to murder another. She was tried by a court-martial for murder under Article 118 of the Uniform Code of Military Justice (UCMJ). The trial was on charges preferred by Air Force personnel and the court-martial was a body of military officers. The court-martial asserted jurisdiction over Mrs. Covert under Article 2 (ii) of the UCMJ, which reads:

"(ii) Subject to the provisions of any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, all persons of whatever class, whether in the armed forces of the United States or, while on duty in foreign countries, whether in the armed forces of the United States or employed by the Army, are hereby declared to be subject to the jurisdiction of the courts of the United States in any case involving any action taken or suffered or any right asserted by them in the discharge of their duties.

In another opinion while Chief Justice Taft changed his mind about the immunity of Federal judges from vindictiveness in issuing contempt orders.

On November 19, 1923, in a concurring opinion in United States v. Smith (263 U. S. 255 at p. 279), the Chief Justice said:

The delicacy is in the judge's deciding whether an attack upon his own judicial action is mere criticism or real obstruction, and the possibility that impulse may incline his view to personal vindication, are manifest. But the law gives the power the judge in contempt of court, just as he did ordinary offenses, and the power descended to the present day. In the mind of a common-law lawyer of the 18th century the word "pardon" included all categories of offenses. In a list of the King's grace of the kingdom of such derelictions, whether it was a man who had been

"The King of England before our Revolution, in the exercise of his prerogative, had always exercised the power to pardon contempt of court, just as he did ordinary offenses, and the power descended to the present day. In the mind of a common-law lawyer of the 18th century the word "pardon" included all categories of offenses. In a list of the King's grace of the kingdom of such derelictions, whether it was a man who had been..."
obedience to the lawful commands of the Sovereign, and obedience to the laws which Parliament may enact or cause to be enacted for the good of their country. But, on the other hand, they take with them all the rights and privileges which are essential to the enjoyment of the rights and liberties as against the prerogative of the Crown, which they would enjoy in this country."

Thus the rights and liberties which citizens of our country enjoy are not protected by custom and tradition alone, they have been legally and explicitly codified by the enactments of Government by express provisions of our written Constitution.

The first and second articles of these amendments are directly relevant to these cases. Article III, section 2, lays down the rule that "when a person is charged with a capital, or other infamous crime, and is not committed, as aforesaid, he shall be tried, and the trial shall be at such place as the Congress may by law have directed." The fifth amendment declares:

"No person shall be held to answer for a capital, or other infamous crime, unless on presentment or indictment of a Grand Jury, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be condemned, but by the unanimous consent of 12 of his neighbors and equals.""}

Thus trial by jury is a matter of law and in accordance with traditional modes of procedure after an indictment by grand jury has served to protect the accused against violent acts and sympathy in the trial. These elemental procedural safeguards were eventually made applicable to crimes committed abroad by the unanimous consent of 12 of his neighbors and equals. None of these cases had anything to do with military trials and they cannot properly be used as vehicles to support an extension of military jurisdiction to civil cases.

Moreover, it is our judgment that neither the cases nor their reasoning should be given any further expansion. The concept that the Bill of Rights and other constitutional protections against arbitrary government are inapplicable when they become inconvenient or when expedient because of a very ambiguous doctrine and if allowed to flourish would destroy the benefit of a written Constitution we have inherited from our forefathers. If our foreign commitments become of such nature that the Government can no longer rely on the Constitution to determine the proper scope of public international law, no self-respecting nation would be willing and able to try and to punish all offenses against the laws of Great Britain by such persons. In all material respects, the same situation existed in Japan when Mrs. Smith killed her husband. Even though a court-martial does have the power to punish all offenses committed within the military reservations were not applicable to the trial of Americans. We are not willing to make the American ship in Japanese waters. He killed a ship's officer, was seized and tried before a consular court in Japan. At that time, statutes authorized American consuls to try Americans committing crimes in Japan and certain other non-Christian countries. These statutes provided that the laws of the United States were to be applied:

"Where such laws are not adapted to the object, or are deficient in the provisions necessary to the effectual execution of the common law and the equity and admiralty shall be extended in like manner over such crimes as are committed in those countries, respectively, shall, by de­ crees and regulations which shall have the force of law, supply such defects and deficiencies."

The consular power approved in the Ross case was about as extreme and absolute as that of the last case of the non-Christian countries to which the statutes applied. Under these statutes consul could and did make the consular power total. It was able to punish all offenses committed outside the jurisdiction of any State "in the district where the offender is apprehended," even though he was not even within the jurisdiction of any State. The fifth and sixth amendments, like article III, section 2, are all inclusive with their sweeping references to "no person," and to all crimes, felony and misdemeanor.
concluded the Revolutionary War, would remain in effect. It would be manifestly contrary to the very purpose and philosophy of the Constitution, as well as those who were responsible for the Bill of Rights—let alone alien to our entire constitutional history and traditions—were they to permit the United States to exercise power under an international agreement without observing its prohibitions. In fact, such construction would permit amendment of that document in a manner not sanctioned by article V. The prohibitions of the Constitution were designed to apply to all branches of the National Government and they cannot be altered by the Constitution or by the Executive and the Senate combined. There is nothing new or unique about what we say here. This court has regularly and uniformly recognized the supremacy of the Constitution over a treaty. For example, in Geo­ rgy v. Riggs (138 U. S. 258, 267), it declared: "The treaty power, as expressed in the Constitution, is in terms unlimited except by the provisions which are found in that instrument against the action of the Government or of its departments, and those arising from the nature of the Government itself and the Constitution. It could not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the Government or in that of one of the States, or a cession of any portion of the territory of the United States."

This Court has also repeatedly taken the position that an act of Congress, which must comply with the Constitution, cannot be made contrary to that instrument against the action of the Government or its departments, and those arising from the nature of the Government itself and the Constitution. It could not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the Government or in that of one of the States, or a cession of any portion of the territory of the United States. This Court has also repeatedly taken the position that an act of Congress, which must comply with the Constitution, cannot be made contrary to that instrument against the action of the Government or its departments, and those arising from the nature of the Government itself and the Constitution. It could not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the Government or in that of one of the States, or a cession of any portion of the territory of the United States.

There is nothing in Missouri v. Holland (252 U. S. 416), which is contrary to the position taken here. There the Court carefully noted that the treaty involved was not inconsistent with any specific provision of the Constitution. The Court was concerned with the 10th amendment which reserves to the States all powers not delegated to the National Government. To the extent that the United States can validly make treaty agreements, those powers are delegated to the National Government. But the necessary and proper clause does not formally vest in the United States the power granted to the state governments to make treaties. It is true that the Constitution expressly grants Congress power to make all rules relating to foreign affairs. This power is necessary to regulate those persons who are serving in the land and naval forces. But the necessary and proper clause does not vest in the United States the power to regulate military jurisdiction to any group of persons beyond that class described in clause 14—"the land and naval forces." Under the grand design of the Constitution, the courts are the normal repositories of power to try persons charged with crimes against the State, and, in certain situations, persons brought before the courts, article III and the fifth, sixth, and eighth amendments establish the jurisdiction of military tribunals, as defined by a law or order in council, to try persons charged with crimes against the State. It was on a similar theory that Congress once conferred on the President to the extent of subjecting persons who made contracts with the military to court-martial jurisdiction. The Article I, section 8, clause 14, empowers Congress to establish a uniform system of laws and punish offenses against the same.
a law. The necessity of order and discipline in an army is the only thing which can give it maintenance; and therefore it ought not to be permitted in time of peace, when the king's courts are open for all persons to maintain justice according to the laws of the land."

The generation that adopted the Constitution did not distrust the military because of its inherent danger. With the military lives they had seen royal governors sometimes resort to military rule, British troops were quartered in Boston, and the Boston Massacre from 1768 until the outbreak of the Revolutionary War to support unpopular royal governors. The trial of soldiers by courts-martial and the interference of the military with the civil courts aroused great anxiety and antagonism not only in Massachusetts and throughout the colonies. For example, Samuel Adams in 1768 wrote:

Colonials also had seen the right to trial by jury, the source of British power, renounced by the colonial authorities, which authorized courts of admiralty to try allegedly violated laws of the popular Molasses Act and Navigation Act. These gave the admiralty jurisdiction over maritime offenses and franchise of the land. * * * * Will we lose the soldiers of the people as yet unsubdued by law and aroused great resentment through the military, in breach of the fundamental rights of every citizen in the colonies. With this background it is not surprising that the Declaration of Independence proclaims a right that is inherent and indispensable to the civil power and that Americans had been denied in the British colonies through the bayonet by jury. And those who adopted the Constitution embodied their profound fear and distrust of military power, as well as their determination to protect the sovereignty of the new Constitution and its amendments. Perhaps they were aware that memories fade and hope that in this way they could keep the people of this Nation from having to fight again and again the same old battles for individual freedom.

In the light of this history, it seems clear that the founders had no intention to permit the trial of civilians in military courts, where they would be denied the right to jury trial, and left, and put under arrest, by pretext of military rule in breach of the fundamental rights of every citizen. The exigencies which have required the military rule on the battlefront are not present in areas where no conflict exists. To the extent that these cases can be justified, insofar as they involved trial of persons who were not members of the Armed Forces, the military powers of the Congress were used improperly.

Colonial courts of law were open for all persons to receive justice according to the laws of the land. "No! Let us rouse our attention to the justice of the laws. Minorities are not oppressed in the land." From a time prior to the adoption of the Constitution the extraordi­nary circumstances present in an area of foreign conflict have been considered sufficient to permit punishment of some civilians in that area by military courts under the war power of the Government's war powers. In the face of an actively hostile enemy, military commanders necessarily must act swiftly. It points out how the war powers include authority to prepare defenses and to establish our military forces in defensive posture worldwide. We are aware that the war powers of the Congress and the Executive are broad, we reject the Government's contentions that these powers permit military trial of civilians accompanying the Armed Forces overseas in areas where no conflict exists. It points out how the war powers include authority to prepare defenses and to establish our military forces in defensive posture worldwide. We are aware that the war powers of the Congress and the Executive are broad, we reject the Government's contentions that these powers permit military trial of civilians accompanying the Armed Forces overseas in areas where no conflict exists. The exigencies which have required military rule on the battlefront are not present in areas where no conflict exists. Military trial of civilians in the field is an extraordinary jurisdiction, and it should not be expanded at the expense of the Bill of Rights, which the Court has most often invoked to settle their true meaning; the Court reasserted the principles enunci­ated in Duncan v. Covert (351 U.S. 11), and military courts can in the nature of things, do not and cannot be justified, insofar as they involved trial of persons who were not members of the Armed Forces.

Military trial of civilians in the field is an extraordinary jurisdiction, and it should not be expanded at the expense of the Bill of Rights, which the Court has most often invoked to settle their true meaning; the Court reasserted the principles enunci­ated in Duncan v. Covert (351 U.S. 11), and military courts can in the nature of things, do not and cannot be justified, insofar as they involved trial of persons who were not members of the Armed Forces.

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Just last term, this Court held in United States ex rel. Toth v. Quarles (300 U.S. 11), that military courts could not constitutionally try convicted discharged servicemen for offenses committed prior to their discharge from the Armed Forces while in the Armed Forces. It was decided (1) that since Toth was a civilian he could not be tried in a military court, and (2) that since he was charged with murder, a crime in the constitutional sense, he was entitled to indictment by a grand jury. Toth was an ex-service­ man and was not in the armed service when he was charged with murder. The Court pointed out that the Constitution of the United States proscribed trial by jury in cases where persons were not members of the Armed Forces.

The Government urges that the concept of maintenance of order and discipline in the Armed Forces overseas in areas where no conflict exists is in the executive chain of command. Frequently, the members of the court-mar­tial must look to the appointing officer for promotions, advantageous assignments, and efficiency ratings—in short, for their future progress in the service. Concealing to military authorities and institutions the relationship to maintenance of the land and the executive chain of command, they have always been subject to varying degrees of command influence. In these cases, tribunals are simply executive tribunals whose personnel are subject to the executive chain of command. Frequently, the members of the court-mar­tial must look to the appointing officer for promotions, advantageous assignments, and efficiency ratings—in short, for their future progress in the service. 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We recognize that a number of improvements have been made in military justice recently by engrafting more and more of the methods of civilian courts on courts-martial. In large part these ameliorations stem from the reaction of civilians, who were inducted during the two World Wars, to their experience in military justice. Jurisprudentially speaking, the recent reforms do not give an accused the same protection which he has in the civil courts, nor do they provide him the same rights. Nevertheless, courts-martial have been called to account by civilians, who were inducted into the armed forces, to such an extent that the reforms are merely statutory; as yet such reforms have been imposed by the Constitution, whenever it desires. As yet it has not been clearly settled to what extent the Bill of Rights and other protective parts of the Constitution apply to military trials.

It must be emphasized that every person who comes within the jurisdiction of a court martial is subject to military law—law that is substantially different from the law which governs civilians. Military law is, in many respects, harsh law which is frequently cast in a sweeping and vague terminology. To understand the disciplines more that it does the even scales of justice. Moreover, it has not yet been definitely determined how the Constitution as, for example, in these very cases a technical manual issued under the President's executive order. The government, however, has called upon the defense of the nation in every period of need and to perform those duties well with the soldiers of many other nations, they have come to accept certain restrictions imposed by the Constitution have been assumed also to modify the guarantees of speedy and public trial by jury. And under our Constitution courts of law are given power to try civilians for their offenses against the United States. The philosophy expressed by Lord Coke, speaking long ago from a wealth of experience, is still timely: "God send me never to live under the law of soldier and justice sit on one bench, the trumpet will not let the cryer speak in Westminster Hall."

In No. 713, Kincaid v. Krueger, the judgment of the district court is reversed and the case is remanded with instructions to order Mrs. Smith released from custody. Mr. Justice Whittaker took no part in the consideration or decision of this case.

These cases involve the constitutional power of Congress to provide for trial of civilian dependents accompanying members of the Armed Forces abroad by court-martial. It is claimed that the method of true Federal Reformatory for Women, Alderson, West Virginia, Pettitton, S. Walter, Petitioner. Mrs. Smith released from custody is the exercise of an allowable judgment by Congress. Congress may sweep in what may be necessary for the exercise of an allowable judgment by Congress. Congress may sweep in what may be necessary for the exercise of an allowable judgment by Congress.

In summary, "it still remains true that military tribunals have not been and probably never can be constituted in such way that they will be capable of exercising the judicial powers of the Constitution. The jurisdiction over aliens claimed here is only slight, and that the practical necessity for it is not apparent. The Bill of Rights and other safeguards in the Constitution need cause little concern. But to hold part these amendments would be a weakening of the constitutional powers of the military would be a tempting precedent. Such blending of military and civilian jurisdiction is of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is also possible that the Constitution rights of the citizen, and against any stealthy encroachments thereon. Nor is it true that the government appears safe a slight one. Throughout history many transgressions by the military have been referred to, but they have always been within the bounds of reason in light of the uniqueness of the times. We cannot close our eyes to the fact that today the peoples of many nations are ruled by military tribunals.

We should not break faith with this Nation's tradition of keeping military power subservient to civilian authority, a tradition which we believe is firmly embodied in the Constitution. The country has remained true to that faith for almost 170 years. Perhaps no group in the Nation has been truer than military men themselves. Unlike the soldiers of many other nations, they have come to accept certain restrictions imposed by the Constitution have been assumed also to modify the guarantees of speedy and public trial by jury. And under our Constitution courts of law are given power to try civilians for their offenses against the United States. The philosophy expressed by Lord Coke, speaking long ago from a wealth of experience, is still timely: "God send me never to live under the law of soldier and justice sit on one bench, the trumpet will not let the cryer speak in Westminster Hall."

Mr. Justice Frankfurter, concurring in the result.

These cases involve the constitutional power of Congress to provide for trial of civilian dependents accompanying members of the Armed Forces abroad by court-martial. It is claimed that the method of trial is not the normal method of trial of Federal offenses under the Court-martial system, as it is in a civilian tribunal. Trial of offenses by way of court-martial, with all the characteristics of a trial by court-martial in every form and safeguard of procedure in the conventional courts, and is an exercise of exceptional power granted to Congress in article I, section 8, clause 14, of the Constitution, and the Constitution's guarantee of the principles of liberty and security of life, and due process of law. Duny v. Hoover, 20 How. 86; see Toln v. United States, 210 U. S. 1. Winthrop, Military Law and Precedents, 2nd edition 1896, 145, this Court, applying appropriate methods of constitutional interpretation, has long held, and in No. 91, Mr. Justice Covert be released from custody is the exercise of an allowable judgment by Congress. Congress may sweep in what may be necessary for the exercise of an allowable judgment by Congress.

Everything that may be deemed, as the exercise of an allowable judgment by Congress, of the right to conduct a trial by court-martial, by the power given to Congress "to make rules for the government and regulation of the land and naval forces." It is constitutionally within that legislative grant and not subject to revision by the independent judgment of the Court. To be sure, every event or transaction that bears some relation to "the land and naval forces" does not ipso facto come within the tolerant construction of that legislative power. The issue in these cases involves regard for considerations not dissimilar to those involved in cases in which the trial is criminal, in which the Constitution need cause little concern. But to hold part these amendments would be a weakening of the constitutional powers of the military would be a tempting precedent. Such blending of military and civilian jurisdiction is of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is also possible that the Constitution rights of the citizen, and against any stealthy encroachments thereon. Nor is it true that the government appears safe a slight one. Throughout history many transgressions by the military have been referred to, but they have always been within the bounds of reason in light of the uniqueness of the times. We cannot close our eyes to the fact that today the peoples of many nations are ruled by military tribunals.

We should not break faith with this Nation's tradition of keeping military power subservient to civilian authority, a tradition which we believe is firmly embodied in the Constitution. The country has remained true to that faith for almost 170 years. Perhaps no group in the Nation has been truer than military men themselves. Unlike the soldiers of many other nations, they have come to accept certain restrictions imposed by the Constitution have been assumed also to modify the guarantees of speedy and public trial by jury. And under our Constitution courts of law are given power to try civilians for their offenses against the United States. The philosophy expressed by Lord Coke, speaking long ago from a wealth of experience, is still timely: "God send me never to live under the law of soldier and justice sit on one bench, the trumpet will not let the cryer speak in Westminster Hall."

Mr. Justice Whittaker took no part in the consideration or decision of this case.

SUPREME COURT OF THE UNITED STATES, Nos. 701 and 713, October Term, 1955—CURTIS REID, Superintendent of the District of Columbia Jail, Appellant, v. CLARICE B. COVERT, Petitioner. S. Walter, Petitioner v. MARYLAND, No. 1011, Jacob Ruppert Case, 251 U. S. 716, 39 Sup. Ct. 260, 63 L. Ed. 1083; Railroad Commission v. Chicago, Burlington & Quincy R. Co. (357 U. S. 563, 588). This is the significance of the necessary and proper clause, which is not to be considered more as a special clause than as part of the general power given to Congress "to make rules for the government and regulation of the land and naval forces."
before us some relation to the military. Yet the question for this Court is not merely whether the relation of these women to the "land or naval forces" is sufficient to preclude the necessity of finding that Congress has been arbitrary in its selection of particular methods of trial. But, although we must look to article I, section 8, clause 14, as the immediate justifying power, it is not the only clause of the Constitution to which the cases must be referred, for the Constitution is an organic scheme of government to be dealt with as an entirety. A particular provision must be taken from the scheme as a whole, and from the manner of its enunciation and that an expression in an abstract and a concern for practical results and practical wisdom." Thomas Reed Powell, Vagaries and Varieties in Constitutional Interpretation, 48 U.S. 453, 511 (Pet. 1891), must be placed in their historical setting. They cannot be wrenched from it and mechanically transplanted into an alien, unrelated context without suffering mutilation or distortion. "If a precedent involving a black horse is applied to a case involving a white horse, we are not excited. If it were an elephant or an animal ferae naturae or a chose in action, then we would be disturbed. The difference is a profound effect on our relations with these countries, with a consequent effect on the Military Establishment there. But the argument that military courts-martial in capital cases are necessitated by this factor assumes that a military court-martial constitutes a stronger deterrent to this sort of conduct than that disloyalty, if left unpunished, no punishment would be meted out and our foreign policy thereby injured. The reasons for and against such a conclusion have already been indicated. I therefore conclude that in capital cases the exercise of court-martial jurisdiction cannot be justified by article I, considered in connection with the specific protections afforded by articles III and the fifth and sixth amendments.

Since the conclusion thus reached differs from that of Mr. Justice Pierce in The United States v. Atlee, which is a precedent in a decent respect for the judicial process calls for reexamination of the two grounds that then prevailed. The court sustained its action on the theory that the power of Congress to make all needful rules and regulations for the territories, including the United States, is true that military courts are thus afforded a means of dealing with crimes committed in a manner difficult to be done under modern conditions, obviously appropriate to the effective exercise of the power to make rules for the treatment and punishment of offenders as required by the Constitution.

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U. S. 609, 619 (dissenting). Especially is this attitude to be observed in constitutional controversies.

The Territorial cases relied on by the Court last term held that certain specific constitutional restrictions on the Government did not apply to the unincorporated Territories of Florida, Hawaii, the Philippines, or Puerto Rico. In these cases, the Court held that the right of Congress to deal with territory and other constitutional provisions which appear, in context, to restrict power to the United States, is considered for many purposes to be the same as that to be made in the present cases in weighing Congressional power to make rules for the government and regulation of the land and naval forces against the safeguards of article III and the fifth and sixth amendments.

The results in the cases that arose by reason of the acquisition of exotic territory do not control the present cases for the treaty-makinpower vested in our country, it must be on such conditions as the two countries may agree, the laws of neither one being obligatory upon the other. The making of a treaty, a private treaty, as it is true, is considered for many purposes constructively as territory of the United States, yet persons on board of such vessels, whether officers, sailors, or passengers, cannot invoke the exercise of this judicial authority to reside therein. He further held that the deck of a private American vessel, it is impossible of carrying it into practice. Again, if the right to trial by jury were a fundamental right anywhere, it would have been declared in the Constitution of the United States, and more particularly so in the Bill of Rights, or it should have been declared in the Bill of Rights, or it should have been included in the provisions of the Constitution of the United States.

The States, Impelled by its duty or advantage, shall acquire territory peopled by savages, and of which it may dispose or not, shall acquire by treaty the same as that to be made in the present cases in weighing Congressional power to make rules for the government and regulation of the land and naval forces against the safeguards of article III and the fifth and sixth amendments.

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luation of its system of judicial procedure to that of Christian countries, as well as in the matter of consular jurisdiction. Dr. John Ross of the University of Turkey that provided for numerous.

Theorique et Pratique (5th ed., Rousseau, 1896), 218, 2 id., 9-12; Hinckley, American

States and civil jurisdiction over all disputes among their citizens. But a new justification was found for the exercise of sovereignty over that of western nations, the United States agree to give every assistance to such re- form and will also be prepared to relinquish extraterritorial rights to other nations that are ready to act in like manner over such citizens and others of the same race living in foreign lands.

"The Government of China having expressed a strong desire to reform its judicial system and to bring it into conformity with the laws of the civilized nations, the United States, in a letter to the Secretary of State Calhoun, he explained: "I entered China with the formed general conviction that the United States ought not to make their citizens and other aliens, when circumstances, jurisdiction over the life and liberty of a citizen of the United States, unless of course, the alien is a member of the family of nations—in a word a Christian state.

"Quoted in 7 Op. Atty. Gen. 405, 406-407. Later treaties continued the extra-territorial rights of Christians and others who were foreigners and lived under their own law and practice their own religion. Numerous other instances of provided for their own law in foreign lands existed in the later pre-Christian era and during the Roman Empire and the so-called Dark and Middle Ages—Greeks in Egypt, all sorts of foreigners in Rome, inhabitants of Christian cities and states in the Byzantine Empire, the Latin kingdoms of the East, the Levant, Turkey, and Persia, Mohammedans in the Byzantine Empire and China, and many others lived in foreign lands under their own law. While the Roman Empire and the provinces it provided for any exercise of judicial powers by United States officials. Under the treaty of 1555, a Christian nation may enter into treaties with another Christian nation that the state of the Chinese laws, the arrangements for their administration, and other conditions may be such as to warrant it in doing so" (35 Stat. 2208, 2315).

The first treaty with Japan was negotiated by Commodore Perry in 1854 (11 Stat. 897). It provided for consular jurisdiction over foreign traders in Japan and allowed for the settlement of disputes. The treaty of 1854, effective on July 17, 1859, however, ended these extraterritorial rights and Japan, even though a non-Christian nation, maintained status as foreign nation (29 Stat. 848). The ex- crime of criminal jurisdiction by consuls was regulated. Judicial powers were also provided for, at one time or another, in treaties with Borneo (10 Stat. 909, 910); Slaim (11 Stat. 683, 684); Madagascar (15 Stat. 491, 492); Samoan Islands (20 Stat, 704); Korea (23 Stat. 720, 721); Tonga Islands (25 Stat. 1440, 1442) and, by virtue of most-favored-nation clauses in the treaty of 1858; (25 Stat. 154); Persia (11 Stat. 709); the Congo (27 Stat. 926); and Ethiopia (33 Stat. 2254). Judicial powers thus regulated was also provided for in a treaty with Morocco (8 Stat. 100), by virtue of a most-favored-nation clause and by virtue of a clause granting the United States a consular residence. The United States * * * shall have any disputes with each other. The word "disputes" has been interpreted by some to give jurisdiction of China to comprehend as well as civil disputes. France v. United States (I. C. J. Rep. 1956, p. 353.) The consular jurisdiction was not limited to the treaty of 1858 but the treaty of 1859 (11 Stat. 159) further extended it.

The consular jurisdiction was defined by statute and was sweeping: "Jurisdiction in both criminal and civil matters shall, in all cases, be exercised by consuls as such, in connection with the consular residence, in conformity with the laws of the United States, which are hereby, so far as is necessary to execute the provisions of this article, confided to them. For the execution of these powers, and in conformity with the laws of the United States * * * shall have any disputes with each other. The word "disputes" has been interpreted by some to give jurisdiction of China to comprehend as well as civil disputes. France v. United States (I. C. J. Rep. 1956, p. 353.) The consular jurisdiction was not limited to the treaty of 1858 but the treaty of 1859 (11 Stat. 159) further extended it. The provisions necessary to furnish suitable remedies, the common law and the law of equity and admiralty shall be extended over all citizens and others of the United States. The terms of the treaties, respectively, justify or require. But in all cases where such laws are not applicable, the consuls shall, by decree and regulations which shall have the force of law, supply such defects and deficiencies." (Rev. Stat, sec. 4086.)

The number of people subject to the jurisdic- tion of these courts during their most active periods appears to have been fairly small. In the Chronicle & Directory for the year 1870, there is a listing of the total num­ber of foreign, not just United States, resi­dents in Japan, China, and Korea, but beyond that is not the number of Japanese open to allies, consisting of * * * 38 Americans * * * and in the latter part of that number, as residents at Kanagawa had increased to 300, not counting soldiers, of which number * * * about 80 were Americans. * * * At Nagasaki, the number of resident Chinese was 1,600, of whom 300 were Christians, 1,020 Americans (p. 411); Japan in 1897, 711 Americans (p. 709); Morocco, 1886 esti­mated number of foreigners, 3,000; "very small, not exceeding 1,500" (p. 789). The Statesman's Yearbook of 1901 shows: China at the end of 1899: 2,335 Americans (p. 809); China at the end of 1900: 4,000; "number of Christians does not exceed 6,000; the Christian population of Tangier alone probably amounts to 5,000" (p. 851). These figures of course do not include those civilians temporarily in the country within consular jurisdiction.

The consular court jurisdiction, then, was second only to that of consular courts and consular officers in relation to the time at the were considered so inferior that justice could not be obtained in them by Americans. The system of extraterritorial rights was based on long-established customs and they were justified as the best possible means for securing justice for the few Americans present. The system was such, however, that in the case of the Chinese, therefore, arose out of, and rests on, very special, confined circumstances, and cannot be applied to the present situation, involving hundreds of thousands of American citizens in countries with civilized systems of justice. If Congress had established consular courts or other nonmilitary procedure for trial that did not contain all the protections afforded by these procedures for trial of the civil dependent population, we would be unable to give any adequate protection to the civil dependent population abroad in deciding whether the Ross case should be decided in the present case. It is not necessary to do this in the present case. In view of our decision that the form of trial here provided cannot constitutionally be denied.

The Government, apparently recognizing the constitutional basis for the decision in Ross, has, on rehearing, sought to show that extraterritorial rights in general, and those in particular, have been subject to military order and discipline ever since the colonial period. The law has seemed to me too episodic, too meager, to form a solid basis in history, preceding and con-
Constitution, for constitutional adjudication. What has been urged on us falls far too far short of a judicial review—indeed it is urged to be deemed to be infused into the Constitution—of court-martial jurisdiction, certainly not in capital cases, over such civilians in time of peace.

Mr. President, the decision which I have read in the Raceo is in the case of Curtis Reid, Superintendent of the District of Columbia Jail, Appellant, against Clarice B. Covert, and Nina Kinseh, gardeners on the Federal Penitentiary for Women, Alderson, W. Va., petitioner, against Walter Krueger. The opinion, which was written by Mr. Justice Black, was concurred in by the Chief Justice, Mr. Justice Douglas, and Mr. Justice Brennan. It pointed out clearly that even though the court-martial so provided, the jury trial could not be denied to civilians accompanying the Armed Forces. It is very clear on that point.

There was a concurring opinion, which I have just included in the Raceo, by Justice Frankfurter, which upholds that conclusion.

There is no question that under the United States Constitution citizens are entitled to a trial by jury. It cannot be left to the discretion of a Federal judge to simply omit the right to trial by jury. It cannot be left to the Congress to say that if the punishment is only a $300 fine or 45 days imprisonment, we will let the judge try the case, but if it is $1,000, we will have a jury trial. That simply does not make sense. It violates the Constitution and is in derogation of the administration of justice in this country. As someone has said, it is a split-level statute.

Mr. President, on May 9, 1957, before the mountain and plain regional meeting of the American Bar Association in Denver, Colo., Associate Justice William J. Brennan, Jr., made an address on our judicial systems. In this address he discussed the advantages of our traditional jury-trial system.

Because of the clear, straightforward nature of this issue, I want to follow the following statement made by Justice Brennan. This is what he said:

We hear much, for example, of the proposal that we turn all automobile-accident litigation over to an administrative agency. The idea is that, because automobile litigation accounts for a major part of court business, the simple solution is to dispose of the problem by throwing it out the window. What an abject abdication of our profession's responsibility to provide judicial justice for our citizenry this would be! Not only for that idea, at least not in our lifetime, when the job of judicial reform must be done. It will take a long time before our someday will pay the price of damages for every automobile injury or death without regard to the fault of the person injured or killed. There is no true answer to this by compensation for the injured workman who helps produce goods or services for profit, where the cost is passed on to the consumer in the price of the goods or services, and compensation to the automobile victim, where the cost would have to be borne by all of us.

Another nostrum is that, because jury trials take more time than trials before a judge, the easy answer to calendar congestion is to get rid of jury trials in automobile accident cases. Actual studies are being made to prove that the average jury trial in a negligence case takes more time than a nonjury trial of a negligence case. This shows the need for statistical study. But those who would prove something that every judge and lawyer knows. Of course jury trials usually take more time than nonjury trials. But those who would prove that further justice will result if a judge, unprejudiced for one side or the other—they really mean for the plaintiffs—disposes of them. I doubt that that proposition can withstand analysis. As a matter of fact, the great amount of time often the jury brings to the same verdict on liability that I would have reached. And it is the judge who is the final judge generally. A recent survey proved that in up to 85 percent of the cases the trial judge reported that the jury reached the same verdicts as he was to have reached. Moreover, the idea that juries go haywire in fixing damages where plaintiffs have the assistance of the people's control of the administration of justice.

The growing interest is in large measure a product of the tumultuous times in which we now live. The full-blown opposition to jury trials in automobile accident cases also faces an almost insurmountable barrier. Our British brothers are no less conscientious in fixing damages. I know that at times juries do go haywire in fixing damages. But if we are ever to get the case out of the courts, it is a split-level statute.

My experience left me with the definite impression that jurors almost always do try to fix a case in line with the damages that I would have fixed. I think, at all events, this proposal to abolish jury trials in automobile accident cases also faces an almost insurmountable barrier. The American tradition has given the right of trial by jury to the people in a manner of speaking which has them constantly present in public esteem, and that the efficient and businesslike conduct of the administration of justice. Perhaps it is not difficult to account for the fact that in every State in the Union there are demands under the Constitution. Perhaps it is not difficult to account for the fact that in every State in the Union there are demands under the Constitution for a large share of the people's control of the administration of justice. Perhaps it is not difficult to account for the fact that in every State in the Union there are demands under the Constitution for a large share of the people's control of the administration of justice.

Mr. President, I submit, just as Justice Brennan has quoted here, which is better more true than today: "Justice, sir, is the chiefest interest of man on earth."
his book was entitled "Trial by Jury in the United States Considered as a Political Institution."

I shall read excerpts from this chapter, as it provides an excellent insight into the prestige attained by the system of jury trial from the observation of an unbiased observer.

[From de Tocqueville's Democracy in America, written after visiting America in the 1830's]

TRIAL BY JURY IN THE UNITED STATES CONSIDERED AS A POLITICAL INSTITUTION

Trial by jury, which is one of the forms of the government of the people, is to be compared with the other laws which establish that sovereignty; Composition of the jury; the United States create an exception to the trial by jury upon the national character; it educates the people; how it tends to establish the independence of the United States, and colonized every part of the habitable earth, and their attachment to this country; must not be compared with the other laws which extend the legal spirit among the people. All the sovereigns who have chosen to govern by law, and by a system based upon a consistent footing, and which makes the laws; and in order that society may be governed in a fixed and uniform manner, the people witness only its occasional action... The jury raises the people to the bench of judges. The institution of the jury consequently invests the people, or that class of citizens, with the direction of society.

In England the jury is selected from the aristocratic portion of the people; and in France it forms a large part of the popular assembly, although England may with truth be said to constitute an aristocratic republic. In the United States the choice is left to the whole people. Every American citizen is both an eligible and a legally qualified voter. The jury system as it is understood in Europe cannot be compared with our jury; as extreme a consequence of the sovereignty of the people as universal suffrage. They are two instruments of equal power, which contribute to the supremacy of the majority. All the sovereigns who have chosen to govern the people; how it tends to establish society instead of obeying its directions, have destroyed or enfeebled the institution of the jury. Trial by jury in the United States is zealously reproduced at every stage of civilization, in all the climates of the world, and in every form of human government; it cannot be contrary to the spirit of justice.

But to leave this part of the subject. It would be a very long chapter to describe the mode in which the jury is invested with its full judicial powers, for however great its influence may be upon the decisions of the courts, it is still greater on the principles of society. The trial by jury is, above all, a political institution, and it must be regarded in this light in order to be duly appreciated.

By the jury I mean a certain number of citizens chosen by lot and invested with a temporary right of judging. Trial by jury, as applied to the repression of crime, appears to me the least important part of the subject. The jury is preeminently a political institution, and it arises from the laws which are applied to the repression of crime, appears to me the least important part of the subject. The jury is preeminently a political institution, and it arises from the laws which are applied to the repression of crime, appears to me the least important part of the subject. The jury is preeminently a political institution, and it arises from the laws which are applied to the repression of crime, appears to me the least important part of the subject. The jury is preeminently a political institution, and it arises from the laws which are applied to the repression of crime, appears to me the least important part of the subject. 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My purpose is to consider the jury as a political institution; and I shall here say but little. When the English colonists threw off their allegiance, they left behind them the institution of the jury, which is zealously reproduced at every stage of the world, and in every form of human government; it cannot be contrary to the spirit of justice.
the question to be solved is not a mere question of fact, the jury has only the semblance of a judge. It is not the jury which decides the decision of the judge; they sanction this decision by the authority of society which they represent, and he by that of reason and of law.

The jury, then, which seems to restrict the rights of the judiciary does in reality, the solicitude of society, for the judges are so powerful as where the people share their privileges. It is especially by means of the jury in civil causes that the American magistrates imbue even the lower classes of society with the spirit of their profession. Thus the jury, which is the most energetic means of making the people understand law, is also the most efficacious means of teaching it how to rule well.

Mr. President, De Tocqueville contributed a great deal to literature and to society. He was a Frenchman who came to our country and studied our form of society with the spirit of their profession. Wendell Holmes who wrote that an average group of citizens can mete out more even justice than can the most competent judges, he said. These critics are influenced, Maxwell said, by the view expressed by him that any number of assistant to the Attorney General and would have the authority to initiate civil suits against persons accused of violating the civil rights of others or whom it might have reason to believe were about to violate such rights. (At present, it is a criminal offense to violate the civil rights of another. But a person accused of violating such laws has the right to be arraigned before a grand jury and to be tried by a petit jury.)

The administration proposal—and members of both parties have supported this or similar proposals made is to transfer civil rights cases from the criminal to the civil side of the Federal courts. The Government could ask for and obtain an injunction forbidding anyone to do certain things, such as to refuse a voting certificate to a certain person or to oppose an integration order issued against a certain school. Such action on the part of the defendant might be a violation of an injunction or it might be a violation of a criminal law on civil rights.

But in such cases, the Government would bring the individual before the judge on a charge of contempt. And the judge could convict and sentence the individual without a trial by jury. That is what prompted the southern amendment to the bill aimed at assuring a jury trial. And that is the principle Mr. Brownell is assailing in his statements to Congress.

He does not deny that trial by jury would be denied the Ku Klux Klan under the bill. But if the amendment were to make the bill ineffective and would weaken the power of the Federal Government, he said this power to punish for contempt has long been available to the Government in other Federal cases. That much is true. When the Government brings a civil suit and obtains an injunction, contempt can be adjudged and punished without a jury. But these are cases entirely different from any contemplated by Mr. Brownell proposes to bring in the name of civil rights.

In this instance, Mr. Brownell is trying to authorise the South in its campaign to prevent infiltration by troublemakers or hotheads.

Mr. President, here's an editorial from the Charleston (S. C.) News and Courier of April 17, 1957. It is entitled "Senator O'Mahoney Understands Threat to Liberty In Civil-Rights Bill" and has this to say: "Too strong in the Greenville News of June 6, 1957. It is entitled "Jury Trial Is at Heart of Rights Issue" and has this to say on the jury-trial issue:

The day after it was reported from Washington the Southern Senators, the Senators from the Southern states, the Republicans have been convinced of the facts.

The jury trial issue came up in this way: Among the bills included in the civil rights packages (various versions of which have been offered by the administration and by the President's Commission and the Republican Members of Congress) is one which would set up a special civil rights division of the Department of Justice.

If it would be the duty of the Senate to cross-examine him on his statements.

The other task facing southerners is that of convincing others or whom it might have reason to believe were about to violate such rights. (At present, it is a criminal offense to violate the civil rights of another. But a person accused of violating such laws has the right to be arraigned before a grand jury and to be tried by a petit jury.)

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Mr. President, here is another article from the Charleston (S. C.) News and Courier. It is entitled "Trial by Jury Right of All Americans" and it appears in the National Association for the Advancement of Colored People strongly opposes a jury trial guaranty in criminal injunction cases under the civil rights bill. In a national fund campaign for a million dollars to attain first-class citizenship for all members. The former Brooklyn Dodger, Jackie Robinson, is leading the NAACP's freedom movement in the Press television panel that he did not know what the million dollars would mean. He is a University lawyer for lawsuits against school segregation.

Mr. President, I have an editorial from the August 25, 1957, issue of the Columbia (S. C.) Record. It is entitled "Jury-Trial Compromise." The record is not to be taken away by the people of America. Mr. President, I have an excerpt from an editorial from the August 25, 1957, issue of the Columbia (S. C.) Record. It is entitled "Jury-Trial Compromise." This is a man, Mr. President, who favors the civil-rights bill, but even he says he favors a trial by jury.

That is what the House did on this so-called compromise. In effect, they have nullified the right of trial by jury. There are very, very few instances in which a judge would rule that an accused man guilty of contempt, would give a sentence of more than 45 days in prison or a fine of more than $300. That simply means, then, that the jury trial has been completely nullified. As I have said earlier, and as I will say later in my address, the right of jury trial is something the Constitution guarantees to the citizens of the United States. The Congress does not have the authority to take the jury trial away from the people of America. Mr. President, I have an excerpt from an editorial from the August 25, 1957, issue of the Columbia (S. C.) Record. It is entitled "Jury-Trial Compromise." This is a nullification of the jury-trial principle, for which the southern democrats fought so valiantly in the Senate. Mr. President, I have an excerpt from an editorial from the August 25, 1957, issue of the Columbia (S. C.) Record. It is entitled "Jury-Trial Compromise." This is a condition precedent to a jury trial in contempt cases. And no jury trial can be had by the Congress on the basis of enforcement.
opinion, as total denial of trial by jury under Federal law in any case.

Reports from Washington indicate a likelihood that the civil rights force bill may be rammed through Congress with this compromise today. People in the northern scramble for Negro votes and their "liberal" southern allies have the power in Congress to ram this bill through, and should not get even silent support from anyone who loves the American Republic.

The compromise is really no compromise at all. It does not seek to make any new test cases, forbidden to seek a new trial before a jury in an election case where one has been sentenced for a minor offense, or for any offense other than one who loves the American Republic.

The amount there, incidentally, Mr. President, should be corrected. Instead of a $1,000 fine, it should be a $300 fine.

But the size of a fine and the duration of imprisonment are not the key issue in this legislation. The key issue is whether the liberty of a citizen, and the constitutional rights of the States to conduct free elections, should be removed en masse on political advantage of national parties and politicians.

As I have said before, Mr. President—to digress there—the only purpose of this so-called right-to-vote bill is to advance the cause of the national political parties with the minorities and to advance the cause of certain politicians. If it were not for the purpose of both parties playing to the minorities and advancing the cause of certain politicians to high offices, I do not believe this bill would have been brought in the United States even to have the Congress consider such an abominable and obnoxious bill.

Behind this force bill lies a game of power politics Both national parties are struggling to control the votes of herded Negroes in big northern cities and their liberal allies. These bloc voters are believed to hold the balance of political power in the United States.

Passed beneath the nauseating political greed that has produced this force bill are principles once dear to Americans. The bill has many of the earmarks of totalitarian government, but that the Constitution was built to prevent.

Among these earmarks are Federal control of elections, setting the power of the ballot box from the people most likely to be affected; substitution of judges for juries in enforcement of the law; and secrecy in working out prosecutions.

The bill would set up a powerful commission on the phonny pretense of guarding voting rights of minority groups. This Commission's actions would be shielded from public view. Persons are forbidden under penalties to make known what it is all about.

The Star Chamber—a tyrannous device once used by English Kings—thus would be imposed for the first time on the United States. Such an agency, that can be judges which will not have superior force, but should go down fighting every step of the way.

In the future, they may sound an alarm to fellow Americans not yet awake to dangers to the Republic. Passage of the civil rights bill will be fraught with the possibility of all citizens of whatever race or region, for it would help to set the stage for dictatorship and oppression. The compromise on which this passage now seems to hinge is only a deceptive detail in a dirty business.

Mr. President, I have here an excellent editorial from the Washington Evening Star of July 12, 1957. It is an editorial full of quotes, but the editor made his point well in this editorial without even having to insert his own comments. Here is what the editorial says:

BROWNELL v. NORRIS

Attorney General Brownell (in a letter explaining the civil-rights bill):

The purpose of legislation providing for jury trial in all election cases forever out of governmental litigation would undermine the authority of the Federal courts by seriously weakening their power to enforce three constitutional and lawful orders. The effect of adopting current proposals for jury trial would be to weaken the authority of the Federal courts by making their every order, even when issued after due hearing and affirmed on appeal, reviewable by a local jury.

"Furthermore, the proposed amendment to existing procedures that is being advocated under the infamous slogan of jury trial would permit practical nullification of the effectiveness of the proposed civil-rights legislation. The enforcement of any court order may require prompt action. The adoption of this act makes it to be effective. Prompt action will be often vital in civil-rights cases, especially election cases. If a case is characterized or the election may pass while enforcement is delayed. The injection of a jury trial before the enforcement of any order against Negroes in an election, and the enforcement of that order would provide numerous opportunities for delay beyond the time when the order could have practical effect."

The late Senator George W. Norris (insisting on the right of trial by jury by Congressmen enactment, in every case of indirect contempt):

"I agree that any man charged with contempt of Congress has the right to a jury trial in any case, no matter what it is, ought to have a jury trial." I wish to repeat that statement. He said:

I agree that any many charged with contempt of Congress has the right to a jury trial in any case, no matter what it is, ought to have a jury trial.

Under the proposed compromise amendment which came from the House, the people will not get a jury trial. In 99 percent of all cases the judge will sentence people without a jury trial. It is said, "Well, they are able to get a jury trial if the fine is more than $300 or if the imprisonment is for more than time, and when the order could have practical effect."

The point is that in 99 percent of the cases the compromise would deny to the citizens a jury trial, which is guaranteed to them by the Constitution. Congress should not be a party to violating the Constitution of the United States by passing the compromise amendment. I continue to read from the editorial:

"It is no answer to say that there will be something of the kind to do, and the judge will sentence a defendant who has been convicted by a local judge. This is a charge which can be made against our jury system. Every man who has tried to understand the Constitution of the United States can explain. That did not happen in this case. This is an obnoxious. But it is the best system I know of. I would not have it abolished, and when I see a case of this kind, I will side with the minority and the American people, who believe in liberty and justice, will not dare to surrender. I like to have trial by jury preserved in all kinds of cases where there is a dispute of fact involved.

Mr. President, I have before me an editorial from the Greenville (S. C.) News, editorial from the Washington Evening Star of March 29, 1957, entitled "What Secure Is Right of Jury Trial?"

It reads:

How Secure Is Right of Jury Trial?

Readers, surely, perhaps, we Americans have taken for granted our right to a trial before a jury when we stand accused of violating the law. In our system of jurisprudence and our political concepts of justice is the jury trial that we have ever stopped to consider the difference between having our guilt or innocence determined by a group of ordinary citizens and having a judge, a right of the Government, meet the justice singlehandedly, as he alone sees it.

Article III, section 2 of the United States Constitution, says that "the trial of all crimes, except in cases of impeachment, shall be by jury." The sixth amendment, article VI of the Bill of Rights, specifically with reference to the accused in criminal proceedings "to a speedy and public trial by an impartial body of the State in which the crime shall have been committed."

It goes on to guarantee the accused the right to be informed specifically of the charges against him, and if he be in the United States in any case, no matter what it is, to have a jury trial."

I wish to repeat that statement. He said:

I agree that any man charged with contempt of Congress has the right to a jury trial in any case, no matter what it is, ought to have a jury trial.

For the bill now before the Congress would, in fact, deny persons accused of violating the civil rights of others the right of a trial by a jury of their State and district. And the NAACP and Attorney General Brownell have taken the position that the provision of the bill. Attempts of southern Senators and Congressmen to write into it a provision that the right have thus far been beaten down.

If the bill is enacted, the Government would be empowered to bring civil, rather than criminal charges. This division of the Bill of Rights, provides that in suits at common law the right of trial by jury shall be preserved.

One would think that, with all these references in the Constitution, the right to a jury trial would be secure. But liberal elements, including many of our own citizens, are living advocates of passage of proposed civil-rights legislation are teaching us that this basic right is not so secure as we might have thought.

For the bills now before the Congress would, in fact, deny persons accused of violating the civil rights of others the right of a trial by a jury of their State and district. And the NAACP and Attorney General Brownell have taken the position that the right have thus far been beaten down. Indeed, the chances of his going to jail might be even greater.

But that is only part of it.

The bill would create a new division in the Justice Department with an unlimited number of lawyers employed to investigate and prosecute civil rights suits. This division, could bring suit in behalf of a named plaintiff, even though that individual had never brought suit in behalf of himself. To use the power to complain, the Government would bear the whole cost of prosecuting his case. The defendant, on the other hand, would find himself faced with the necessity of hiring a lawyer and, perhaps, of going through a long series of court proceedings that could very well break him. This could become vicious persecution instead of reasonable prosecution.
Mr. President, I wish to repeat a paragraph in the editorial which I believe is most important. It should appeal to every lawyer, and, in fact, to every citizen. It reads:

The bill would create a new division in the Justice Department with an unlimited number of lawyers employed to investigate and bring civil-rights suits. This division could bring suits even against a named individual even though that individual had never raised a complaint.

Mr. President, I believe we are setting a very dangerous precedent when the Government brings suits of the kind proposed in the civil-rights bill, even if an individual does not complain. The Government can file a suit in behalf of an individual, even if the individual has not complained, and it can bring a suit for an individual who has complained. In either case, the Government can substitute its name in behalf of the defendant in bringing the case.

Furthermore, the Government would bear the cost of prosecuting the case. The poor defendant must pay his own expense. If an individual wishes to bring a case in court, why should he not pay his own expense? Why should the Government be asked to pressure and unpleasantness from radical Negroes of the kind that Negroes have experienced. The Negro apparently has been led to believe the moon may be within his grasp; and laws and regulations are presented as evidence of progress. In many cities in the South, the newspapers have sought for years to treat the Negro with the dignity any citizen deserves. They followed the lead of the Negroes themselves, and the Negro himself had few friends and spokesmen in the press. Now there are murmurings, direct protests, and anonymous letters. The tactics of agitation of civil-rights legislation with Negroes have been far from successful.

Mr. President, I have an editorial published in the Greenville (S. C.) News of February 3rd. It is called "Civil Rights Bills Threaten Liberty." (Editor's Note-The following editorial is taken from a statement prepared by the editors of the newspaper at the request of the Governor of South Carolina. The statement is to be offered to the subcommittee of the House Judiciary Committee this afternoon by representatives of this State who are appearing in opposition to the civil-rights bills.)

Civil Rights Bills Threaten Liberty

The Negro was misled in those days, and he is being misled now. The Negro was misled in those days, and he is being misled now. The end of the abominable institution of slavery had been accomplished without fratricide and without threatening the Union and creating hatred and bitterness and misunderstanding. The Negro was led to believe he could switch from the status of slave to that of master. In some instances, for a time, he did. In others, he was timid, fearful, and hesitant. It was more often than not he didn't know what to do with the 40 acres and he never got the mule.

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This cause is not the South's alone. The extension of the judicial process into areas it was not designed to reach and stretching its use for purposes it is incapable of serving; the striking down of the police power of the States, and the use of the injunctive power without jury trial to punish for contempt persons not before the court; all of these, as able judges have warned, threaten the future security of all Americans.

The granting of the powers the Justice Department now asks can only hasten this process. Even the layman can see that.

The committee in the Senate which has been considering the civil-rights bill has added an amendment to the bill which would allow persons accused of contempt to be given jury trials. Many Senators who were and are opposed to the civil-rights bill are supporting this amendment.

We do not see how Congress can go wrong in providing jury trials for persons accused of contempt. While we do not wish to join in a wholesale assault on the judiciary of this Nation, it is nevertheless true that the judiciary—like the other branches of the Government—must have its limitations.

No one branch of our Government is infallible. No one branch of the Government made up of perfect citizens. The judicial branch has assumed increasing power in recent years and it would be wise for the Congress to watch the right of jury trial by jury because of what might follow if this right is denied citizens. It may be that the House of Representatives, if it becomes convinced that the future might well turn up an undesirable situation in which the principle whereinto judges who find American citizenship of contempt, exercise such unlimited powers concerning various issues and freedom that any bill limiting the right of jury trial would be a tragedy and result in injustice to many Americans.

We do not believe that any one section of this country has a monopoly of all the good people in the United States. We believe that trial by jury is the best possible system established by the people themselves, who make up our juries, will come nearer seeing that justice is done not by any group, acting individually, no matter how talented the various individuals may be. We have not heard any one say that if they didn't believe that, he should come this way and watch.

In Tennessee, and other Southern States, he who works at the police office is well advised to vote—in Indian, for example. Negro citizens do vote, under the same rules of eligibility as white citizens; and if any Senator doubts that, he should come this way and watch.

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ing whatever measure of independence is left to them, let alone restoring lost liberties.

Independence Day was celebrated a long time ago.

The national memory of what it means is diminishing, because of the way it is speculat- ing by political leaders. And the White House will hand reporters a mono-pa-graph Fourth of July statement, written by one of the ghostwriters.

But the deep meaning of the day will not be especially clear to millions of Americans who are cooped up during the weekend at the beach or other pleasure resorts.

There is no reason why the Fourth of July should not be observed after all. There may be some reason why it should be just another holiday—another day for family picnics, parties, and romping in the surf.

Except for a few lines of it embodied in newspaper stories, no one will read the Decla- ration of Independence. And yet our an- cestors read it with the greatest care, for it touched their lives.

It is an angry document, full of resentment, and it is addressed to a juridical forum for taking away our charters, abolishing our laws, giving his assent to their acts of tyranny.

"No taxation without representation," said that King George of England, "and every subject of this kingdom, a man fully entitled to vote for representatives in the legislature of the country which is to tax him."

Today, grass is growing over American lawns with the greatest care, for it is the duty of a free people, when a design to reduce them to despotism has been notified to them, to provide new guards for their future security.

Does this have a familiar ring?

"The people who have the power to destroy the liberties of the country have no right to assume they will be much independence to celebrate in July 9, 1967, Charleston (S.C.) and Senate, and on the floor of the Sen- ate, in opposition to the provisions of H. R. 6127 and the other so-called civil- rights bills which were introduced both in the House and in the Senate. The first of these statements was made be- fore the Committee on the Judiciary of the House of Representatives on Febru- ary 18, 1957. Because a good portion of the statements was made to certain so-called civil-rights bills then being considered, but which are not now before the Senate, I have edited out portions of the statement. I now read my statement as edited.

I am here today to oppose the so-called civil-rights bills. 

Tyranny by any other name is just as bad. In other countries tyranny has taken the forms of fascism, communally, and little absolute monarchy. I do not want to see it foisted on the American people under the alias of civil liberties.

Real civil rights and so-called civil rights should not be confused. Everybody favors human rights, but to call it a fraud on the American people to pretend that human rights can long endure without constitu- tional restraint on the power of government.

The promise of a new legislation should not be confused with power longed for by those who would destroy the States as sovereign governments.

Unpopular by Judicial.

There have been a number of instances of attempted and real usurpation of power by the Federal Government, which these pend- ing bills would attempt to legalize, expand, and extend.

The most notorious illustration of this type of usurpation is the May 17, 1954, school segregation decision by the United States Supreme Court. Since that time there have been several other decisions by the Court, which I think have wakened the people all over the country who previously gave little attention, or cared little, what the result might be in the school segregation cases.

This has been a number of executives having the power and authority of the local government contained in the charter of the city.

Unpopular by Executive.

Now let me refer briefly to some attempts at usurpation of the rights of the States by the executive branch of the Federal Government. Administrators in some Federal de- partments and agencies have issued direc- tives having the effect of laws which have never been enacted by the Congress.

A specific illustration is that of the Civil Aeronautics Administration issuing a direc- tive last year to withhold Federal funds from
facilities in the construction of airports where segregation of the races is practiced.

There is no basis in law for administrative action, but by use of a directive or an edict the administrator effected a result just as though it had been by legislative enactment.

Other threatening to do so, if a contractor fails to carry out the dictates of the Commission.

I believe that the individual citizen is demonstrated by the Commission. This Commission has dictated that contractors working on Federal projects must employ Negroes and it leaves it to the determination of the contractors who are to do so. The strength of the Commission lies in the power to withhold contracts, or threaten to withhold contracts, to carry out the dictates of the Commission.


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I believe that the

invading the rights of the

American citizens cannot believe in the

Federal Government in the Constitution. If any one of the States were attempting to enact any constitutional law which conflicted with the Constitution of the United States, he would believe in that document. I believe that it

grant, if the

Commission. This resolution, unless

Second. Is it to establish a record of discussion on the floor of the Senate?

Third. Is it merely to delay a vote on the civil rights bill, which is the pending business?

Fourth. Is it to prevent a final vote on H. R. 6127, the so-called civil rights bill?

Fifth. Is it to make friends and to influence other Senators in the southern position?

Sixth. Is it to emphasize to the Senate the need for a change, beginning in January, of rule XXII?

There may be other reasons, but I should like very much to know why I believe the Senate would be interested also—if the Senator from South Carolina would agree to indicate the purpose of its prolonged address.

Mr. THURMOND. If a man is tried, he shall get a jury trial. It was in the Chamber when I spoke earlier and cited a decision of the Supreme Court in which the Senator referred to as his mind that the so-called civil-rights bill violates the Constitution of the United States. I do not believe the Senator was in the Chamber when I spoke earlier and cited a decision pointing out that a constitutional concept has been held to be a crime and that under the Constitution of the United States it is provided that a man charged with crime shall get a jury trial.

The so-called compromise bill provides that if a person is sentenced by a judge by being fined more than $300 or imprisoned for more than 45 days, he will be at trial. The Constitution does not say that. The Constitution provides that if he is charged with a crime, he shall get a jury trial.

I believe that the Senator realizes that the Constitutional is clear. I hope the Senator will take the time one of these days—probably he will not have an opportunity soon—to read the address I have made in which I have gone into these matters and have tried to delineate them and point them out for the benefit of the American people, as well as for the benefit of the Congress.

Mr. KNOWLAND. Mr. President, will the Senator yield?

Mr. THURMOND. I am confident that the pending bill is a dangerous bill in a number of ways. I have pointed out several times that the Senate in the Nation has laws to protect the right to vote. The Senator’s own State of California has such laws. I started with the report of some of the laws. These laws were confirmed to be accurate by the Library of Congress. I read the State laws beginning with Alabama and ending with Wyoming. Every State in the Nation has laws to protect the right to vote. I say there is no need for the pending bill. This is a matter that comes under the Constitution, and it should be left to the courts. It is a State matter. It is not a Federal matter.

Furthermore, the Federal Government has invaded the field. It has already invaded the field. I believe it made a mistake when it did so. The attention of the Senator—again I do not believe he was in the Chamber when I referred to it previously—section 594 of chapter 29 of title 18 of the United States Code. That section provides:

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year.

Mr. KNOWLAND. Mr. President, will the Senator yield again under the same conditions?

Mr. THURMOND. That is the Federal law today. If anyone is being denied his right to vote today he has recourse to that statute. If anyone is being denied the right to vote and complains about it, the Justice Department fails to do its duty if it fails to prosecute under the section of the Federal statute. Either that condition exists or there are no just complaints. The Committee on the Judiciary held hearings for months on the question, and it did not have any one who heard any complaints and had some fictitious complaints from a parish in Mississippi. It turned out that they asked a witness to return the next day, but he did not return, and it proved that the whole testimony was a fabrication, according to the chairman of the committee.

Therefore, there are State laws which protect the right to vote, and there is a Federal law which protects the right to vote. Under that act, if a man is tried, he would have a right to trial by jury. Under the so-called compromise, if he is tried, he would not have the right of trial by jury if the sentence were less...
than $300 or if the imprisonment were for less than 45 days.

Ninety-nine percent of all the criminal contempt cases would fall within that sphere. I was a circuit court judge for 8 years and heard cases all over South Carolina. I cannot remember the case of even one man who was sentenced by a circuit court judge in South Carolina for contempt of court for longer than 45 days in jail.

Therefore, the effect of the so-called compromise is to deny to the citizens of South Carolina and at the United States the right to a jury trial, as is guaranteed in several places in the Constitution. That is the reason I have made this extended address. It is to call to the attention of the Senate and to the people of the Nation that the pending bill is a dangerous bill. In my opinion, it is purely a political bill.

Mr. KNOWLAND. Mr. President, will the Senator yield under the same conditions as heretofore stated?

Mr. THURMOND. I yield under the same conditions.

Mr. KNOWLAND. I can assure the Senator, whether we make that proviso in our remarks back and forth, the Senator will be fully protected in his rights to the floor.

Mr. THURMOND. I shall be pleased to yield to the Senator from California under those conditions.

Mr. KNOWLAND. I did listen to the earlier part of the Senator's address. I was in the Chamber at the time. I must confess that for several hours I did get some sleep and was able to freshen up and to change my clothes, and I am now back in the Chamber.

Mr. THURMOND. I notice that the Senator looks very fresh at about 6:45 in the morning.

Mr. KNOWLAND. Yes, I am glad to be here with the Senator. Of course, the question which obviously disturbed the majority of the two Houses of Congress was that the statutes which are now on the statute books were not effective in protecting the rights of American citizens.

The Senators who felt that way are just as sincere as the Senator from South Carolina. I know the Senator from South Carolina has a deep conviction and is one of the ablest Members of the Senate. However, I refer to the provisions of section 1 of the 15th amendment to the Constitution, which provides:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2 of the 15th amendment reads:

The Congress shall have power to enforce this article by appropriate legislation.

Both sections point out the fundamental constitutional right of American citizens and clearly underscore the fact that Congress has not by just the right, but the responsibility in this field.

The Senator may feel that in his State or perhaps in other States—and I have not visited many of the Southern States—there is no problem relative to the voting rights of American citizens. But at least the predominant opinion in Congress indicates that there is also a strong feeling in many areas—and this is true only to the South, for that matter—the full rights under the 15th amendment are not being effectively implemented. It was for that reason that the House, by a vote, I believe, it was the Senate that finally by a very substantial majority, passed the bill, which is now going through another legislative process. It finally came back to the Senate floor for a fateful vote and amended the Senate version, as the House had a right to do.

My only point is that obviously the Senate of the United States is going to consider this amendment, this proposed legislation. It may sit for the remainder of the week, and it may sit next month and, if necessary, the month after that. I wish to emphasize to the Senator from South Carolina that, so far as the recommendations of the minority leader might be followed—and I know of no difference of opinion so far as that gentleman is concerned—although I cannot speak for the majority, and I would not attempt to do so—there will be no sine die adjournment resolution adopted by the Senate which would permit Congress to adjourn without having amended the Senate version, as the House had a right to do.

I yield under the same conditions.

Mr. KNOWLAND. Mr. President, the Senate adjourned for a short time.

Mr. THURMOND. Mr. President, Senator, I have read a number of the debates which have been had in the Senate, and I have had some discussions with people who are familiar with the circumstances connected with the subject. I do know that those in the Department of Justice who have been concerned with these matters have a divided opinion as to the effectiveness of this bill. I say to the distinguished Senator that he is one of the ablest Members of the Senate. Even though he is not a lawyer, he knows a year. In what respect does the Senator believe the statute is defective?

Mr. KNOWLAND. I shall not at this time get into a detailed legal argument, because I am not a lawyer, but a newspaperman; furthermore, I would not attempt to put myself up against the distinguished Senator from South Carolina, who is an able and ablest member of the Senate, and has been for a long time a distinguished member of the bar. I have listened to the arguments on the floor of the Senate. I have read a number of the debates which have been had in the Senate, and I have had some discussions with people who are familiar with the circumstances connected with the Senate.

Secondly, I am not in a position to argue with the Senator relative to what the legal definition of coercion is. I do say to the Senator that I believe there might be some difficulty in proving a case, which might be very difficult to prove in a court of law, but which might still be equally effective in keeping people from exercising their voting rights.

The coercion might consist of economic pressure, or there might be some difficulty about finding work in a community or there might be the difficulty of a small merchant maintaining his business. If those factors could be traced to the fact that a person had tried to go to a voting place on voting day to cast his vote. Nevertheless, such coercion could be quite effective in keeping a person from exercising his right to the voting franchise.

It is also true that in the debate which has taken place on the floor of the Senate it was disclosed that in one of the cities of the South, certain facts which were mentioned on the floor of the Senate, there had been the situation where certain facts were laid before a grand jury in that particular city, and the facts were very clear, but still no action was taken in that particular situation. I will say to the Senator that it should be remembered that the bill has now been stripped practically to a voting rights bill.

Furthermore, I certainly believe that the fundamental right of an American citizen in this day and age should be protected, because every citizen has the right to vote. If that right is assured to a citizen, in time he may help himself secure the other civil rights to which he is entitled and which are guaranteed to him by the 14th amendment. The bill before us, as I say, is primarily a voting rights bill. Those who have had some responsibility in this field—and I think some of the ablest Members of the Senate, I certainly believe that the procedure outlined in the bill would at least facilitate the exercise of the voting rights of American citizens in all sections of the country.
statute when he hears one read. The criminal statute I have read is just as plain a violation of that statute I have read a violator of that statute is denied the right of trial by jury. The Negro newspaper, the Light-House and Informer, of Columbia, S. C., published by and for Negroes, bragged about the fact that they were responsible for winning the State for Stevenson. It said that more than 80,000 of them had voted in that election, and that represented about one-fourth of the entire Negro population of South Carolina. I understand that the Negroes of our State comprise only 40 percent of the population. If they voted to the extent of almost one-fourth of all the votes cast in that election—and they certainly have not—then it appears that in my State, where Negroes are qualified and want to vote who is denied that privilege. So Negroes are voting in my State.

Mr. KNOWLAND. I might say to the Senator, I was in his State in 1952. I happened to travel with then General Eisenhower, who was a candidate for the presidency before he became President of the United States. General Eisenhower's first meeting with the President-to-be. The President I want to make perfectly clear is that I do not dispute the fact, as stated by the distinguished Senator, that a large number of Negroes, perhaps a good majority of the Negroes of the United States, or of his State may be registered Democrats. I think they may continue to vote for the Democratic ticket, so far as that is concerned. They may have a legitimate complaint, as the Senator says, for having carried South Carolina for Stevenson—Mr. THURMOND. That is what they said.

Mr. KNOWLAND. Or, at least, that is what they said; but that would not change my viewpoint in the slightest, as a Republican, if they were entitled as American citizens to vote, even though they are registered for the Democratic party in that State. I may say that in the northern areas, the heavily populated areas, with large Negro populations, for the most part Negroes have been registered for New Deal candidates, and that certainly is not politically advantageous to my party when they vote that way. That still would not change my viewpoint, and it certainly is not politically advantageous to my party when they vote that way.

Mr. KNOWLAND. As a matter of fact, it is the Negroes who are chiefly aimed at helping the Negroes. Is it not, Senator?

Mr. KNOWLAND. No. The bill would be aimed, in a good many cases, without regard to race, creed, or color, whose voting rights under the 15th amendment would be denied.

Mr. THURMOND. As a matter of fact, it is the Negroes who are chiefly aimed at helping. Is that not a fact?

Mr. KNOWLAND. I suppose most allegiations of a denial of voting rights come from colored citizens of the United States, who are vitally interested in the situation might apply to Indians, in some instances, or might apply to others who might be entitled, under the Constitution, to the right to vote; but it is not aimed at any one race or one section of the country. The Constitution, as the Senator well knows, and I think would not dispute, applies to all 48 States of the Union, and not merely to a part of a State. It is to all areas, with large Negro populations, that this bill applies to the right of any other citizen to vote, which the Constitution clearly gives them. They may have a legitimate complaint, as the Senator says, for having carried South Carolina for Stevenson.
have coerced voting, where citizens have to go to the polls. But if citizens want to do so, they should be allowed to do so without any direct intimidation, without any of the more subtle, indirect intimidations or coercions which sometimes can be practiced, as the distinguished Senator from South Carolina says.

Mr. THURMOND. I should like to ask the Senator if he has had evidence presented to him which has convinced him that there is a need for this bill to be passed, in spite of all the laws the States have to protect the right to vote, and in spite of section 504 of the United States criminal code which protects the right to vote. Has the Senator ever had evidence presented to him that convinced him it is necessary to pass the bill, in spite of the laws of the States and the Federal statutes?

Mr. KNOWLAND. I will say to the Senator if I did not feel that it was both necessary and desirable to pass the bill, I would not have supported it. I believe there have been sufficient facts presented to indicate that a bill of this type is both necessary and desirable.

I have never taken the position on the floor, or publicly or privately, in which I have made a blanket indictment and stated that southern juries would not do their duty. I have the highest respect for the people of the South, for their responsibilities of citizenship, for their loyalty to this country, and for the fact that they have served in uniform with distinguished service in other sections of the country fighting off our enemies in the various struggles in which this Nation has been engaged.

I have never suggested that there should be a blanket indictment of a whole people under any circumstances. I do not now say that the facts outlined by the Senator from South Carolina, with respect to his own State, are not correct. Of course, he knows his own State as well as does the Senator from South Carolina, but if he tells me that there are no cases where a person is deprived of his right to vote, where a Negro citizen is not called up to qualify under the qualifications that would be expected of a white citizen—

Mr. THURMOND. None that I know about.

Mr. KNOWLAND. That he has exactly the same rights to register, exactly the same rights to vote, I take the Senator's word for it, because I have great respect for him. I will say, however, that in the fact as the Attorney General's office before the committee, relative to another State in the broad general area of the South—I might say the same thing might apply in an area of the North or the West, for that matter, because what we are seeking to protect is the rights of American citizens in all 48 States of the Union—it was shown that large numbers of persons who had been registered were purged from the registration rolls. The predominant number, if not all of the purges, were members of the Negro race, with very few, if any, members of the white race being removed in the same way.

Mr. THURMOND. I should like to ask the Senator from California one more question, and with that I will desist.

Although the Senator is not a lawyer, he is one of the best read men in the United States. He is an expert on the Constitution, also, because he is a very deep student.

I wonder how the Senator could agree to this compromise, which would deprive people in criminal contempt cases of the right to a jury when the Constitution is so clear on that point?

Mr. KNOWLAND. I will say to the Senator that I will leave the matter to the lawyers, to debate later the specific point which the Senator mentions. I, at least, have heard of no section of the country where there is a provision for a trial by jury in an equity proceeding where there is a contempt of the court.

Mr. THURMOND. I am speaking of criminal contempt actions.

Mr. KNOWLAND. I know, but I am speaking also of a contempt of the court in carrying out its order in an equity proceeding.

Mr. THURMOND. In reply to that I will say to the Senator I agree that in civil contempt cases under the present law the court has the right to use its power to bring about compliance with an order, in civil contempt cases. However, I am speaking of criminal contempt cases, which are provided for in the compromise bill. The bill provides for criminal contempt actions.

Criminal contempt is a crime. I have here a decision which sustains that point. Since criminal contempt is a crime, there is a right to a trial by jury.

The Constitution of the United States in article II, section 5, says this:

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; * * *.

The sixteenth amendment reads:

In all criminal prosecutions—

That is what we are referring to. We refer to a criminal prosecution for criminal contempt. It is a prosecution by the judge, who is the prosecutor, the legislature, the judge and the jury.

The court has held that criminal contempt is a crime, and the Constitution makes reference to all criminal prosecutions. We refer here to a criminal prosecution.

The sixteenth amendment says:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; * * *.

And so forth.

The seventh amendment to the Constitution there is also a reference to a jury trial. The amendment I have read is exactly to the point.

If the Senator had provided in the compromise bill that the judge could impose a sentence of imprisonment for 1 day—not 45 days, but even 1 day—or a fine of even $1 in a criminal contempt case, he would be giving the judge the right to try the contempt case without a jury in violation of the Constitution, even though the punishment would be negligible.

Consequently, I am opposed to the fact that the compromise bill, the way it is written and the way it has come to the Senate, violates the Constitution of the United States. I am vitally concerned about it.

Mr. KNOWLAND. If the Senator will yield further, then I shall not interrupt him any more.

All I can say to the distinguished Senator from South Carolina is that the highest law officers of the Government of the United States are the Attorney General of the United States and representatives of the Department of Justice.
They, too, have sworn to uphold the Constitution of the United States. The most able lawyers in the Department of Justice have looked over the proposed legislation, as well. In their judgment, it is constitutional and it does not violate the Constitution of the United States.

The Senator is entitled, of course, to make the assertion that in his judgment the provision is not constitutional. Such arguments come up even before the Supreme Court of the United States, as the distinguished Senator knows, from time to time, as well as before other courts. Sometimes the judges can agree by a unanimous vote as to what they think the law is, and for what they think is unconstitutional. However, over the long period of our history there have been many notable cases relative to the constitutionality of some act of Congress or the constitutional rights of some individual as to which the Supreme Court of the United States, which is the highest judicial tribunal of the land, has divided on a 5-to-4 decision. This means, of course, that the division is not constitutional—I am sure the Senator would be the first to admit—does not make it unconstitutional. I quite admit that the assertion of any qualified lawyer on this side, who might make the assertion the provision was constitutional, would not, by that assertion, make it so. Nor would the opinion of the Attorney General make it so. However, I have a break.

MR. THURMOND. Of course, we remember also that the Attorney General in the original bill wanted to transfer these matters to the equity side of the court to deprive citizens of the right of jury trial. We have to keep that in mind.

Mr. KNOWLAND. If the distinguished Senator will yield further, I wish to thank him for his courtesy in yielding. I do not want the record to show that merely by having the Senator make the assertion that in his judgment it is not constitutional, necessarily, ipso facto, that assertion makes a fact.

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MR. DOOLEY WAS RIGHT

The truth is very much as Mr. Dooley, the writer-philosopher, stated it many years ago, that the Supreme Court follows the election returns. If he were alive today, I believe Mr. Dooley would also say that the election results follow the Supreme Court.

And now it looks as if some people are trying to follow the election results. I hope we can be persuaded that anyone else can look after the problems of the people any better, or as well, as the Congress can.

Furthermore, there is no justification for an investigation in this field.

I hope this committee will recommend against the establishment of such a commission.

Another bill would provide for an additional Assistant Attorney General to head a division of the Attorney General's Department. I have searched the testimony given by the Attorney General last year before the committee with regard to this proposal, and I have found no valid reason why an additional Assistant Attorney General is needed.

I can understand how an additional Assistant Attorney General might be needed if the Congress were to approve a Civil Rights Bill in addition to the Attorney General's other proposals in the so-called civil-rights bills. But they are proposals not dealing with criminal matters, but, rather, the investigative functions which would give rise to a cause of action. Any person else can look after the problems of the people any better, or as well, as the Congress can.

However, the Justice Department should avoid civil litigation, instead of seeking to promote it. I hope the members of this committee will recognize this proposal as one which could turn judicial function over to the people and will treat it as it deserves by voting against it.

Another proposal of the so-called civil-rights bills is closely related to the one I have discussed. The Attorney General might need another assistant.

"Whenever any persons have engaged or about to engage in any acts or practices which violate the Constitution or laws of the United States, the Attorney General may institute for the United States, or in the name of the United States, but for the benefit of the real party in interest, a civil action or other proper proceeding or redress or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order."

Now that proposal is one which I would label as even more insidious than any ex post facto law which could possibly be imagined. An ex post facto law would at least apply to some civil act already committed which was not in violation of law at the time. The point is, however, in such instance that the person actually committed the act.

This proposal would permit the Justice Department to secure an injunction from a Federal judge or to institute a civil suit on behalf of some person against another person when the latter had committed no act or practice. An injunction might be secured from a Federal judge charging a violation of the law without any evidence that a person even intended to do so.

How any person could support by oath a charge as to whether another person was about to engage in violating the law is beyond my understanding.

Many of the pioneers who settled this new continent came because they wanted to escape the tyranny of European despots. They wanted their families to live in a new land where everybody could be guaranteed the right to trial, by jury, instead of the decree of dictators. They had the right to be represented by the directly elected representatives of the people, should be the last to consider depriving the people of jury trials, as the proposal suggests. But, if this proposal to strengthen the civil-rights statutes is approved, that would be its effect.

AGENTS COULD MEDdle

Under this provision, the Attorney General could dispatch his agents throughout the land. They would be empowered to meddle with private business, police elections, intervene in private lawsuits, and breed litigation generally. They would keep our people in a constant state of anxiety and harassment. Liberty quickly perishes under such government, as we have seen it perish in many nations.

A further provision of that same proposal would permit the bypassing of State authorities in such cases. The Federal district court would take over in the name of the United States, regardless of administrative remedies, and the right of appeal to the State courts.

STATE COURTS STRIPPED

This could be a step toward future elimination of the State courts. I do not believe the Congress has, or should want, the power to strip our State courts of authority to hear cases submitted to the Federal courts with that authority.

Still another proposal among the so-called civil-rights bills would provide a means of further securing and protecting the right to vote. I have had a search made of the laws of all 46 States and the right to vote is protected by law in every State.
In South Carolina, my own State, the constitution of 1895 provides in article III, section 5, that the general assembly shall provide for the regularization of the laws governing the registration and voting in the General Assembly. The South Carolina election statute spells out the right of appeal to the State supreme court. It also provides for a special session of the State senate, in which a vote on the question of the right of appeal may be taken. The court, in its decision, has seized power held by the States.

In pursuance of the constitutional provisions, the South Carolina General Assembly has passed laws to punish anyone who shall threaten, mistreat, or abuse any voter with a view to control or intimidate him in the free exercise of his right of suffrage. Anyone who violates any of the provisions in regard to general, special, or primary elections, is subject to a fine and/or imprisonment.

I believe the effect of enacting these laws would be to alter our form of government, without altering the Constitution. The Federal Government has seized power held by the States. Each of us owes his allegiance to the Constitution and to the public officials.

I believe the effect of enacting these bills into law would be to take from the States power and authority guaranteed to them by the Constitution.

In recent years there have been more and more assaults by the Federal Government on the rights of the States, as the Federal Government has seized power held by the States. In many instances, I believe, this has been done without a constitutional basis.

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It provides that "if the Commission determines that evidence or testimony at any hearing, or the presence of any witness, will criminate any person, it shall * * * receive such evidence or testimony in executive session." It further provides that "the presence of witnesses or the production of written or oral evidence at any hearing shall be essential to avoid unfairness.

"The House also wrote into the bill a dangerous provision, namely, that no one could be held in subpena or imprisonment for not more than 1 year of anyone who might "release or use in public," without the consent of the Commission, any testimony taken behind closed doors. If the Commission should choose to operate under cover, without any valid reason to do so and without publicity, the whole would be held hearings essential to avoid unfairness.

"It is well to remember that this would not be a study commission, as it is thought by some that it would be. It would not only be a study commission, but a proviso is an invitation to abuse and a serious deprivation of their rights under the 14th and 15th amendments. In such a body, to the Commission, there is no way to estimate the cost or its expenses. Since the Commission is designed to travel over the country at will, very heavy travel expenses undoubtedly would be incurred.

"The taxpayers would never know how many of their tax dollars were wasted by the Commission and the language in section 105 (e). Unknown, concealed costs are not, however, the only dangers lurking in such bodies. In and out of the Federal courts, from sound legislative procedure is also involved.

"At the past, when creating an agency or commission, Congress retained control of its creation by the appropriation power. This is a wonder check. Mr. President, against the Commission, it would work the same way in my judgment, the scrupulous care should be taken to preserve it.

"However, section 105 (e) provides that "all Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties." This is the fact that once a government agency or commission is established, nothing short of an act of Congress can effect its external existence as that Government agency or commission. Mr. President, I feel that the 2-year limitation placed on the Commission in this bill would simply be a starting point, and the people of this country should realize that at this time.

"With further reference to section 104 (a), I want to point out the use of the mandatory language which would be needed to force testimony by the use of a subpena would not be needed.

"Neither would the power in section 105 (f) which provides that Federal courts shall have the power, upon application by the Attorney General, to issue "an order compelling the attendance of witnesses or the production of written or other matter may be issued in accordance with the rules of evidence." Mr. President, many of the committees and special committees of the Congress do not have this power. The Truman Commission on Civil Rights did not have it. The subpena is a punitive measure, generally reserved for penal process whereby powers are granted to force testimony which would not otherwise be available. If the proposed Commission were simply a fact-finding Commission and nonpolitical, the extreme power to force testimony by the use of a subpena would not be needed.

"The provision in section 105 (f) should be stricken. A fact-finding and nonpolitical, a body like the Commission, would have no need for such power.

"The power of subpena in the hands of a political commission and the additional power to enforce its subpena by court order diverge from the authority of the traditional American fact-finding commission. I look with suspicion upon such a Commission to endow with authority, and I object to its establishment.

"Mr. President, I want to discuss another reason why I would be opposed to the establishment of the Commission proposed in Part I of H. R. 6127. Every appropriation bill which has come before this Senate below the budget request. The people of this country have called upon the Members of the Appropriations Committee not to increase them by creating new agencies or commissions.

"The arguments of the Commission might be that the cost of its operation would not be great, but nowhere in the records of the hearings have I found an estimate of the cost. I believe the Commission were to exist only for the 2 years provided in the bill, the compensation and per diem allowances of the members would amount to more than a quarter of a million dollars, not counting their travel allowances.

"Since there is no limitation on the number of personnel which might be appointed by the Commission, there is no way to estimate its operation and expenses. Since the Commission is designed to travel over the country at will, very heavy travel expenses undoubtedly would be incurred.

"The taxpayers would never know how many of their tax dollars were wasted by the Commission and the language in section 105 (e). Unknown, concealed costs are not, however, the only dangers lurking in such bodies. In and out of the Federal courts, from sound legislative procedure is also involved.

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"Mr. President, I want to discuss another reason why I would be opposed to the establishment of the Commission pro-
guaranty of the right to vote. Also, it gives the Attorney General a nondiscretionary authority. The section reads as follows:

"(c) Whenever any person has engaged or threatened to engage in barratry, the Attorney General may institute in the courts of the United States, or in the name of the United States, a civil action or other proceeding for the protection of the public interest, including an application for a permanent or temporary injunction, restraining an individual against the perpetration of barratry. In any such case where the United States shall be liable for costs the same as a private person."

As long as ago as February 26, when I appeared before the special Judiciary Subcommittee of the House of Representatives to testify against pending civil-rights bills, I expressed my opposition to the language contained in the section I have just quoted. I do not believe it possible for the Attorney General, for any of his representatives, or for anybody else to determine what is in another person's mind and whether he is about to engage in some violation of the law.

If the Attorney General should attempt to ascertain what is going on in the minds of others, he would be a sophomoric prophet instead of an additional Attorney General.

I object to this language because I do not believe it possible for any witness to testify truthfully that he knows another person was about to violate the law, unless some action had been taken by the accused person.

Mr. President, an attempt to apply this provision against an individual would be completely out of keeping with the guarantees of personal freedom contained in the Constitution and in the Bill of Rights.

I opposed the introduction of the section in section (c) to "institute for the United States, or in the name of the United States, a civil action or other court proceeding on behalf of a person without the consent of that person. Individuals have adequate legal remedies which they themselves may institute on their own behalf. It is not necessary to give the Attorney General this extreme power of absolute discretion. The discretion is the downfall of some individual who may not wish to take court action or to have anybody else take such action on his behalf.

If the section in the proposed additional Assistant Attorney General would be to seek out persons and insist upon entering the courts as private individuals, this combined with part II provides another objection to the appointment of an Assistant Attorney General.

The American system has never conceded the idea that a third party should stir up trouble between two other persons. Instead, the American system abhors troublemakers, especially when troublemaking takes the form of barratry. This form of troublemaking is the kind that usually comes to people's attention when the same way other lawyers look down upon their colleagues who chase ambulances.

The United States has means which should not be placed in this position of disrepute, and certainly it should not be called upon to bear the expenses of such court proceedings.

Any privilege which is shown by barratry is found in section 131 (d) which provides that-

* * *

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the alleged wrong or wrongs are administrative or other remedies that may be provided by law.

No other reason has been presented as to why administrative remedies and reme-
On May 20, 1870, an attempt was made in the Senate to allow third parties to sue in behalf of the aggrieved party. This was contained in the present bill whereby the Attorney General would be allowed to bring civil action and seek injunctions. Even this radical 41st Congress would not go so far as to propose providing double penalties. The proposition in the present bill would provide double penalties because present law contained both title 18, Deprivation of Rights Under Color of Law—and title 42, Section 1971—Race, Color, or Previous Condition Not To Affect Right to Vote—afford appropriate criminal and civil remedy.

To show how the Senate in 1870 rejected such an idea of double penalties, let us examine the colloquy in the Senate on the proposal to allow someone other than the aggrieved to bring civil suit—Congressional Globe, volume 93, 41st Congress, 2d session, 1870, pages 3563–3564:

Mr. WARNER. I understand I am in order in offering an amendment which I have prepared.

Mr. POOL. I desire to say a word in regard to that amendment. The amendment to the amendment is in order.

Mr. WARNER. I will give it, then, for the information of the Senate. I move to amend the Senate bill in section 2, line 15, by striking out the words "the person aggrieved thereby" and inserting "any person who shall sue for the same."

Mr. EDMUNDS. I hope that this amendment will be agreed to. There are now new views taken of this branch of the bill as it stands. One is that there ought not to be any provision at all for the party aggrieved; that it ought all to be out; and another view is that taken by my friend from Alabama, that it does not go far enough; that we ought not to confine this redress to the person whose vote is refused. The committee considered both those views, and thought, in analogy to legislation and to the ground was the true one.

Mr. WARNER. But my amendment would give a remedy to any person whose vote is refused. The amendment might be that the party aggrieved to enforce the penalty. The party aggrieved I think in most cases would fail to enforce it; but some other party might.

Mr. EDMUNDS. Some other party may in his name.

Mr. POOL. I desire to say a word in regard to the particular amendment now pending. This bill is for the purpose of enforcing the 15th amendment. This is the section aimed at. But, sir, it is perfectly sure that these injunctions will concern, among other supposed rights, the right to bring and maintain a criminal action than the party aggrieved, would not be entitled to recover. Then we provide in another part of the bill.

Mr. EDMUNDS. Will my friend permit me to say a suggestion that such could not be done.

Now, Mr. President, I shall discuss injunctions issuing from Federal district judges on the question of a person's qualification for voting.

The civil-rights bill in part IV confers on the Circuit courts of the United States jurisdiction to issue injunctions in civil rights actions and it is to be assumed that these injunctions will concern, among other supposed rights, the right to vote.

Actually appropriate remedy already exists where a person's civil rights are violated. Section 242 of title 18, United States Code, provides a penalty and damages may be recovered in a civil action. The West Virginia Jehovah's Witnesses case is a typical example of adequate remedy existing in such cases. In this case, the United States attorney was unable to secure an indictment in the court of the United States, and the right to equal protection against their prosecutors—those who had deprived them of their rights—and a pure penalty. Then the question is, whether you can have a bill which contains double penalties, and that is in the strict sense of a penalty, a man twice for the same offense; because my friend will agree with me that if you allow any provision at all for the party aggrieved, they are not to go to the polls and vote is evidence that they will not perhaps have the courage and fearlessness to sue; but there may be some third party who would be willing to enforce the penalty. I think in the great majority of cases the person aggrieved would not avail himself of this provision.

Mr. EDMUNDS. Then, I suggest to my friend that he would not be entitled to any action at all under this section, because this is not a section to give every man $500 who is afraid to offer to do what he has a right to do. The section as a whole is in such terms, for example, $500 for a positive and specific denial to him of the exercise of a right that he attains no no cause of action. You cannot give a right of action to anybody because he is intimidated.

Mr. WARNER. But my amendment would give a remedy to any person whose vote is refused. The amendment might be that the party aggrieved to enforce the penalty. The party aggrieved I think in most cases would fail to enforce it; but some other party might.

Mr. EDMUNDS. Some other party may in his name.

Mr. POOL. I understand I am in order in offering an amendment which I have prepared.
settlement was made totaling $1,170 in damages which was paid.

Has the power to issue injunctions in Federal courts to determine the qualifications of voters and to allow Federal judges to issue injunctions in effect requiring that certain persons—the judge thinks are qualified—shall be registered and allowed to vote?

The qualifications of voters are fixed and enumerated in the constitution of each sovereign State. For purposes of determining who is entitled to vote in each of the United States, Representatives and Senators, the Federal Constitution simply adopts such qualifications as the States have fixed for voting for members of that State's legislature.

The language of article I, section 2, clause 3 of the United States Constitution reads:

The House of Representatives shall be composed of members chosen every second year by the people thereof, and the number from each State shall be in proportion to its enumeration in the census, in such manner as the legislature thereof may determine. But when vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

Similarly, the 17th amendment adopts for the purpose of electing United States Senators such qualifications as the States have fixed:

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The Senate shall have the power to ratify treaties, by a two-thirds vote; but a treaty shall not take effect, unless it be ratified by the Senate, by a two-thirds vote; and shall have the power to consent to the appointment of Ambassadors, other public ministers and consuls; to make rules for the government and regulation of the Judiciary with respect to suits at common law. But the Senate shall not have power to try, any impeachment.

In the fixing of qualifications of voters the States are limited only by the 15th amendment and the 19th amendment in that the right to vote may not be denied because of race or color or sex, respectively.

That the respective States determine who are entitled to vote has never been questioned. The United States Supreme Court has repeatedly declared that the right to vote comes from the State. In declaring sections 3 and 4 of the old Enforcement Act of March 2, 1875, unconstitutional, the Supreme Court in 1875 said—U. S. v. Reese ((1875) 92 U. S. 214, 217, 218); also Butts v. Merchants and Miners Transportation Co. ((1913) 230 U. S. 126).

The 15th amendment does not confer the right of suffrage upon anyone. It prevents the States, or the United States, however, from giving preference, in this particular, to one citizen of the United States over another on account of race, color, or previous condition of servitude. Before its adoption, this could be done. It was as much within the power of the State to exclude citizens of the United States from voting on account of race, etc., as it was on account of age, one race having certain qualifications are permitted by law to vote, those of another have not, the same qualifications having been adopted. Previous to this amendment, there was no constitutional guaranty against this discrimination. The amendment has invested the citizens of the United States with a new constitutional right which is within the protecting power of Congress. That right is the protection against discrimination in the exercise of the elective franchise upon account of race, color, or previous condition of servitude under the express provisions of the second section of the amendment, Congress may enforce by appropriate legislation.

This leads us to inquire whether the act now under consideration is appropriate legislation. Congress to legislate at all upon the subject of voting at State elections rests upon this amendment. The effect of article I, section 3, of the Constitution, that description of Senators and Representatives, is not now under consideration. It has not been suggested that Congress, under the power of the 15th amendment, has invested the citizens of the several States with a new constitutional right to be protected by Congress against discrimination.

It could be said that the provision of the act requiring the re-election of Senators from the States who took part in the illegal re-elections of 1875, would be a violation of the 15th amendment. It is true that Senator Butts, who, under that provision of the act, would be required to run for re-election, was as much within the provisions of the act, as Senator Thomas More, who was required to re-run by the” same act. But under the 15th amendment the State legislature has the exclusive right to determine the qualifications, etc., of Senators and Representatives from its own State.

The Attorney General knows that it is a settled principle of law that an injunction will not issue to prevent a crime. At the present time the laws governing enforcement of civil rights are criminal statutes and as such they seeks to have civil statutes enforced in such a manner as to be accompanied with the penalty of imprisonment. At the present time the laws governing enforcement of civil rights are criminal statutes and as such they seek to have civil statutes enforced in such a manner as to be accompanied with the penalty of imprisonment. If, therefore, the third and fourth sections of the act are beyond that limit, they are unauthorised.

Thus, if the 15th amendment has not conferred the right to vote upon anyone, how can Congress give a Federal judge authority to confer that right by injunction?

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Article III, section 2, of the Constitution provides that—

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall be committed; but when not committed within any State, the trial shall be at such place or places within the United States as the Congress may by law have directed.

Again in the sixth amendment—in the Bill of Rights—it is provided that—

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

The fifth and seventh amendments to the Constitution provide additional guarantees of action by a jury under certain circumstances. The fifth amendment refers to the guaranty of indictment by a grand jury before a person shall be held to answer for a crime. The seventh amendment guarantees trial by jury in common-law cases.

These guarantees were not included in our Constitution without good and sufficient reasons. They were written into the Constitution because of the abuses against the rights of the people by the King of England. The King of England would not enter into a historic document their trial by jury. Then the Bill of Rights was adopted, and that right was embodied in it in quite a number of places. The compromise bill which comes from the House attempts to compromise the Constitution of the United States. The House bill does not provide for a trial by jury; whereas, under the constitutional guaranty of personal security which are embodied in the first 10 amendments.

It was 9 months after the Constitution was submitted to the States before the ninth State ratified the Constitution, thus making it effective.

Although by that time it was generally understood and pledges had been made by the political leaders of the day, that a Bill of Rights would quickly be submitted to the people, 4 of the 13 States still were outside the Union.

The reluctance of all the States to endorse the Constitution had helped to create clearly demonstrated how strong the people felt about the necessity of including a Bill of Rights in the Constitution. The Constitution might have been ratified had it not been for the assurances given to the people by Hamilton, Madison, and other political leaders that a Bill of Rights would be enacted as soon as the Constitution was ratified. Leaders of that day carried out the mandate of the people, and the Bill of Rights with its guaranties of trial by jury was submitted to the States on August 29, 1789, in 1789.

In 1941, the late John W. Davis, that great constitutional lawyer and onetime Democratic nominee for President, was asked to state what the Bill of Rights would mean to the American people. He declared, "denies the power of any government—the one set up in 1789, or any other—or of any majority, no matter how large, to invade the native rights of a single citizen."

Mr. Davis continued his definition with the following:

There was a day when the absence of such rights in other countries could fill an American with shame and grief. Yet today, vast reaches of the earth, governments exist that have robbed their citizens by force or fraud of every one of the essential rights American citizens still enjoy. Usage blinds surprise, yet how can we regard without amazement and horror the depths to which the subjects of the totalitarian powers have fallen?

The lesson is plain for all to read. No men enjoy freedom who do not. Yet today, no men deserve freedom who are unwilling to defend it. Americans can be free so long as there is a government that the governors have erected to govern strictly within the limits set by the Bill of Rights. They can be free so long, and no longer, for they call to account every governmental agent and officer.
who trespasses on these rights to the smallest extent. They can be free only if they are represented and can enforce, if need be, every assault upon their liberty, no matter whence it comes.

Mr. President, this bill is an assault upon our liberty. The United States is a constitutional government, and our Constitution is the permanent embodiment of the free people of these States who, in the effort to suit the whims of a radical and aggressive minority in any era.

The specific provisions in the Constitution and the Bill of Rights guaranteeing to every citizen the right to vote and to vote with special emphasis in the sixth amendment to give a man charged with criminal contempt a jury trial. As the directly elected representatives of the people of this Nation and we have had a long, hard session. I also realize that both parties are making this play to try to claim credit. Watch my prediction that both parties are going to violate the Constitution by passing a political rights bill through the Congress.

Why are we not more interested in preserving the Constitution? Are we not going to vote for the Congress by passing a political civil rights bill in order to give thunder and political fodder to the people interfering with anybody trying to vote? Which is more important, the Constitution or the national parties vying for the votes of minorities? I wish to see him vote. If a man has a Federal judge to use his discretion and tell a man he can be tried by a jury? The Constitution says if a man is charged with a crime he is entitled to vote and who wants to vote? If he is entitled to vote, I want to see him vote. But the true purpose of this bill is not to insulate the right to vote, because we have statutes in every State, and we have statutes on the Federal Code of Criminal Procedure now already that punish people interfering with anybody trying to vote. If the statutes we now have on the books are not enough to give a man the right of trial by jury, the Constitution does not provide for a jury trial in the event contempt is involved. If the Constitution does not say in some crimes. The Constitution says in all crimes. The Constitution does not say trial may be by jury. The Constitution says trial shall be by jury.

How, then, Mr. President, can we be presented with this compromise? How can we be asked to accept a proposal so clearly in conflict with and in violation of the Constitution?

The Constitution makes no exception to the trial by jury provision in criminal cases in the event contempt is involved. If the Constitution has no exception in it and read, “This shall not apply to criminal contempt or crimes of criminal contempt,” there would be some basis for the Congress to legislate. But the Constitution does not except. Let me repeat and let me emphasize. The Constitution says “The trial of all crimes shall be by jury”—not all crimes except those involving contempt, but all crimes. What power has been granted to this Congress to agree to any such proposal when it is in such complete contradiction to the Constitution? There is no power of the people of this Nation by which the Constitution can be amended. The power of the people cannot be infringed upon by any less authority.

As the directly elected representatives of the people, this Congress should be the last body to attempt to infringe upon the authority which is vested solely in the people.

We are here dealing with one of the basic legal rights and one of the most vital personal liberties guaranteed under our form of government. But the provisions of this act, which it is not?

The Constitution says if a man is charged with a crime he is entitled to a trial de novo before a jury. If the Constitution has no exception of criminal contempt or any exception that gives a judge the power to try a man so charged rather than by a jury.

We are dealing with the basic rights of the people of this Nation and we should be careful to protect those precious rights which have been handed down to us by our forefathers. This compromise attempts to make trial by jury a matter of degree, as stated in the second part of the provision which I quoted. We cannot make trial by jury a matter of degree, as stated in the second part of the provision which I quoted. We cannot make trial by jury a matter of degree, as stated in the second part of the provision which I quoted.

The Constitution does not provide for the extraction of guilty men in a criminal case as to whether he accused shall have a jury trial. The Constitution says, “The trial of all crimes except in cases of impeachment shall be by jury.”

The sixth amendment says, “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury.” The Constitution does not say in some crimes. The Constitution says in all crimes. The Constitution does not say trial may be by jury. The Constitution says trial shall be by jury.

Mr. President, this is not something which can be compromised. I realize that Congress may want to get away from Washington. We have had a long, hard session. I also realize that both parties are making this play to try to claim credit. Watch my prediction that both parties are going to violate the Constitution by passing a political civil rights bill through the Congress.
To explain his point, he cited the situation prevailing in New York, Pennsylvania, and Illinois. Pointing out that the Negro vote can be absolutely decisive in these States, Mr. Alspor stated that it is almost inconceivable that any presidential candidate could lose those three States and win an election.

The following four paragraphs are quoted directly from Mr. Alspor's column:

In 1954, Averell Harriman was elected Governor of New York by less than 18,000 votes over Stanley P. Burton. In the latter's analysis, Harriman polled a whopping 79 percent of the Negro vote. Negro voters thus supplied Harriman with his margin of victory. Later, when the Democrats had dropped some 90,000 Negro votes to the Republicans—or about 6 more times the number of votes irre needed to defeat Harriman.

Or take another close race—the victory of Senator Joseph Clark, of Pennsylvania, over the Republican incumbent, Senator James Duff, in 1955. Again, Clark just squeaked in, with a plurality of less than 16,000 votes. Clark, depending on his trial by jury, carried the Negro vote by a huge 76 percent margin, which was worth about 150,000 votes to him. The Negroes, it should be noted, sharply declined in Pennsylvania as it did in Illinois, where it nosedived from 75 percent in 1952 to 48 percent in 1956. Then Duff would be in the Senate; the jury trial, and Clark would be practicing law.

Other examples could be cited, like that of Senator Douglas, of Illinois, who owes about 60 percent of his 1954 plurality to the Negro vote. But the lesson is clear enough. The Democrats can affect the Negro vote in any State, but the Republicans depend on the Negro in the Northern States, the Republican Party will then be the normal majority party in those States.

Read the role of big States in which the Negroes can be expected to poll 5 percent or more of the total vote—not only New York, Pennsylvania, and Illinois, but such States as Michigan, Ohio, New Jersey, California. It then becomes clear what is at stake in the civil-rights struggle—or, more accurately, what is less than the future balance of political power in the Nation.

But, Mr. President, are we going to compromise the Constitution, whether the Negroes or large segments of the white States, against the proposed compromise? The principal purpose of this bill which the House has returned to the Senate is political. Both parties fear the bloc voting of the pivotal States. Both parties want to be in position to claim credit for the passage of what is being called a civil-rights bill. Both parties hope to be able to capitalize on the passage of a bill such as this one in the congressional elections of 1958, and then to carry those gains into the presidential election of 1960. Propaganda and pressure exerted upon the Congress and upon the American people explain how such a bill as this one came to be considered at all. Stewart Alsop, the newspaper columnist, only last week stated the simple facts of the case.

He said that behind the shifting, complex, often fascinating drama of the struggle over civil rights, there is one simple political reality—the Negro vote in the key industrial States in the North. That is, of course, in hard political terms, what the fight has been all about.

Those are the words of Stewart Alspor; and he is not a southerner, so far as I know.

To explain his point, he cited the situation prevailing in New York, Pennsylvania, and Illinois. Pointing out that the Negro vote can be absolutely decisive in these States, Mr. Alspor stated that it is almost inconceivable that any presidential candidate could lose those three States and win an election.

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Those are the words of Stewart Alspor; and he is not a southerner, so far as I know.
Mr. President, the wisdom of Blackstone's words is undeniable. The liberty of every citizen must continue to be protected by the right of trial by jury. This is not a right which applies to one person and is denied another. The Constitution makes no exception in its guarantee of trial by jury to every citizen.

On May 9, 1957, Associate Justice Brennan of the United States Supreme Court delivered an address in Denver, Colorado. In that address, Justice Brennan dealt with the subject of trial by jury, and made the following statement:

American tradition has given the right to trial by jury a special place in public esteem that causes Americans generally to speak out in wrath at any suggestion to deprive them of it. One has only to remember that it is still true in many States that so highly is the jury function prized, that judges are forbidden to comment on the evidence and even, in many instances, are held except as the parties request instructions. The jury is a symbol to Americans that they are bosses of their Government. They pay the price, and suffer the imperfections, of procedure after an indictment by grand jury is found, and if you please, greater expense of jury trials because they put such store upon the jury system as a guaranty of their liberties.

Mr. President, that is a significant statement to me, coming from a member of the present Supreme Court. I will not predict what the Court might do if there is a constitutional inadequacy of the trial of jury as embodied in this so-called compromise is presented to the Court.

However, I shall not be surprised if the Court declares the bill unconstitutional, because on June 10, 1957, in Reid against Covert, the so-called military wive's case, the Supreme Court issued a strong opinion on behalf of trial by jury. In that case the Court said:

"Trial by jury in a court of law and in accordance with traditional modes of procedure after an indictment by grand jury has been a bedrock of American liberties, a vital barrier to governmental arbitrariness. These elemental procedural safeguards were enshrined in our Constitution to secure their inviolability and sanctity against the passing demands of expediency or convenience." And further:

"If the people of this Nation want Federal judges to have the power to punish persons for criminal contempt by sentences of either days, weeks, or months in jail, or fines of dollars, they can amend the Constitution and provide for it. If the people of this country want Federal judges to have the discretion of determining whether a person shall have a jury trial they can amend the Constitution and so provide. There is no provision and no exception for either instance in the present Constitution. That is certainly a clue to what might be expected from the Court when it is called upon to decide the constitutionality of part 5 of H.R. 6127 as it has been amended by this so-called compromise." And think what is not permitted in the Reid against Covert case might be a clue to what it might do, or what might be expected of the Court, when it is called upon to decide the constitutionality of part 5 of H.R. 6127 as it has been amended by this so-called compromise.

Many claims have been made that this is a bill to protect the individual's right to vote. There is no greater law than that there be more than adequate laws in all of the States to protect the right to vote. I requested the Library of Congress to make a study of the laws of the States by which the right to vote is protected in each State. A summary of these laws was submitted to me, and I request that this summary be printed in the Record at the conclusion of my remarks.

As Mr. Justice Brennan said, I am in favor of qualified people voting. All the people of my State vote if they are qualified.

Whence comes this hue and cry? Those raising it point out that the matter to be tried by the Judiciary Committee, so the chairman of that committee may hold hearings. They have held hearings for weeks and months on the subject, and, in my opinion, they have failed to present evidence to show that people do not have the right to vote. It is inescapable, as I have said, that this is a political bill and not a bill to protect the right to vote. The people already have that privilege.

If any such incident as a refusal to permit a citizen to vote had occurred, justice would have been secured in the courts of this Nation.

The Federal Government has no monopoly over the administration of justice. The people of the States are interested in justice just as are the officials of the Federal Government. The people are either entitled to return to that subject in a few minutes and go into the matter of the Federal statutes a little more fully.

We have Federal statutes to protect the right of a citizen to vote, if the voters are not satisfied with the State statutes, and certainly the Federal statutes protect them.

I say that the Negro citizens in South Carolina are safeguarded in their rights; and the payment of a poll tax is not required.

Both white and Negro citizens exercise their franchise freely in South Carolina. Our requirements are not stringent. As I have said, South Carolina does not require the payment of a poll tax as a prerequisite to voting. Registration is necessary only once in 10 years.

When I was Governor of South Carolina, I recommended that the poll tax be repealed as a prerequisite to voting. The legislature acted promptly and sub­mitted the matter to the people, and the people repealed the requirement of the poll tax as a prerequisite to voting. The legislature approved it, and we have no poll tax in my State as a prerequisite to voting.

Proof that Negroes vote in large numbers in South Carolina, if proof is desired, can be found in an article which was published following the general election in 1952 in the Lighthouse and In­former, a Columbia, S. C., Negro newspaper. In its issue of November 8, 1952, the Lighthouse and Informer discussed the results of the election and declared that "estimates placed the Negro votes at between 60,000 and 80,000 who actually voted."

This represents one of the most important facts of the State. The elections were held on May 9, 1957, and the results were announced. I did not see an estimate of the Negro votes in the 1956 general election, but reports which came to me indicated there was another large turnout.

Mr. President, I shall now read the provisions of the South Carolina Constitution which protect a citizen's right to vote:

SOUTH CAROLINA CONSTITUTION ELECTION PROVISIONS

Article 1, section 9, suffrage: The right of suffrage, as regulated in this constitution, shall be protected by law regulating elections, and prohibiting bribery, tumult, or improper conduct.

Article 1, section 10, elections free and open: All elections shall be free and open, and every inhabitant of this State possessing the qualifications provided for in this constitution shall have the right to vote and be elected to all public offices.

Article 2, section 5, appeal: crimes against election laws: Any person denied registration shall have the right to appeal to the court of common pleas, or any judge thereof, and place to the supreme court, to determine his right to vote under the limitations imposed in this article, and on such appeal the hearing shall be de novo, and for the general assembly shall provide by law for the appeal, and for the correction of illegal and fraudulent registration, voting, and all other crimes against the election laws.

Article 2, section 8, registration provided: elections; board of registration; books of registration: The general assembly shall provide by law for the registration of all qualified electors, and shall prescribe the manner of registering. Registration shall be accomplished by the results of the same: Provided, At the first registration under this constitution, and until the 1st of January 1886, the registration books shall be compiled and of three discreet persons in each county, to be appointed by the Governor, by and with the advice and consent of the Senate. For the first registration to be provided for under this constitution, the registration books shall be kept open for at least 6 consecutive weeks, and thereafter from time to time at least 1 week in each month, up to 30 days next preceding the first election to be held under this constitution. The registration books shall be public records open to the inspection of any citizen at all times.

Article 2, section 20, suffrage as a State right: No power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage in this State.

In addition to these general provisions of the constitution protecting the right to vote, I shall now read specific provisions contained in the South Carolina Code. I believe it is especially appropriate that I do so in view of the fact that it has been charged that South Carolina, as well as other States, has failed to protect the right of citizens to vote.

For example, the constitutional right to vote is safeguarded in this State.
The boards of registration to be appointed under section 23-51 shall be the judges of the legal qualifications of all applicants for registration. Any person denied registration shall have the right of appeal from the decision of the board of registration denying him registration to the court of common pleas of the county or any judge thereof and thence to the supreme court.


Any person denied registration and desiring to appeal must within 10 days after written notice to him of the decision of the board of registration file with the board a written notice of his intention to appeal therefrom. Within 10 days after the filing of such notice of intention to appeal, the board of registration shall file with the clerk of the court of common pleas for the county the notice of intention to appeal and any papers in the case, and notify the applicant desiring to appeal together with a report of the case if it deem proper. The clerk of the court shall file the same and enter the case on a special docket to be known as Calendar No. 4. The applicant desires the appeal to be heard by a judge at chambers he shall give every member of the board of registration 4 days' written notice of the time and place of the hearing. On such appeal the hearing shall be de novo.

23-75. Further appeal to supreme court.

From the decision of the court of common pleas or any judge thereof the applicant may further appeal to the supreme court by filing a written notice of his intention to appeal therefrom in the office of the clerk of the court of common pleas within 10 days after written notice to him of the filing of such decision and within such time serving a copy of such notice on every member of the board of registration. Thereupon the clerk of the court of common pleas shall order the necessary papers in the case to the clerk of the supreme court within 10 days after the filing of such notice. The clerk of the supreme court shall place the case on a special docket, and it shall come up for hearing upon the call thereof under such rules as the supreme court may make. If such appeal be filed with the clerk of the supreme court at a time that a session thereof will not be held between the date of filing and an election at which the applicant will be entitled to vote if registered the chief justice or, if he be unable to act or disqualified, the senior associate justice shall call an extra term of the court to hear and determine the case.

In other words, our State if anybody has an appeal and it goes before the trial judge in our State, the trial judge's decision will go into session in order to hear such a case so as to be sure that nobody is deprived of the right to vote:

23-100. Right to vote.

No voter shall vote in any polling place in this State on the registration book or record of his county on file in such clerk's office or a certificate of registration. The alleged failure of a person to register, once enrolled in the registration book or record of his county on file in the office of the secretary of state, is prima facie evidence of his right to vote.

23-349. Voter not to take more than 5 minutes in booth; talking in booth, etc.

No voter, while receiving, preparing and casting his ballot, shall occupy a booth or compartment for a longer time than 5 minutes. No voter shall be allowed to occupy a booth or compartment either by another, nor to speak or converse with anyone, except as herein provided, while in the booth. After having voted, or declined to vote, or being otherwise disqualified or having been notified that his time has expired and been entitled to vote and every person who shall by force, intimidation, deception, fraud, bribery, or undue influence obtain, procure, or control the vote of any person to be cast for any candidate or measure other than as intended or desired by such voter or who shall violate any of the provisions of this title in regard to general, special, or primary elections shall be punished by a fine of not less than $100 nor more than $500 or imprisonment in jail for not less than 3 months nor more than 12 months or both, in the discretion of the court.

Mr. President, the provisions of the South Carolina Constitution and the acts of the General Assembly, which I have just read, prove the absolute lack of necessity for additional protection of the right to vote in my State. Also, the summary of the laws of other States to which I have been compelled to go into session in the Recess at the conclusion of my remarks, proves that there is no necessity for greater protection of the right to vote in any other State.

23-657. Threatening or abusing voters, etc.

If any person shall, at any of the elections, general, special or primary, in any city, town, ward or polling precinct, threaten, threaten, either with a view to control or intimidate him in the free exercise of his right of suffrage, such offender shall upon conviction thereof suffer fine and imprisonment, at the discretion of the court.

23-658. Selling or giving away liquor within 1 mile of voting precinct.

It shall be unlawful hereafter for any person to sell, barter, give away or treat any voter to any malt or intoxicating liquor within 1 mile of any voting precinct during the period of 30 days immediately preceding the day of any election. It shall be unlawful hereafter for any person to sell, barter, give away, or treat any ballot from the polling place for the period of 30 days immediately preceding any general election, and 6 months for any other election. All persons who violate the provisions of this section shall be heard, tried and determined before the court of general sessions after indictment.

23-659. Allowing ballot to be seen, improper conduct at elections generally.

In any election, general, special or primary, any person who shall, by threats, intimidation, he or she or undue influence, offer to procure another to vote for or against any candidate or measure other than as intended or desired by such voter or who shall violate any of the provisions of this title in regard to general, special, or primary elections shall be punished by a fine of not less than $100 nor more than $500 or imprisonment in jail for not less than 3 months nor more than 12 months or both, in the discretion of the court.

Mr. President, I also object to part I of this bill which would create a Commission on Civil Rights. To begin with, there is absolutely no need or reason for the establishment of such a commission. If there were any necessity for an investigation in the field of civil rights, it should be conducted by the States, or by an appropriate committee of the Congress within the jurisdiction held by the Congress.

The Congress should not delegate its authority to a commission. In such a delicate and sensitive area, the Congress should proceed with great deliberation and care. There have been indications that any such study will be needed in the foreseeable future.

The establishment of a Commission as proposed in this bill is most unwise. Section 104 (a) of part I provides the Commission shall:

(2) Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution; and

booth or compartment after having been notified that his time has expired and being entitled to vote and any person who shall (a) interfere with any voter who is inside of the polling place in the exercise of his right to vote, (b) unduly influence or attempt to influence unduly any voter in the preparation of his ballot, (c) endeavor to induce any voter to show him the marking or to mark his ballot, or (d) aid or attempt to aid any voter by means of any mechanical device whatso-
(3) Appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

These two paragraphs provide the Commission with absolute authority to proceed to the first phase of the relations existing between individuals, limited only by the imagination of the Commission and its staff.

The Commission can go far afield from a purely legal and the right to a voice is protected. Through the power granted in the paragraphs I have cited, the Commission could exert its efforts toward bringing about integration of the races in the schools and elsewhere. It would be armed with a powerful weapon when it combined its investigative power and its authority to force witnesses to answer questions.

I do not believe the people of this country realize the almost unlimited powers of inquiry which would be placed in the hands of this political commission if it were the wish of the country to have such a strong-arm body. The power of subpoena in the hands of this political body combined its investigative power and its authority to force witnesses to answer questions.

The power of subpoena in the hands of a political commission and the additional power to enforce its subpoenas by court order diverge from the authority usually held by traditional fact-finding groups.

There are several grounds for serious objection to section 104 (a) of part 1. The complaints are not submitted to the Commission for investigation, but it does not require the person complaining to have a direct interest in the matter. This means, of course, that no citizen can expect himself to use the power of subpoena in the hands of the political commission.

This section opens the door wide for such organizations as the NAACP, the ADA, and others to make complaints to the Commission with little or no basis for doing so.

If an NAACP official in Washington made a complaint against a citizen of South Carolina, the South Carolina citizen would not have the opportunity of confronting his accuser unless the accuser was called to the stand voluntarily.

Although part 1 requires sworn allegations to the Commission, there is no requirement that testimony taken by the Commission be taken under oath. Failure to make all witnesses subject to perjury prosecutions by placing them under oath would certainly make testimony of little value. The Commission might adopt a rule to require sworn testimony, but this should not be left to the discretion of the Commission. It should be written into this law.

There are many other objections to part 1 which were pointed out during the debate before the Senate passed its version of the bill. I shall not go into them further at this time.

Part II of the bill provides for the appointment of an additional Assistant Attorney General in the Justice Department. Since the Justice Department already has a section to handle civil-rights cases, there is no reason to create this new position. The creation of a new division would require many additional attorneys and other employees in the Department. The Justice Department has not disclosed how many additional lawyers, clerks, and stenographers it would plan to employ.

A Civil War commission in the Justice Department is not needed because there is no indication that there will be any increase in the number of civil-rights cases which are now being handled by a section in the Department.

The Attorney General had a most difficult time trying to show that an additional Assistant Attorney General was needed, and he failed completely in his efforts to do so. As a matter of fact, even those who have advocated passage of H.R. 6127 have been forced to admit time after time that conditions relating to civil-rights matters have been steadily improving and need no additional strength.

Since conditions have improved, and there is no indication that conditions will change unless the Attorney General and the Civil Rights Commission create trouble, the Department, of course, has no justification for the appointment of an additional Assistant Attorney General in charge of civil-rights matters in the Department of Justice.

Mr. President, permit me to digress in order to discuss certain matters pertaining to the Bill of Rights.

I have before me a book entitled "Our Bill of Rights: What It Means To Me—A National Symposium," edited by James Waterman, Wisconsin:

**FOREWORD**

Things of the spirit never die. They flame anew each time they are under fire. They are flamed by the inhumanity of man.

Bombs may blow the body to bits, but they bind the soul together.

This book is testimony to the spirit of man; to his desire to be decent; to his belief.

From the beginning of time man have had to fight for this sort of life. The fight has never been easy, but it has always been won.

As long as men believe in freedom they will achieve it. The Dark Ages shall not return.

When freedom dies man lives on his knees. When freedom lives man walks erect.

The Bill of Rights is our prayer book and our promise of salvation. The cause of freedom is in the cause of God. That is the dedication of this volume.

None of us is wise enough to say finally what we intend to add to our history. There are some that cry aloud for that description:

The Declaration of Independence; the Treaty of Paris, ending the Revolutionary War; the adoption of the Constitution; the proclamation of the Monroe Doctrine; the Emancipation Proclamation; the end of the War Between the States; the war for free and democratic, begun in 1817—and still going on.

I have left to the last, although it belongs at the beginning, the adoption of the Bill of Rights—the first 10 amendments to the Constitution, adopted by the baby nation December 15, 1791.

In the context of the Constitution and the Bill of Rights, the Declaration of Independence is largely a charter of protection for the American race of the time.

Jefferson, shocked by the omissions in the Constitution, as promulgated in 1789, while he was United States Minister to France, the 18 oaths of men than Vichy represented today, drafted the additions to our great charter. Thus we were given the four freedoms which we grew strong in self-reliance, in courage, in independence, and in self-respect.

These amendments gave us free speech, free press, free worship, free assembly, and also the right to petition. They gave us full protection of the citizen against oppression; protection for trial by jury; and, generally, the right of the individual against the state. Jefferson said himself, speaking in the preliminary stages of the work:

"The Bill of Rights is what the people are entitled to against every government."

This publication is testimony to an immortal writing that included the Ten Commandments, the Sermon on the Mount, Magna Carta, and those other great fountains of faith by which men live.

Today we fight again for the ideals that democracy gives us as rights. We shall lose them; the whole world some day will achieve them.

To help all of us to realize the high privileges we have of living under the Bill of Rights, these thoughts contained herein were written in words by men and women who believe the fires of freedom must always burn brightly and sometimes fiercely. Now is one of those times.

HERBERT BAYARD SWOPE,
Chairman of the Committee to Enact a Bill of Rights

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**FOREWORD**

- America is face to face with certain grim realities. It is apparent that the expense attached to the defense effort will run into an appalling sum. The sweeping readjustments that will eventually reach every family are becoming clearer by the day. The need for a more reasonable and sensible economy in order to supply plants which manufacture implements of war with an abundance of raw materials is one of the problems.

Yes, the world that we know is being re-fashioned. But so be it, and although the disappearance of familiar patterns and habits of living brings a momentary shock, in the long run, as men believe in freedom they will achieve it. The Dark Ages shall not return.
The Constitution has its roots in the great and heroic past of the English-speaking race. Today, under that Constitution which was adopted through the blood and sweat of the pioneers of our country, the safeguard of personal liberty is ever present. Under our great Bill of Rights, the very power of government is divided into three parts. The first is the power granted to the Central Government; the second that reserved to the States; and the third, and by far the most important, that which must be guaranteed to the people under the many inhibitions upon both State and Federal power.

In the turmoil which now seems to have engulfed the entire world, the citizens of the United States should well remember particularly that it is the people, those who choose to make up the great cross-section of this country, who must guard the ramparts from the ever-increasing dangers of nazism, fascism, and communism. Our Constitution is the safeguarding document that is enjoyed by any American citizen. So long as it is observed, those rights will be secure, but should it fall into disrepute the way of orderly, organized government would unduly abridge States rights and result in a Government too highly centralized for their views. It was necessary for nine States to ratify the Constitution before it could take effect. It was not until June 21, 1788, that the ninth State, New Hampshire, gave its approval. The States which had not ratified up to that time were Virginia, New York, North Carolina and Rhode Island. Virginia and New York ratified on March 25, 1788. When President Washington was inaugurated on April 30, 1789, on the steps of the Federal Hall in New York, neither North Carolina nor Rhode Island had ratified and, therefore, were not States of the United States. These two reluctant States did, however, come into line. North Carolina ratified on November 21, 1789, and Rhode Island on May 29, 1790.

The Bill of Rights was a pacer in the democratic movement in America and as such is entitled to all the prestige of its great achievement. It was not until nearly a century after its enactment for American women to procure the 19th amendment to the Federal Constitution which compelled reluctant States to grant them the basic right of voting, a right that is denied Christian men and freethinkers of their sex more readily wrested from State legislatures the guaranty of their civil rights.

But even the original Bill of Rights would have been a dead letter if dauntless men and women, risking death, had not taught the public to listen without rioting to opinions which it abhorred.
That educational process enabled the letter of the law to live in practice, or, as the phrase was sometimes used in early times when personal liberty was by no means the subject of legislation, to live in action, so characteristic of American democracy, owes its inception and its continuation to persons of both sexes who insisted that law and practice were parts of the same thing.

That rights carry duties has become a third aspect of democratic evaluations, nurtured on free debates. It is increasingly understood in America that liberty could become license; that rights viewed as extreme personal privileges could reduce society to anarchy. There is today, in connection with rights, the wide prevalence of the philosophy that rights are granted to individuals in order that they may develop their talents for competent voluntary cooperation in the thought and action essential to the strength of society, to general welfare, and to the endurance of civil liberties themselves.

A history of civilization could be written around the derivation of the privileges that constitute our Bill of Rights. The emphasis would be not on rulers and governments but on the struggle mankind has waged for centuries to obtain recognition of the rights of individual men. These rights are guaranties necessary to any people who wish to live in peace and in the enjoyment of liberal institutions, for they are the foundation of any government that exists by the free will of the governed and not by the military force of self-appointed rulers.

The history of our own Bill of Rights is fired with the determination of the American people to preserve their liberties as individuals living in a free state. It is significant that these first 10 amendments, formally agreed upon from earlier declarations of rights which a number of the Original Thirteen States had formulated for themselves before they joined the Union. They not only set the pattern for the Federal Constitution but became basic patterns for new democracies all over the world.

Today there is abroad in the world a monstrous force that would set the clock back and reestablish regimes that rank the state above the individual. Already in many lands fundamental rights have been destroyed; and the existence of our own is threatened. Such crises have always accompanied any system of man but never with such ruthless vehemence and on such a worldwide scale.

Mr. President, there are many objections to H. R. 1216, but the greatest objection is the failure to give a jury trial. I wish now to present to the Senate some information on the jury trial and I shall go into the historical development of the system. The way in which information is coming from the History of the Jury System, by Maximus A. Lesser, instructor of political science, New York Evening High School. Some women are here about the jury system which we could pertinent to this debate.

Historical Development of the Jury

Chapter I. General Characteristics of the Jury

The subject we propose to investigate is the historical development of the institution which today is an inseparable element of English jurisprudence and an important factor in the administration of the Anglo-American common law. "** the State's collected will, of thrones and globes elate, sits empress, crowning wrongs."

This purpose is not free from difficulties, for, while the nature and functions of the tribunal, as today existent, are sufficiently well known, the original form and meaning of the institution and the successive steps by which it was evolved are less clearly understood and subject to considerable misconception, as is evidenced by the many and conflicting theories advanced in explanation thereof. It is the object of this treatise to reconcile, as far as may be, these various views, to give to each well sustained suggestion its proper weight and due place during the formative period, and to trace its influence in the production of the result. The method of treatment is, in general, chronological; for the English jury has long been interwoven within the historical and political development of the English nation, that every component which contributed to the formation and completion of the latter had a concomitant effect upon the former; accordingly, the history and features of each component stage is examined in connection with that period of our history at which it first made itself felt. For to the jury may be truly applied, what Maine says of law, that it is "the result of the needs of the community in which it originated; and an institution—as another writer well observes—which serves the existence to any positive law; it is not the creature of an act of Parliament establishing the form and defining the functions of the new tribunal. It arose ** silent­ly and gradually out of the usages of a state of society which has forever passed away."

We shall, in the first place, regard its general aspect and characteristics as beheld today, and then proceed to consider whether, and in what degree, it has been developed by institutions of early days. The body with which we have to deal—in the language of an able jurist's description by which disputed facts are to be decided for judicial purposes in the administration of civil or criminal justice, which is in modern times familiar to us under the denomination of trial by jury. "** The epistemological derivation of the term is obviously from jure, to swear, whence we find this institution called in forensic Latin jurata, and the persons composing it jurati. ** When the object is inquiry only, this tribunal is sometimes called an inquest or inquisition, as in the instance of a grand jury or coroner's inquest, but when facts are to be determined by it for judicial purposes, it is always styled a jury.

This board of inquiry, then, is composed of a "a body, chosen from the community at large, summoned to find the truth of disputed facts. Their office is to decide upon the effects of evidence thus informed the court truly upon the question at issue, in order that the latter may be enabled to pronounce a right judgment. But they are not the court, they form part of it; and have nothing to do with the sentence which follows the delivery of their verdict. The deciding character element of our jury, De Lolme wrote that they have the power to discriminate between disputed facts and "to whose delegated commission in the court. The court may be destroyed if the prerogative of deciding that a punishment is to be inflicted—those men without whose declaration the executive and the judicial powers become but nothing more than men known to inaction, do not form among themselves a permanent body, who may have had time to study how their power can serve to produce a punishment or compensation for contracts broken or injuries sustained, and is composed of men selected by lot and "sworn to declare upon a cause of fact in case of controversy from the evidence placed before them"—its province being to determine the truth of facts or the amount of damages in civil, and the guilt or innocence of the accused in criminal, cases.

This province is confined by the following limitations:

1. It is restricted to the consideration of matters proved by evidence at the trial.
2. It is subject to the instructions of the court concerning the rules of law applicable.
3. It is influenced by the directions of the judge, as to weight, value, and material of evidence.
4. It is affected by the selection of the jurors from the locality of the action, whence the greater certainty of the amount of independent local knowledge, whilm "counted on, and deemed essential to just and correct determinations of the case.

Two other qualifications may be added. After the rendition of a verdict in a civil case, it is still within the power of the trial judge to modify or even annul the same, in a proper case; for instance, "because the verdict is for excessive or insufficient damages, or otherwise, contrary to the evidence or contrary to law."

Again, in a criminal case, a verdict of conviction, even when accompanied by a recommendation of mercy, does not control the sentence to be meted out by the presiding magistrate, who may impose the highest or lowest or any intermediate penalty prescribed by law as proper for the offense committed.

How, then, did this institution, whose powers have been so justly described, come to be justly described, originate? What are the sources from whence it arose, and the forces by which it was fashioned? From far and near, like Minerva from the brain of Jupiter, ready for action and fully equipped with forensic vesture and legal armament, and which developed out of the gradual accretion of successive strata of growth? As stated above, various and conflicting theories are advanced to answer these queries.

"Many writers of authority," says Canon Stubbs, "have maintained that the entire jury system indigenous in England, some deriving it from Celtic tradition based on the principles of Roman law, and adopted and modified by the Anglo-Saxons. Others trace it to the Norsemen, from whom the people they had conquered, others have regarded it as a product of that legal genius of the Anglo-Saxons of which Alfred is the most illustrious exemplar, or as derived by that nation from the customs of primitive Germany or from their intercourse with the inhabitants of foreign parts. Whatever may be the system of recognition was introduced from Normandy, have legal writers agreed as to the source from which those Normans have derived it? Whether it be from Roman principles; another, that it came from Asia through the Crusades."
American authority insists that it is "undoubtedly a development of English institutions and civilization." Again, it is suggested that it was borrowed by the Angles and Saxons from that of the Visigoths in northern Europe; it has been traced to the assises of Jerusalem of Godfrey de Bouillon; it is even claimed to be of divine origin; and, in the end, it is the result of a short-lived attempt to explain: "Son origine se perd dans la nuit de temps."

According to Robertson, "the true answer is, that forms of trial resembling the jury system in various particulars are to be found in the laws of the oldest nations. That which comes nearest in time and character to trial by jury is the system of recognition by sworn inquest, introduced into England by the Normans." The instrument which the lawyers in England exclaims: "the decided form of trial.

Mr. President, I shall next take up the history of the jury system of the Anglo-Saxons:

CHAPTER VI—THE SYSTEM OF ANGLO-SAXONS

As regards the manner of men who now directed the destinies of England—for under that name (derived from the Angles) the British island is usually understood—there can be no doubt that the system of law and order which has been handed down from the Saxon period has had an important influence in determining the present-day condition of that country. The system of law and order which has been handed down from the Saxon period has had an important influence in determining the present-day condition of that country. The system of law and order which has been handed down from the Saxon period has had an important influence in determining the present-day condition of that country.
vanta us from regarding Alfred as the sole author of this plan of government, and leads us rather to think that he contented himself with reforming, extending, and executing the institutions which he found previously established."

Thus far Rume, whose profound historical researches, combined with his early legal training, gave him considerable insight into the complex nature of Anglo-Saxon laws and institutions, could entertain the notion that the jury was derived from the Normans and was not solely Anglo-Saxon. This was a theory that was hotly contested, and the jury has been the subject of much debate and discussion.

Those who have descended to our English subjects by a Norman king, that was a Norman institution, bestowed upon us rather to think that he contented himself with reforming, extending, and partly executing a general massacre of the secta or suit of witnesses, official witnesses, who, according to the modified outcome of a feature of the Anglo-Saxon law which has descended to us from the time of Ethelbert (568-616) to the Norman Conquest (1066). Those who have fancied that they discovered in this system of justice a high degree of justice and perfection, have been misled by false analogies and insatiation to the distinguishing features of the jury trial, which have been previously pointed out. While, however, we assert that it was unknown in Saxon times, it is nevertheless true that we can recognize the trace of it, which was applied for its introduction, and rendered its adaptation at a later period the reign of Henry II. of such abrupt division, the exact mode in which those trials were conducted in these [ante-Norman] courts, we know little; but the Anglo-Saxon laws and code are often referred to the proceedings of two classes of witnesses, who play a most important part in the judicial system. These were the compurgators and official witnesses, who, together with other features of their system, will be more fully considered hereafter.

With the demise of King Alfred, his system gradually lost ground. "During the reign of eight kings who succeeded Alfred," wrote Gilman, "the country suffered confusion, and such a state of things became so oppressive that in 901 the King Ethelred II, agreed to pay the Danes 10,000 pounds sterling annually. This sum was raised by a tax on land, the first one recorded in English history."

Eleven years later the same King planned the expedition of the English fleet, which became so oppressive that in 918 the King and the Danes arrived at an agreement. Among the provisions of this treaty, the so-called Law of Alfred, was a provision for the establishment of a jury system. Alfred was the first to use the term "jury" as a term of English law. The jury system was thus combined with the functions of grand and petit jury with the exercise of judicial power.

...but summoned to attend in order to determine conclusively the cause, and may be advantageously quoted in the chapter treating of the judicium confessionis, it may be confidently asserted that this form of judicial tribunal was the modified outcome of a feature of the Anglo-Saxon law which has descended to us from the time of Ethelbert, Ina, and Alfred, and a result of the alterations necessitated and the encroachments caused by the incessant warfare prevalent after the death of Ethelbert...
Sworn to prove age, ownership of chattels, and the death of one in whose estate dower purgation.

The most important of the four elements, and the one on which the largest part of the development of trial by jury was, was the provision that the judge or accuser sufficed to put the accused on his defense. In criminal cases the charge of the prosecutor was not the usual number) and rested on the maxim: .

Defined as persons, who supported by their sworn testimony, might be wholly ignorant of the real facts in dispute; nor were they a jury, for no evidence was submitted to their consideration. They were merely friends of the party who sworn to the innocence of the accused, or to the claim or defense of the party accused-or, to the claim or defense of the party had been before accused of the origin or of the extent, in point of time. Where the compurgators coincided in a favorable declaration, there was a complete and this was a great

This defense was by means of the process of compurgation, which was in vogue among the various Teutonic nations (12 being the usual number) and rested on the maxims: • • • and this was a great

These were in no sense witnesses, for they attested that character and their confidence in the latter's denial of the oath. If the party had been before accused of the crime. Or unless the judge tries him first and finds him guilty and finds that he should be punished for the so-called compromise is unconstitutional because you cannot put a man in jeopardy twice. If he is tried once, he has been in jeopardy and he cannot be put in jeopardy again. The only way of getting a compromise on something for civil rights. It is purely an endeavor to get some kind of compromise; but it violates the Constitution, and I hold that the Supreme Court will not pass it. Even people who believe in civil rights and have fought for civil rights are of that opinion.

A distinguished Senator from Minnesota (Mr. HUMPHREYS) has made many speeches on civil rights. I remember one he made in 1848 at the Democratic Convention in Philadelphia, which I did not like at all because I am a States righter and not a so-called civil righter. I believe in real civil rights, but not the kind of civil rights which are being alleged here.

I do not know how Senators who really believe in civil rights and who know the Constitution can vote for a bill which flat-footedly violates several provisions of the Constitution.

Mr. LONG. Will the Senator yield for a further question?

Mr. THURMOND. I yield.

Mr. LONG. Does the Senator know of any case in which the Constitution has been violated in any nation than the right to a trial by a jury of his peers and his neighbors when he is accused of a crime.

Mr. THURMOND. I cannot imagine any civil right I would rather possess were I charged with a crime. I do not know of any civil right that is more vital to the people of the United States than the right to a trial by jury. I do not know of any civil right that one could envision that could be more important. The right of trial by jury is most important because a man may be tried for his life. He can have his liberty taken away from him. If he is not tried for his life, he can be put in prison. He can have his liberty taken away from him. It is only after trial by jury that a man in this Nation and other free nations as compared to the system of government to see and realize the importance of this Nation.

I do not know of any civil right that one could envision that could be more important. The right of trial by jury is most important because a man may be tried for his life. He can have his liberty taken away from him. If he is not tried for his life, he can be put in prison. He can have his liberty taken away from him. It is only after trial by jury that a man in this Nation can have his liberty taken away from him. I do not want a judge to try me if I ever have to be tried. I want 12 of my peers, 12 of my fellow countrymen, as the Constitution provides.

Mr. LONG. Does the Senator yield further?

Mr. THURMOND. I yield.

Mr. LONG. Is not the right to trial by jury, in which a person accused of a crime to challenge any prejudiced person who might be on the jury venire one of the possible differences between the system of government that exists in this Nation and other free nations as compared to the system of government that exists in Communist nations? Mr. THURMOND. The Senator is eminently correct. The Senator has the very same point that I was trying to make.

I do not think a man could have made a stronger address than he made on the jury-trial question. Justice BRENNAN has just announced a jury trial even in automobile accidents. Even where property is involved—
Mr. LONG. I think he would have to do it or sentence him again on another charge with a different indictment. I think actually it would be practicable. I do not think a 90,000 dollar fine--I would think that this might be only one act, and 45 days of each. But if he tries the accused for one act of depriving a person of his life. Is it not conceivable that he could keep him in jail for his natural lifetime without a jury trial? Suppose he alleg es that the defendant prevented 2,000 people in South Carolina from voting. That would be more than 90,000 days, and he could put him in jail without a jury trial.

Mr. THURMOND. While I think theoretically that is possible, I do not think it could be put into practice. But it is theoretically possible to do that. I wish to read the distinguished Senator what Associate Justice Brennan said:

American tradition has given the right to trial by jury a special place in public esteem that causes Americans generally to speak out in wrath at any suggestion to deprive them of it.

What is the Congress doing here if they let a judge try a man for criminal contempt, which is a crime? I quote Associate Justice Brennan for the answer:

Mr. LANGER. I yield for a question. Mr. THURMOND. I yield for a question to my distinguished colleague from North Dakota.

Mr. LANGER. I regret that because of my ill health, of which the Senator is aware, I was unable to be here.

Mr. THURMOND. That is right. I am going now into the history of the jury system. That is the very thing I am discussing now.

Mr. LANGER. The distinguished Senator knows that in the State of South Carolina—and, I might say, it is true in some of the other States—the higher courts have set aside verdicts of guilty where the presence of prejudiced jurors or jurors who did not tell the truth on their examination, when they were asked if they knew anything about the facts. I have never been sued in a civil suit by the jury system. That is what is true of the jury system. That is why I believe in the jury system.

Mr. LANGER. The distinguished Senator that in the State of South Carolina—and, I might say, it is true in some of the other States—the higher courts have set aside verdicts of guilty because of the presence of prejudiced jurors or jurors who did not tell the truth on their examination, when they were asked if they knew anything about the facts.

Mr. THURMOND. Exactly. I was a trial judge for 8 years, and came into close contact with jurors. I know how the people feel. I know how the jurors feel. The citizens of this country believe in the jury system. It is a part of their natural life. Those who have talked with me do not like the fact that the bill provides for compromising the Constitution in order to get a compromise civil-right bill. We should not compromise the Constitution. That is exactly what this so-called compromise bill does, on the jury-trial question.

Mr. LANGER. I am sure that when the distinguished Senator was a judge, if any efforts were made to influence a jury, either by telephone or letter, if the judge became aware of it, he promptly declared a mistrial.

Mr. THURMOND. The Senator is correct. Any judge would set aside a verdict if a juror were influenced.

Mr. LANGER. Judges are human. Some people look upon a Federal judge as sacrosanct, so to speak—clothed with a robe, high, mighty, and arrogant. They are human, and they are subject to the errors of human nature, just as any other citizen is. They should not be entrusted with this great power, involving the liberty of our people, in violation of the Constitution.

Mr. LANGER. The distinguished Senator knows that once in a while there is a dishonest judge. Is not that true? Mr. THURMOND. That is the case. I believe they can. Mr. THURMOND. I am pleased to yield for a question.

Mr. LANGER. In view of the fact that I mentioned a dishonest judge, I should like to give an illustration of how a dishonest judge operates.

Mr. LANGER. When it is desired to obtain a jury which is dishonest, a special assistant United States marshal will be appointed. The marshal will walk into a store, for example, and say, "Mr. Jones, you are to have you take 100 subscriptions to a certain newspaper." The man behind the counter might say,
"Why should I take a hundred subscriptions?" The marshal may say, "We are fighting the Governor of the State."

If the man takes 100 subscriptions, and pays $100, or $1 apiece, for a day, his name goes into the jury box; and if he does not subscribe, his name does not go into the jury box.

In the case to which I have reference, the names of those who were prejudiced against a defendant were put into wide slips. The names of those who were not prejudiced were written upon narrow slips. A clerk was convivial with the judge. I may say that later the clerk went to the penitentiary. He would feel around until he felt a broad slip, and withdraw that slip.

A Federal Judge has a vast amount of power. A judge may say, "I am not going to allow any of the defense lawyers to examine any prospective jurors. Let them write out their questions and submit them to me, and I will ask the prospective jurors whether or not they are prejudiced, or what answers they have to the questions." Two or three days might be consumed in the effort to get a fair jury; but because of the fact that the Federal judge will not allow the lawyers for the defendant to ask any questions, the judge will finally get a jury which has not been thoroughly examined from the viewpoint of the defendant.

That is all. A dishonest judge, by the tone of his voice, can let the jury know what he himself thinks of the case. For example, the defendant may be giving testimony, and if the United States attorney interrupts him the Federal judge may say, "Well, let the defendant tell his story," with a sneer on his face, for the benefit of the jury.

When it comes to his instructions, he may say, "Every low tone of voice, give the instructions he is required to give which are favorable to the defendant. Then he raises his voice and makes gestures which let the jury know that he does not believe the defendant to be innocent. He tries to impress the jury by his loud tone of voice and the things he says in his instructions, which tend to prejudice the jury.

I have seen it happen. I myself was a trial lawyer. I served at one time as attorney general of my State, and later as governor of the State.

As I have previously stated, a Federal judge has a vast amount of power. He can name special bailiffs if he decides that the number of bailiffs in the court is not sufficient. He can appoint half a dozen or a dozen more, and have them carry revolvers to impress the rank and file of the jurors with the great importance of the case.

A Federal judge can claim that his life is in danger, and he can have Federal troops escort him back and forth between the courthouse and the hotel. A Federal judge can have airplanes flying over the courthouse, to remind the mob for the purpose of impressing the jury with the gravity of the case which is pending before it.

I have gone all through that experience. When I came to the Senate one of the charges brought against me was with respect to the four Federal cases in which I, as governor of the State, was tried.

A Federal judge who is dishonest, with all the power he has, need not be afraid of any governor, because he holds his position for life. During the history of the United States there have been only five Federal judges impeached in their lifetime.

I well remember a case which was brought before I became a Member of the Senate. Senator Josiah Bailey, a very distinguished Senator, said to me when I was attorney general of the State of New York, "Senator, I am going to vote 'not guilty' on all counts except the last one. I voted 'guilty' on the last one."

It was the fact that he voted "guilty" on that count which resulted in the impeachment of the Judge.

We must take into consideration the money that is required, the lawyers who are required, and so forth. The Senate does not want an impeachment article. Yet, that is the only remedy a poor man has in the matter of impeaching a dishonest Federal judge.

I am frankly delighted that the distinguished Senator from South Carolina has been going into the history of how the jury trial originated. There was a great battle to obtain the right of trial by jury on behalf of the people of England before they ever achieved their goal.

One of the very first of the English juries was sent out by the judge time and time again and asked to bring in a verdict of guilty, and the jury refused to do so. They were on the record regarding the judge. Finally, the judge said he would put them in jail.

One of the greatest calamities that could possibly occur in this country is another country would be to have the "divine right of kings" come back and the jury system made inoperable.

I wish to thank the distinguished Senator from South Carolina for bringing the matter to the attention of the Senate.

Mr. THURMOND. The able and distinguished Senator from North Dakota is to be commended for his statement. Mr. President, it is not a question of civil rights; it is a question of justice. It is a question of an unconstitutional provision. It is now a question of whether we shall vote for a bill that violates the Constitution and takes away from citizens the right to a trial by jury.

I believe it was at Runnymede, in 1215, that there were wrinkles from King John certain rights for the benefit of the people.

Mr. Presi...
Mr. JOHNSON of Texas. All the conditions enumerated, Mr. President.

Mr. KNOWLAND. Mr. President, reference to the record—object—of course, I shall not object—I should like to be associated with the unanimous consent request made by the distinguished majority leader.

Mr. JOHNSON of Texas. Mr. President, I made the request on behalf of the minority leader and myself. I wish to make it abundantly clear that when the Senator-elect from Wisconsin appears consistent, I have been under the impression that he was sworn in after the telegrams have been read; and that the Senator from South Carolina will still retain the floor and will be protected in his right to the floor and in the fact that he has made only one speech on this subject. Also, Mr. President, I request that the interruption be placed in the Recess at the conclusion of the remarks of the Senator from South Carolina.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the request is agreed to.

Mr. JOHNSON of Texas. I thank the Senator from South Carolina for yielding.

Mr. THURMOND. Mr. President, I was engaged in colloquy with the Senator from North Dakota (Mr. LANGER) at the time when we were interrupted. I should like to continue the colloquy with him.

Mr. President, I thank the distinguished Senator from North Dakota for his questions and for bringing out the points he did. What I started to say is that the Constitutional Convention held in Philadelphia in 1787, for the purpose of writing a constitution, the deputies, as they were called then, were confronted with the very difficult proposition of how the States would have representation. The large States wanted representation in proportion to population; the small States wanted representation according to population regardless of size. Of course, they reached a compromise, and we have the two bodies of Congress. The Senate has an equal number of Senators from each State, regardless of the size of the State, and the House of Representatives is based on population. That is only one of the many intricate problems which had to be fought and settled by the Convention. It was a very difficult task to bring about the adoption of the Constitution.

Mr. LANGER. Will the Senator yield for a question at this point?

Mr. THURMOND. I yield.

Mr. LANGER. The Senator from North Dakota as the distinguished Senator from South Carolina knows, is very much interested in the small States. The two Senators from North Dakota are Senators from the small States. They have been battling and fighting for the rights of the small States. Today there are six States which never have had a United States Senator. An example, take the State of Florida. It has now for 107 years been a member of this Union. Yet the State of Florida has never had a member of the Cabinet, although the city of New York under Franklin Roosevelt at one time had six from the State of New York.

Take the State of Nebraska. Nebraska has an equal number of Senators from Nebraska, yet the State of South Dakota has never had one. Montana never has had one. Idaho never has had one. The Senator from North Dakota finally succeeded in getting one for Nebraska. The first one after 90 years of statehood. It seems to me that the Senators from these States and from the States of smaller population a long time ago ought to have been put together in some manner for a joint body. It seems to me that the Senate from South Carolina must have a voice in the Senate. We demand that citizens of the States of lesser population also have some appointments as ambassadors, or occasion, by the Vice President of the United States. Mr. THURMOND. I thoroughly agree with the Senator, and what I said was by way of illustration.

Mr. LANGER. Yes.

Mr. THURMOND. The point I started to make was this: There were so many problems confronting the deputies in Philadelphia that they had a very hard time solving, and even after it was drafted, it would not have been ratified if they had not promised the leading political leaders of the day that there would be a Bill of Rights. That is the reason we had to have the Constitution adopted, and even then, George Mason, of Virginia; John Hancock, of Massachusetts; Elbridge Gary, of Massachusetts; refused to sign it. They did not want to take for granted any question about the rights to which the people were entitled, and one of the precious rights in which they were most interested is the right of trial by jury. The right of trial by jury was not only written in article III, section 2 of the Constitution, but in several places in the Bill of Rights. The right of trial by jury has been handed down to us as part of our Government as a great heritage, and we do not want to run the risk of losing that precious right.

Mr. LANGER. Will the Senator yield for a question at this point?

Mr. THURMOND. I yield.

Mr. LANGER. Is it not true at the present time in some foreign country, after another, to whom we have been sending our foreign aid and with whom we fought in World War II, later in the Korean war, the right of trial by jury is not only written in article III, section 2 of the Constitution, but in several places in the Bill of Rights. The right of trial by jury has been handed down to us as part of our Government as a great heritage, and we do not want to run the risk of losing that precious right.

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Mr. LANGER. Does the Senator from South Carolina yield further?

The PRESIDING OFFICER (Mrs. Smith of Maine in the chair). The Senator will proceed.

Mr. THURMOND. The effect of the so-called civil-rights bill is to amend the Constitution. The Constitution says, in article III, section 2, that the "trial of all crimes, except cases of impeachment, shall be by jury," and then in the sixth amendment it says, "In all criminal prosecutions the accused shall enjoy the right to a speedy and a public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district has been defined by act of Congress; and no fact tried in a jury shall be otherwise reviewed than according to the rules of the common law." This is the so-called civil-rights bill. The Senator from South Carolina yield further?

The PRESIDING OFFICER (Mrs. Smith of Maine in the chair). The Senator will proceed.

Mr. THURMOND. Mr. President, I make the request on behalf of the distinguished Senator from South Carolina for a recess here in this so-called civil rights bill.

Madam President, may we have order, please?

The PRESIDING OFFICER (Mrs. Smith of Maine in the chair). The Senator will proceed.

Mr. THURMOND. The effect of the so-called civil-rights bill is to amend the Constitution. The Constitution says, in article III, section 2, that the "trial of all crimes, except cases of impeachment, shall be by jury," and then in the sixth amendment it says, "In all criminal prosecutions the accused shall enjoy the right to a speedy and a public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district has been defined by act of Congress; and no fact tried in a jury shall be otherwise reviewed than according to the rules of the common law." This is the so-called civil-rights bill. The Senator from South Carolina yield further?

The PRESIDING OFFICER (Mrs. Smith of Maine in the chair). The Senator will proceed.

Mr. LANGER. Is it not true that one of the arguments used when the right of women's suffrage was asked for, was that women should have the right to sit on juries?

Mr. THURMOND. That is correct.

When I was Governor of South Carolina, I recommended that women be allowed to sit on the juries. I think it is very wholesome to have that allowed. Such a law has not yet been passed in South Carolina, but I think it will be; in my opinion, that time will come.

Mr. LANGER. We who live in North Dakota have had such a law for many years, and it works very satisfactorily.

Mr. THURMOND. I so understand.

In some States, women are allowed to serve on juries, if they wish, but they are not forced to do so. In other States, they are allowed to serve on juries, if called. In other States, women do not have to serve at all on juries.

Madam President, the bill of rights—and the right of trial by jury is the heart of the bill of rights—is the most
precious document of the American people.

Madam President, let me say to the distinguished Senator from North Dakota that when the Declaration of Independence was written, it included a very definite reference to trial by jury. I wish to remind the distinguished Senator from North Dakota of that fact.

Mr. LANGER. Madam President, I shall be very glad to have the Senate of South Carolina do so.

Mr. THURMOND. Madam President, I read now from the Declaration of Independence:

"When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation. They are, in fact, forces which have combined to accomplish the separation of the colonies from Great Britain. The rights of the people to alter or to abolish it, to institute new government, laying its powers in a course of order and concordance with the previous unanimous agreement, yielded to Mr. Langner's views earlier than to the passage of H. R. 6127 in the form which was approved by the Senate. I am even more bitterly opposed to the acceptance of this so-called compromise which has come back from the House of Representatives.

Later on, I want to comment on various provisions of the entire bill, but at this time I am directing my comments more particularly to the provision for impeachment.

Mr. President, the King was set forth in that document, and among those grievances there were included a very definite reference to trial by jury. I have endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners; refusing to pay others to encourage their migrations hither, and raising the conditions of new appropriations of lands. He has obstructed the administration of justice by refusing his consent to laws for establishing judiciary powers. He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries. He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance. He has kept among us, in times of peace, standing armies without the consent of our legislatures.

Mr. President, a man charged with a crime can be delimited a trial by jury.

That was one of the cardinal points which was set forth in the Declaration of Independence, namely, that the King of England had deprived the colonists in cases, of the benefits of trial by jury.

Mr. LANGER. I thank the distinguished Senator from South Carolina.

At this point Mr. Thurmond in accordance with the previous unanimous consent agreement, yielded to Mr. Johnson of Texas for the purpose of having the Senator-elect from Wisconsin take the oath of office. By agreement, the proceedings incident thereto appear in the Record at the conclusion of Mr. Thurmond's speech.)

The VICE PRESIDENT. Pursuant to the order the President recognizes the Senator from South Carolina.

The Senate will be in order.

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Mr. President, when our forefathers won their freedom from Great Britain, they did not forget that they had fought to secure a right of trial by jury. They wrote into the Constitution the provisions guaranteeing trial by jury. Still not satisfied, they wrote into the Bill of Rights 2 years later the 3 specific additional provisions for jury action.

It is a well-known fact that there was general dissatisfaction with the Constitution when it was submitted to the States on September 28, 1787, because it did not contain a Bill of Rights. A majority of the people of this country, under the leadership of George Mason, Thomas Jefferson, and others, were determined to have spelled out in the Constitution in the form of a Bill of Rights that personal liberty which are embodied in the first 10 amendments.

It was 9 months after the Constitution was submitted to the States before the ninth State ratified the Constitution, thus making it effective. Although by that time it was generally understood, and pledges had been made by the political leaders of the day, there would be a Bill of Rights, yet it took 9 months before a Bill of Rights was accepted by the 13 States still outside the Union.

Nineteen months after the Constitution was submitted to the States, George Washington was inaugurated on April 30, 1789, as our first President. Yet, as late as 1789, only 3 of the States were outside the Union.

Mr. President, this bill is an assault upon our liberty. The United States is a constitutional Government, and our Constitution cannot be suspended or abrogated to suit the whims of a radical and aggressive minority.

The specific provisions in the Constitution and the Bill of Rights guaranteeing trial by jury have not been repealed. Neither have they been altered or amended by the constitutional methods provided for making changes in our basic laws if the people deem it wise to make such changes.

Nevertheless, in spite of the prevailing constitutional guarantees of trial by jury, we are here presented with a proposal which would compromise the provisions of the Constitution; yes, in my opinion, amend the Constitution illegally.

This compromise provides that in cases of criminal contempt, under the provisions of this act, "the accused may be tried with or without a jury" at the discretion of the judge.

It further provides:

That in the event such proceeding for criminal contempt be tried before a judge without a jury and the sentence of the court be appealed, the conviction or imprisonment in excess of 45 days, the accused in said proceeding, upon demand therefor, shall be entitled to a trial de novo before a jury.

Mr. President, the first of the provisions I have just cited, giving discretion to a judge whether or not a jury trial is granted in a criminal case, is in direct conflict with the Constitution. The Constitution does not provide for the exercise of any discretion in a criminal case as to whether the person accused shall have a jury trial. The Constitution says "The trial of all crimes except in cases of impeachment shall be by jury."

The sixth amendment says:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury.

The Constitution does not say in some crimes. The Constitution says in all crimes. The Constitution does not say trial may be by jury. The Constitution says trial shall be by jury.

How, then, Mr. President, can we be presented with this compromise? How can we be asked to accept a proposal so clearly in conflict with and in violation of the Constitution?

The Constitution makes no exception to the trial by jury provision in criminal cases in the event contempt is involved. Let me repeat and let me emphasize. The Constitution says "The trial of all crimes shall be by jury"—not all crimes except those involving contempt, but all crimes.

Mr. President, the late John W. Davis, that great constitutional lawyer and one-time Democratic nominee for President, was asked to state what the Bill of Rights meant to him. The Bill of Rights, he declared—denies the power to any Government—the one set up in 1789, or any other—of any majority, no matter how large, to invade the native rights of a single citizen.

Mr. Davis continued his definition with the following:

There was no day when the absence of such rights in other countries could fill an American with incredulous pity. Yet today, over vast reaches of the earth, governments exist by that happy fraud of one of the essential rights American citizens still enjoy. Usage bluntly suprises, yet how can we regard without amazement and horror the depths to which the subjects of the totalitarian powers have fallen.

The lesson is plain for all to read. No man enjoys freedom who do not deserve it. No man deserves freedom who are unwilling to defend it. Americans can be free so long as they compel the governments they themselves have erected to govern strictly within the thing[s] by the Bill of Rights. They can be free so long, and no longer, as they call to account every governmental agent and officer to whom they are entitled to the smallest extent. They can be free only if they are ready to rebel, by force of arms if need be, to maintain upon their liberty, no matter whence it comes.

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What power has been granted to this Congress to agree to any such proposal when it is in such complete contradiction to the Constitution? There is no power even to forgive powers of this Nation by which the Constitution can be amended. The power of the people cannot be infringed upon by any lesser authority.

The directly elected representatives of the people, this Congress should be the last body to attempt to infringe upon the authority which is vested solely in the people.

We are here dealing with one of the basic legal rights and one of the most vital personal liberties guaranteed under our form of government. But the proposed compromise insists that the treasured right of trial by jury be transformed into a matter of discretion for a judge—for one person—to decide whether it shall be granted or withheld.

This compromise attempts to make trial by jury a matter of degree, as stated in the third part of the provision which I quoted.

Under this proposal, if a man were to receive a sentence of a fine of $300 or 45 days' imprisonment, he would be deprived of his right to a trial by jury at the discretion of the judge. On the other hand, if a dollar were added to the amount of money, or even 1 cent, and a day, or even an hour, to the length of imprisonment, that man would be granted a new trial with a jury deciding the facts.

Mr. President, this is not something which can be compromised. In this day and time I wonder, sometimes, if there is not too much compromise. It does my heart good to see a man with strong convictions, a man who believes in something, a man who stands for something, and who is not willing to compromise on everything when there is a vital principle at stake.

Mr. President, I realize that legislation to a large extent is compromise. The Perfect Bill does not involve the Constitution. But when it involves the Constitution, there should be no compromise. There should have been no compromise on this bill which comes back to the Senate from the House. There can be no compromise
with reference to the manner in which the bill was amended.

The right of trial by jury is too dear a right to be measured in dollars and cents or any other medium. The right of trial by jury is guaranteed by the Constitution. It is a vital principle upon which our form of Government is based. Principle is not a matter of degree.

This proposed compromise is a true child of the parent bill—like father, like son, or a chip off the old block. Both promise are even worse than the provisions of the bill which I opposed when it was approved by the Senate.

The enactment in the Senate of part V, with its jury-trial provision, was a vast improvement over the radical bill which was sent to us from the House of Representatives.

However, this unconstitutional compromise now makes part V conform with the unconstitutional provisions which were in the original bill. In the name of constitutional government, I hope that a majority of this Senate will vote against this proposal.

The principal purpose of this bill which the House has returned to the Senate is political. Both parties fear the bloc voting of the pivotal States. Both parties want to be in position to claim credit for the passage of what is being called a civil-rights bill. Both parties hope to be able to capitalize on the passage of a bill such as this one in the Congress of the years 1868, and then to carry those gains into the presidential election of 1960.

Propaganda and pressure exerted upon the Congress and upon the American people explain how such a bill as this one came to be considered at all. Stewart Alsop, the newspaper columnist, only last week stated the simple facts of the case:

He said that:

But the shifting, complex, often fascinating drama of the struggle over civil rights, there is one simple political reality—the Negro vote in the key industrial States in the North. That is, of course, in hard political terms, what the fight has been all about.

**VISIT TO THE SENATE OF 12 MEMBERS OF THE ITALIAN CHAMBER OF DEPUTIES**

Mr. AIKEN. Mr. President, will the Senator from South Carolina yield?

Mr. THURMOND. I will yield for a question.

Mr. AIKEN. Mr. President, I should like to ask the Senator if he will yield in order that I may introduce to the Senate 12 members of the Italian Chamber of Deputies.

Mr. THURMOND. Mr. President, I will yield under certain conditions, namely, that the Senator from Vermont states unanimous consent of the Senate for me to yield to him, that I shall not lose my right to the floor, and that it shall not be counted as a second speech when I resume.

Mr. AIKEN. Mr. President, with that understanding I ask unanimous consent that the Senator from South Carolina may yield for the purpose stated.

**MESSAGE FROM THE HOUSE**

A message from the House of Represent­atives was received. Mr. Bartlett, one of the reading clerks, announced that the House had passed the bill (S. 9666) to provide for the enactment in the States.

The following bills and joint resolutions were before the Senate:

H. R. 662. An act to provide for the establishment of a fish hatchery in the northwestern part of the State of Pennsylvania; and H. R. 8569. An act to authorize the Secretary of the Interior to cooperate with Federal and non-Federal agencies in the augmentation of migratory waterfowl; to the Committee on Interstate and Foreign Commerce.

H. R. 9244. An act to authorize the Administration of Veterans Affairs to accept certain land in Buncombe County, N. C., for cemetery purposes; to the Committee on Labor and Public Welfare.

H. R. 7964. An act to remove the limitation upon the use of certain real property; to the Committee on Government Operations.

H. R. 109. An act to incorporate the Jewish War Veterans, U. S. A., National Memorial, Inc.; and H. R. 8808. An act to remove the present $1,000 limitation which prevents the settlement of certain claims arising out of the crash of an aircraft belonging to the United States Government with respect to annuities under the Civil Service Retirement Act; to the Committee on the Judiciary.

H. R. 6066. An act to amend the Civil Service Retirement Act with respect to annuities of survivors of employees who are elected as Members of Congress; and H. R. 8604. An act to provide for Federal and non-Federal agencies in the augmentation of natural food supplies for migratory waterfowl.

H. R. 7904. An act to remove the limitation on the use of certain real property here­fore conveyed to the city of Austin, Tex., by the United States; and H. R. 9244. An act to include certain services performed for Members of Congress as annuities under the Civil Service Retirement Act.

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Mr. THURMOND. I will be pleased to yield to my distinguished friend for a question.

Mr. LANGER. Could the Senator from South Carolina tell us how it happened that the Federal judges encroached upon the rights of defendants? How did they come to hold that contempt of court was not a crime?

Mr. THURMOND. There is a long story about contempt and how it arrived at where it is now. I might say, in brief, and that is what my distinguished friend is interested in, that under the present law a man charged with criminal contempt gets a jury trial unless the Government is a party to the suit, and in labor disputes defendants get a jury trial even if the Government is a party to the suit.

Under this so-called compromise which the House sent to the Senate, that would be the case. If the bill in his discretion sees fit to give the defendant a jury trial, or the judge tries him and decides he wants to punsh him to a greater extent than a $300 fine or a 45 days' prison sentence, in which event he would then have a jury trial.

Mr. President, under the version of the bill which was passed by the House of Representatives, the Attorney General could substitute the government for a private party, and thereby could deprive an individual of a jury trial.

But the Senate amended the bill as passed by the House of Representatives; and the Senate sent the bill, as thus amended, back to the House of Representatives. The Senate, by means of one of its amendments, drew a distinction and delineated between civil and criminal contempt. The amendment provided that if the purpose of the action the judge wished to obtain was compliance with his order, in the case of something to be done in the future, failure to do it would constitute civil contempt; but if the purpose was to punish for something done in the past, failure to comply with the judge's order would constitute criminal contempt.

The Senate amended the bill, as I have stated, and returned the bill, as thus amended, to the House of Representatives. Then the House of Representatives adopted the amendment which I believe violates the Constitution.

Mr. LANGER. I thank the Senator from South Carolina.

Mr. THURMOND. It has been a pleasure, I assure the distinguished Senator from North Dakota.

Mr. President, because of the authoritative place that Blackstone holds in the law and on the bench, I will state at this time. Every lawyer respects Blackstone. He said:

"The trial by jury ever has been, and I trust ever will be, looked upon as the glory of the English law."

That is what Blackstone said about trial by jury—that it is "the glory of the English law."
Blackstone further said:

And if it has been so great an advantage over others in regulating civil property, how much must that advantage be heightened when it is applied to criminal cases. It is the most transcendent privilege which any subject can enjoy, or wish for, that he must perish, should have recollected that Rome, Sparta, and Carthage have lost their liberty.

In other words, Rome, Sparta, and Carthage did not have trial by jury when their people lost their liberties.

At another point, Blackstone further declared his faith in trial by jury in these words:

A competent number of sensible and upright jurymen; chosen by lot will be found the best investigators of truth and the surest guardians of public justice. For no man, the most powerful individual in the State will be cautious of committing any flagrant invasion of another's right, when he knows that the fact of his oppression must be examined and decided by 12 indifferent men, not appointed till the hour of trial, and that, when once the fact is ascertained, the law must of course redress it.

On May 9, 1857, Associate Justice Brennan, of the United States Supreme Court, delivered an address in Denver, Colorado. In that address, he said:

I shall not predict what the Congress can no longer do if it wants to.

Mr. President, when it is called upon to decide the constitutionality of the Federal Military Wives Bill, the Supreme Court will do what the Constitution provides it can do.

If the Constitution provided that a Federal judge has absolute power to forbid a jury trial if the sentence is not more than 45 days in jail or a fine of not more than $300, and if such a law is held constitutional, what would there be to stop a future Congress from changing the amounts to 10 times those—in other words, let us say, to 450 days in jail and a fine of $3,000, or even more?

As I see it, the distinguished Senator from South Carolina is fighting for a principle.

Mr. THURMOND. Exactly. The principle—not the exact amount of the punishment or the exact amount of the fine—is the important consideration in this case.

Mr. LANGER. In other words, the Senator from South Carolina is chiefly concerned with the principle, rather than with the amount of the punishment. Whether it be 45 days in jail or a fine of $300, or whether it be more than that, is that correct?

Mr. THURMOND. Exactly. Certainly it is a fact that the Congress should not give to any Federal judge absolute power to determine the power to levy fines of $300 or to imprison for 45 days, without a jury trial.

Mr. THURMOND. The Senator is evidently correct. The Congress does not have power to do it if it wants to.

Mr. LANGER. In my opinion, you certainly quoted excellent authority to sustain that view.

Mr. THURMOND. I thank the Senator very much.

These elemental procedural safeguards were embedded in our Constitution to secure their inviolateness and sanctity against the passing demands of expediency or convenience.

And further, the Government can no longer satisfactorily operate within the bounds laid down by the Constitution, that instrument can be amended by the method which it provides. But the Senate has a duty to read exceptions into it which are not there.

If the Constitution provided that a Federal judge could give to a defendant a jury trial if he wanted to do so, or to refuse it if he wanted to do that, then there would be authority to make a compromise bill, which has passed the House, and is before the Senate, be upheld.

I cannot say what the Supreme Court will do. No one can say, but I do not see how they could make any other holding in view of the Constitution and the Bill of Rights. That is certainly what may be expected from the Court, in view of the statement of Associate Justice Brennan, when it is called upon to decide the constitutionality of the Military Wives Bill, that has been amended by a so-called compromise.

Many claims have been made that this is a bill to protect the individual's right to vote. The evidence proves that there are more than adequate laws in all the States to protect the right to vote. If a Federal law were passed, I would think it is a matter that ought to be brought to the House and is before the Senate, can be upheld.

I cited the law and the section of the code, including North Dakota and all the States. They all have laws to protect the right to vote. In a few minutes, I am going to give the Senator a chance to show that there is a Federal law already on the subject; so, if a Federal law were desired on the subject, we already have one.

I think it is a matter that ought to be left to the States, but if people disagree about that, and if it is within the jurisdiction of the Federal Government, we already have a statute on the subject. But this bill is a violation of the Constitution on the right to a jury trial question, regardless.

Mr. LANGER. Will the Senator yield for a question?

Mr. THURMOND. I yield.
length the constitutional and statutory safeguards protecting a citizen's right to vote. I shall discuss them in a few minutes.

I do not know of a single case having arisen in South Carolina in which a potential voter has charged that he has been deprived of his right to vote. Had such a charge been heard, due process and habeas corpus would have been secured in the courts of South Carolina. The Federal Government has no monopoly over the administration of justice.

Both white and Negro citizens exercise their franchise freely in South Carolina. Our requirements are not stringent. South Carolina does not require the payment of a poll tax as a prerequisite to voting.

When I was Governor of South Carolina, on May 1, 1947, I recommended to the State legislature that it repeal the poll tax as a prerequisite to voting. The people voted favorably on the amendment to the constitution in January 1949, and early in 1949, the legislature ratified the action of the people. Our poll tax was eliminated as a prerequisite to voting.

The legislature took favorable action and submitted the question to a vote of the people at the next general election, which was in November 1949.

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The right of suffrage, as regulated in this State by the constitution, shall be protected by law and shall not be abridged or impaired.

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State elections shall be free and open, and every inhabitant of this State possessing the qualifications prescribed in the constitution shall have an equal right to vote, and the right to vote shall not be denied or abridged except for reasons specified in the constitution.
23-260. Unauthorized Persons Not Allowed Within Guardrail: Assistance

No person other than a voter preparing his ballot shall remain within the guardrail, except as herein provided. A voter who is not required to sign the poll list himself by this title may appeal to the managers for assistance and the chairman of the managers shall appoint one of the managers and a bystander to be designated by the voter to assist him in preparing his ballot.

Mr. LANGER. Mr. President, will the Senator yield for a question?

Mr. THURMOND. I am glad to yield.

Mr. LANGER. A little while ago the distinguished Senator said that he had before him the election laws of all 48 States.

Mr. THURMOND. That is true.

Mr. LANGER. Are not the laws of South Carolina more liberal than those of other States?

Mr. THURMOND. I think they are more liberal with respect to voting. I think we have gone further than have most of the other States. We repealed the poll tax last year. We have given every opportunity to everyone to vote. I do not know of anyone in my State today who is denied the right to vote if he wishes to vote.

Mr. LANGER. The law is not too severe. The only requirement is that the voter must be able to read or write the Constitution. The Constitution was used in order to have reference to some document with which any voter preparing to vote for one reason or another, or that voting has been interfered with for one reason or another, and has not given the proper protection to those people who have been cheated to it, or there have been no complaints.

If there have been any complaints, it was the duty of the Department of Justice to take action, and they could take action under the laws as they are. There is no use beating about the bush and saying there is a duty to pass a right to vote bill. There is such a law on the statute books. Every State in the Union has such a law. The United States Code contains a provision protecting the right to vote. Let the Attorney General enforce this statute I have cited. If he has received any complaint from South Carolina about any man not voting, he has cited a complaint from any other State, it is his duty to take action under the statute, and see that the one who has cheated is punished. He can be put in jail for a year or more.

Mr. President, I am merely desiring to call this to the attention of Senators who are in the Chamber at this time, because so many of them do not seem to understand that we now have a Federal law on the books, section 594, which provides for the protection of voting rights.

I do not know how it could be made any plainer.

The Senator from North Dakota was asking about the South Carolina statute. I read from the statutes:

After the voter's ballot has been prepared the bystander so appointed shall immediately leave the vicinity of the guard rail.

23-656. Procuring or Offering to Procure Votes by Threat

At or before every election, general, special, or primary, any person who shall, by threats or offers to bribe, extortion, induce, procure or offer or promise to endeavor to procure another to vote for, or against any particular candidate, shall be fined not less than $100 nor more than $500 or be imprisoned for not less than 1 month nor more than 6 months, or both by such fine and such imprisonment, in the discretion of the court.

23-657. Threatening or Abusing Voters, Etc.

If any person shall, at any of the elections, general, special, or primary, in any city, town, ward, or polling precinct, threaten, intimidate, or abuse any voter, he shall be fined not less than $100 nor more than $500 or be imprisoned for not less than 1 month nor more than 6 months, or both by such fine and such imprisonment, in the discretion of the court.
Every person who shall vote at any general, special, or primary election who is not entitled to vote and every person who shall be a party or interested in the result, through deceiving, fraud, bribery or undue influence obtain, procure, or control the vote of any voter to be cast for any candidate or measure other than as intended or desired by such voter or who shall violate any of the provisions of this title 23-659, general, special, or primary elections shall be punished by a fine of not less than $100 nor more than $1,000 or by imprisonment for not less than one month nor more than 12 months or both, in the discretion of the court.

Mr. President, I believe what I have read covers the constitutional provisions and the statutory provisions. Does not the Senator from North Dakota think those provisions add to the protection of voters?

Mr. LANGER. Will the Senator yield further?

The PRESIDING OFFICER. Will the Senator yield to the Senator from North Dakota?

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Another particularly obnoxious provision is found in section 131 (d) which follows:

(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall try the case, and determine the matters presented to the court by the party aggrieved, unless the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield to me for a question?

Mr. LANGER. As I understand, in the case of the existing section 594, during all these years the Attorney General of the United States has had the power to enforce that section, and he has had the assistance of the United States attorneys in every State of the Union, and they have had the help of their assistant; is that correct?

Mr. THURMOND. That is correct.

Mr. LANGER. In some of the States there are eastern districts, northern districts, and southern districts—for instance, in the case of New York; is that correct?

Mr. THURMOND. That also is correct.

Mr. LANGER. And each of those districts has United States attorneys and assistant United States attorneys and United States marshals; is that correct?

Mr. THURMOND. That is correct.

Mr. LANGER. So in the necessary machinery for the enforcement of section 594, to protect the voting right of any citizen of the United States who may have had his voting right denied, has been created in every State during this period of time; is that correct?

Mr. THURMOND. That is correct.

Mr. LANGER. Can the distinguished Senator from South Carolina name a single case in which the Attorney General of the United States has tried to enforce any of these statutes?

Mr. THURMOND. In reply to the question of the distinguished Senator, I will say that I do not know about the situation in other States; but as for the situation in my own State, I have not heard of such a case. However, I can see why that would be; I can understand why probably there would not be any such cases in South Carolina. That is because anyone in South Carolina who wishes to register to vote, has no trouble doing so. But I have not heard that any cases of this sort have been brought in other States. Such cases may have been brought in other States, but I have not heard of any.

Mr. LANGER. Will the Senator from South Carolina yield further?

Mr. THURMOND. I shall be pleased to yield for a question.

Mr. LANGER. I wish to ask what additional power the Attorney General will have, if a new Assistant Attorney General is appointed, inasmuch as the Attorney General already has the help of other Assistant Attorneys General and the help of United States attorneys, whose appointments have to be approved by the Senate; they cannot be appointed until the Congress has consented to the appointments.

Mr. THURMOND. In reply to the question asked by the Senator from North Dakota, I would say that if I see no need for an additional Assistant Attorney General—who, if appointed, would receive a large salary. I see no need for the appointment of an additional Assistant Attorney General. The Department of Justice already has a civil rights section; and there has been no evidence of any need for a big division, similar to the one now proposed to be created. I think that such a division would simply mean the payment of more salaries and a larger Federal payroll and more taxes on the backs of the American people.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield for a question.

Mr. LANGER. In other words, there has never been a time when, under present law, the Department of Justice could not have presented a case of that sort to the administrative remedies of the United States; is that correct?

Mr. THURMOND. Exactly. If there had been any complaint in either North Dakota or South Carolina, let us say, to the effect that someone was not able to vote, although he was eligible to vote, all the Department of Justice would have had to do would have been to have the United States attorneys in the States look into the matter and take whatever action would have been appropriate under the circumstances.

Mr. LANGER. I thank the Senator from South Carolina.

Mr. THURMOND. I thank the Senator from North Dakota for his question.
tion, and it can be used as a hammer with which they can be clubbed to death, if necessary.

The present proposal could be a step toward future elimination of the State courts altogether. I do not believe the Congress has, or should want, the power to strip our State courts of authority, and to vest it in the Federal courts. Some of the advocates of H. R. 6127 spoke strongly on behalf of the Federal courts, during the debate on the jury-trial amendment. I wish they were equally as vehement in their defense of our State courts.

There is no reason to permit an individual to bypass the administrative agencies of his own State and the courts of his own State in favor of a Federal court when the matter involved is principally a State matter. If a person should move in with the results obtained in the State agency and courts, he could then appeal from the decision. But until he has exhausted established remedies, he should not be permitted to introduce a bill which would create greater unity instead of greater division in this country by the enactment of this bill, they are entirely mistaken.

George Washington in his Farewell Address introduced the strongest language against those who would divide our country and urge a unity of spirit. He said:

In contemplating the causes which may disturb our Union, it occurs, as a matter of serious concern, that any ground should have been furnished for characterizing the State—northern and southern, Atlantic, and western—which designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts is to misrepresent the public opinion of other districts.

You cannot shield yourselves too much against the jealousies and heartburnings which such misrepresentations and misdeclarations may cause you to render alien to each other those who ought to be bound together by fraternal affection.

H. R. 6127 is a blueprint for suspicion, confusion, and disunity.

The laws of the Nation are dependent upon the customs and traditions of the people. Unless law is based upon the will of the people, it will not meet with acceptance.

Government in this country derives no power except the power coming from the people. Laws which are not based on the Constitution, which is the basic statement of the will of the people, cannot be justified on any ground.

Mr. President, when there is so much evidence that this bill is unconstitutional, unnecessary, and unwise, it should never have received such grants of power to the Attorney General or to any other official.

Mr. President, I based my opposition to H. R. 6127 throughout its consideration in the Senate on three principal points. I am convinced the bill is unconstitutional in several respects which I have cited. I know that it is unnecessary because the right to vote is fully constitutional in several respects which would not be justified on any ground.

Mr. President, when there is so much evidence that this bill is unconstitutional, unnecessary, and unwise, it should never have been allowed to pass this will create greater unity instead of greater division in this country by the enactment of this bill, they are entirely mistaken.

H. R. 6127 fails to measure up by any standard. It should be rejected. I appeal to every Member of this body who believes in constitutional government and the sovereignty of the people to vote against this bill.

Mr. President, this bill, as I have stated before, has been widely called a right-to-vote bill. That is a completely misrepresenting term. The bill, as I have stated, in my opinion, is unnecessary because we have laws in every State to protect the right to vote. We have laws by the Federal Government to protect the right to vote. In the sections I have cited, a man can be punished severely for any interference with the right to vote.

At this point Mr. Thurmond yielded to Mr. Johnson of Texas and other Senators, who questioned the transaction of certain business, all of which appears in the Record following Mr. Thurmond's speech.

Mr. THURMOND. Mr. President, we have the finest Nation in the world. We have the finest Government in the world.

In 1787 our forefathers met in Philadelphia and wrote a document called the Constitution. It was simply a compact between the States and those other powers which came to this country to get away from tyranny. They had been punished many times without juries. They had been denied the right of petition; they had been denied the right of free speech. They had been denied the right of freedom of religion. They had been denied the right to the pursuit of happiness. They had been denied the right to the protection of their private property. They had been denied the right to the equitable distribution of the States they had been denied the right to the Federal government to protect the right to vote. In the sections I have cited, a man can be punished severely for any interference with the right to vote.

Mr. Johnson of Texas and other Senators, who questioned the transaction of certain business, all of which appears in the Record following Mr. Thurmond's speech.

Mr. THURMOND. Mr. President, we have the finest Nation in the world. We have the finest Government in the world.
One of the bases of the Bill of Rights—and I like to call it the heart of the Bill of Rights—is the right of trial by jury. In the Bill of Rights, the sixth amendment is a trial-by-jury amendment. It provides specifically that any person charged with a crime shall be tried by a jury. I have previously brought to your notice that criminal contempt is a crime, and therefore, it is a crime, a person charged with criminal contempt is entitled to a trial by jury.

The bill which passed the House is a compromise, as most legislation is. Some people may have felt that that was the best the House and Senate could do, because the provision that criminal contempt is a crime, and therefore, since it is a crime, a person charged with criminal contempt is entitled to a trial by jury, it is a compromise, as most legislation is. Ordinarily, that principle would be sound in connection with legislation, but it is not sound here, because the Constitution says that a man is entitled to a jury trial. Therefore, if the punishment provided in the bill is constitutional, you may reform the courts of the United States. If the so-called compromise had provided that a judge, in his discretion, could decide whether or not a trial by jury was involved, I would have opposed it just as bitterly opposed to it. The Constitution is perfectly clear on that point.

If the punishment provided in the bill in the House had called for 1 day's imprisonment, or a fine of $1, I would be just as bitterly opposed to it. The Constitution of the United States provides that if a man is charged with a crime he is entitled to a jury trial. Under the decision which I have cited here twice today, I believe, holding that criminal contempt is a crime, it is clear that a man charged with criminal contempt is entitled to a trial. I do not believe that the compromise amendment is valid. I do not think it is constitutional. The amendment of the distinguished Senator from Wyoming (Mr. O'Mahoney) delineated and defined civil contempt and criminal contempt, and provided that civil contempt proceedings were for the purpose of bringing about compliance, in which case the order would be issued prior to the act, and that criminal contempt proceedings were to punish, in which case the order would be issued after the act. If the House had accepted it, the American people would be guaranteed trial by jury in the case of criminal contempt, which is a crime.

Mr. O'MAHONEY. Mr. President, will the Senator yield to me for a question? Mr. THURMOND. I yield for a question.

Mr. O'MAHONEY. I wish to ask the Senator if he understood him correctly to say that in his opinion the so-called jury-trial provision of the bill which has been returned to us by the House is invalid and unconstitutional?

Mr. THURMOND. That is my opinion. Mr. O'MAHONEY. I wish to say to the Senator from South Carolina that I completely agree with that opinion. It is impossible to govern the right of trial by jury by the discretion of the judge, according to the penalty he conceives he should inflict.

I should like to ask the Senator another question.

The PRESIDING OFFICER. Does the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield to the distinguished Senator.

Mr. O'MAHONEY. I ask the distinguished Senator from South Carolina if he agrees with me that the question of criminal contempt is a trial by jury as soon as conveniently possible, and that I would be doing a wise thing if, when the new session of Congress assembles, I should introduce a repetition of the general jury-trial amendment, firm in the belief that the advocates of civil rights, upon examination of the pretended amendment which has come to us from the House, will discover that they have bought a pigeon instead of a swallow.

Mr. THURMOND. In reply to the Senator's question, I will say that I agree with him that the bill should be reexamined. I think the reexamination should take place before Congress passes the bill, and not wait until next January.

Mr. O'MAHONEY. If the Senator will permit me to make this comment—will the Senator yield?

Mr. THURMOND. I will yield for a question.

Mr. O'MAHONEY. I shall frame it in the form of a question. Does not the Senate, senator, sit and wear, so to speak, and down town; that most of us are almost as tired as the Senator himself; and that perhaps when we return in January in the full vigor of our bodies and minds we shall be able to do a better job than we can do at this session of the Congress? I am going to introduce a jury-trial amendment in the next session in the firm belief that this jury-trial amendment is nothing more than that it does not at all help the advocates of civil rights.

Mr. THURMOND. In reply to the Senator's question I say that I have been on my feet for the past 17 hours, and I still feel pretty good. But I agree that it has been a long, tough session. But even though it has been a long, tough session I do not think we ought to quit now and pass a bill that the Senator and I both feel is unconstitutional. I think we should refer it to the committee, which I tried to do the other night but was unsuccessful in my attempt. But I think this bill should not be passed at this session. I believe the Senator would prefer that it not be passed; but if it is passed, of course I should be delighted to have the Senator offer an amendment to correct the unconstitutional portion of it when we return in January. But I really do not see why we should have to pass an unconstitutional piece of legislation if we can avoid it.

Mr. O'MAHONEY. Mr. President, will the Senator from South Carolina yield for another question?

Mr. THURMOND. I yield for another question.

Mr. O'MAHONEY. This question is a little different from the one I asked before. I am wondering if the Senator from South Carolina would cooperate with me in enabling me to pass a bill which does not involve any constitutional question. The Senate passed the bill without any opposition at all, and then the House has returned it to the Senate with an amendment. I should like to move that the House amendment be concurred in by the Senate, and thus get the bill disposed of.

Mr. THURMOND. If the Senator will ask unanimous consent for me to yield to him on condition that I can retain the floor, and, further, that I shall not be charged with a second speech when I resume the discussion of the present subject.

The PRESIDING OFFICER. Does the Senator from Wyoming ask unanimous consent based on those conditions? Mr. O'MAHONEY. I do, Mr. President.

Mr. THURMOND. Mr. President, I should like to ask the Senator from Wyoming whether or not this is a civil-rights bill, as I understand, is it?

Mr. O'MAHONEY. No; it is not. The PRESIDING OFFICER. Is there objection to the request of the Senator from Wyoming? The Chair hears none.

APPROVAL OF CONTRACT WITH THE CasPER-ALCOVA IRRIGATION DISTRICT, WYOMING

The PRESIDING OFFICER (Mr. Holland in the chair) laid before the Senate the amendments of the House of Representatives to the bill (S. 1996) to approve the contract negotiated with the Casper-Alcova Irrigation District, to authorize its execution, to provide that the excess-land provisions of the Federal reclamation laws shall not apply to the lands of the Kendrick project, Wyoming, and for other purposes, which were, on line 3, after "That" insert, "subject to the provisions of section 2 of this act,"; on page 2, line 5, strike out all after "Sec. 2," down through and including "and owners," in line 20.

The limitations on acreage and restrictions on delivery of water to excess lands under the Federal reclamation laws shall apply to the lands of the Kendrick project, Wyoming, except that 480 irrigable acres shall, in this instance, be substituted for 100 irrigable acres.

And to amend the title so as to read: "An act to approve the contract negotiated with the Casper-Alcova Irrigation District, to authorize its execution, and for other purposes."

Mr. O'MAHONEY. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming. The motion was seconded by Mr. Bartlett, one of its...
Mr. President, there is no need in the world to pass this bill. In the wee hours last night, when most Senators were sleeping, I was here talking, and after I had the Library of Congress, Legislative Section, prepare for me, and I put into the Record at that time, statutes which provide voting rights in all the States of the Nation.

The Congressional Record of last night contains those statutes of all the States from Alabama to Wyoming. In every one of the States of the Nation there are statutes that protect the right to vote. There is not a single one of the 48 States that does not have statutes to protect the right to vote.

Why does the Federal Government have to have this bill passed? Is it not practically an insult to the States?

"We need it. The States will not enforce their laws?" If that be the case, all the Government has to do is to enforce the Federal statute I referred to today. Title 18, section 594, is the number of that Federal statute, which provides punishment for anyone who intimidates, coerces, or threatens any person for refraining with will or by force in voting. That statute is as clear as a crystal. It provides for a fine of $1,000, or punishment of 1 year in prison, for anyone who interferes with the right of another citizen to vote. So, if there is anybody in this country today who is prevented from voting, all he has to do is to report it to the district attorney in his State, or if he prefers, to write the Justice Department. He can take the case himself, and action can be taken under that statute which is already on the books.

Why put another statute on the books? Why put another statute which the Supreme Court will very probably hold to
be unconstitutional? I do not know what the Supreme Court will hold. I do not like to take any chances with the Supreme Court.

At any rate, the Constitution of the United States is clear, the wording is simple. Any seventh-grade child can read article III, section 2, of the Constitution of the United States and see that any person charged with a crime is entitled to a jury trial. He can also read the sixth amendment to the Constitution, one of the amendments in the Bill of Rights, which provides that no person shall be deprived of life, liberty, or property without due process of law, and that any person charged with a crime is entitled to a jury trial.

It is very difficult to understand why the Congress, which is supposed to be composed of the brightest intellects in the country, or some of the brightest intellects, would pass a bill of this kind. Yet, if the Congress passes such a bill, this so-called compromise bill on voting rights, it will certainly amaze me. The Supreme Court would hold it to be unconstitutional. I shall be badly disappointed if the Congress passes it.

Of course, under the pressure of different interests, the A.D.A. and the N.A.A.C.P., both parties are dancing like jitterbugs on the civil-rights question, because they want to carry the doubtful States where the Negroes, although only a small percentage, if they vote, in a block, can swing a State. I think it will be a great pity if the Congress passes this bill. I hate to see it pass such an unnecessary bill.

Mr. President, every Representative in Congress and every Senator is practically insulting his home State if he votes for this bill. He is practically saying to the governor of his State and to the legislators of his State, "Although you have bills to protect voting rights, we have no confidence in you and although we have one Federal law, we are going to pass another Federal law, and ram it down your throats whether or not you want it." I think it is almost an insult to the States.

I suggest that they write the governor of the States and see how many of them want this bill passed. I am wondering how many Senators in this body and how many House Members have checked with the governors to find out if they want this unconstitutional monstrosity passed by the Congress.

I do not believe 10 percent of the governors of the States and see how many of them want this bill passed. I am wondering how many House Members have checked with the governors to find out if they want this unconstitutional monstrosity passed by the Congress.

I do not believe 10 percent of the governors of the Nation would say, "We are weaklings, and we want you to pass a strong civil-rights bill because we do not have the courage to do it. We do not have the courage to protect our people."

As a matter of fact, Mr. President, the States already have laws on that subject and all they have to do is to enforce them. The Voting Rights Act has been read into the Constitution, in the case of every State of the Union. Those who read the Constitution, read the Constitution, and not forthwith.

Mr. President, if any Senator, on either side of the aisle, can state why it is necessary to enact another Federal law to protect the right to vote, I should like to have him do so, provided I am able to yield for that purpose without losing the floor and without having the remarks I make after yielding for that purpose counted as a second speech by me. I challenge any Senator on either side of the aisle to answer this question: Why is it necessary to enact another Federal law to protect the right to vote, when there is already on the statute books section 594, which reads in part as follows:

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose.

In other words, one who intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce him, may, under the provisions of this statute, be prosecuted. He may be prosecuted, not only if his purpose is to interfere with the right of such other person to vote or vote as he may choose.

If there is in the United States, today, any person who is having any trouble in exercising his voting right, again I say that he has only to look to the Department of Justice, or the district attorney in his home State, and action can be taken under this Federal law to punish any person who interferes with his right to vote if his purpose is to interfere as to the person for whom such other person may wish to vote.

Inasmuch as section 594 is an existing Federal statute on that subject, why is it necessary to enact another Federal statute dealing with the right to vote? It would be a solemn, unnecessary, and futile to enact another Federal statute on that subject; it would be a great mistake to do so, especially in view of the fact that such a statute would be unconstitutional.

Mr. President, please understand that I do not even concede that the Federal Government has a right to enter this field. Instead, I believe that these Federal laws are based on the Federal Government, and are unconstitutional. I shall be badly disturbed for the safety of our country and less about whether or not the elections.

Mr. President, I am convinced that we must protect the States. The Constitution now protects them; but the Supreme Court and the Congress and the executive branch of the Government have been taking steps—by handing down decisions, passing laws, and issuing regulations and edicts— which violate the rights of the States and take away from the States the power they have. If the development cannot continue to occur, if our country is to be safe, I am disturbed for the safety of my country.

Mr. President, the so-called civil-rights bills on the Congress is about to pass would simply take power away from the States and would give it to the Federal Government.

A Senator might say, "I should vote for the bill because it will help me in the elections." Mr. President, Senators had better begin to think more about the welfare and safety of their country, and less about the elections.

Mr. President, I am convinced that we must protect the States. The Constitution now protects them; but the Supreme Court and the Congress and the executive branch of the Government have been taking steps—by handing down decisions, passing laws, and issuing regulations and edicts—which violate the rights of the States.
One of the ways to weaken it is to weaken the States, as we are doing today, and to keep taking away the powers of the States, and building up a strong Central Government in Washington. It is the greatest mistake in the world. It was not contemplated when our Constitution was written.

One of the things decided they would delegate a few powers to the Federal Government, and they spelled them out in the Constitution. All one has to do is to go to the Constitution and read it. It spells out which powers the Constitution has, what powers the Federal Government has, but all other powers are reserved to the States and to the people thereof. As the rate we are going now, we will not have any States after a while. The Federal Government will have all the power.

Mr. President, some time ago I read a book by a man by the name of James Jackson Kilpatrick, of Richmond, Va., printed by the Henry Regner Co., of Chicago, entitled "The Sovereign States." I wish every American could read this book. It is a book that is very, very enlightening. I came home from it today. I should like to have Senators listen to some of the passages in this book. This man is a great writer, a true patriot, and a great American.

First, I am going to read a passage by John C. Calhoun, one of the five or so great Senators in this country who has nominated him to be a true patriot, and a great American. The great and leading principle is, that the General Government emanated from the people. It is an organization of distinct political communities, and acting in their separate and sovereign capacity, and not from all of the people forming one aggregate body, what powers the Federal Government has, but all other powers are reserved to the States and to the people thereof. As the rate we are going now, we will not have any States after a while. The Federal Government will have all the power.

Mr. President, my statement was that Fort Hill is at Fort Hill, and if any Senators want to know where it is, it is at Simpson College. In fact, his home was at the college. This was written, as I have said, by James J. Kilpatrick. First, I want to take up his introduction, and then I want to present some excerpts from the book:

Among the more melancholy aspects of the genteel world we live in is a slow decline in the enjoyment that men once found in the contemplation of ideas, for unadorned, unadulterated competition of any sort, indeed, seems to be regarded these days, in our schools and elsewhere, as something to shun. Under the curious doctrines of the Fair Trade Act, vigorous salesmanship is unfair, and retailers are enjoined against discounting. Under the curious criteria of the administration's foreign policy, during the last presidential campaign, was not sufficiently robust, they were not bipartisan. With a few robust exceptions, our writers paint in pastels; our ideas have lace on them; we are imported to steer, with moderation, down the middle of the road.

These chamber music proprieties I acknowledge. I have in mind to marshal some of the evidence presented in this book. I am nominated to be a true patriot, a great American. My object is not to prove that the Constitution was written. My object is not to prove that the Alien and Sedition Acts, which led to the beginning of the conflict, were not right. These chamber music proprieties I acknowledge. They have not always been spineless. In times past they have resisted, now successfully, now unsuccesssfully, but even when their failure has been acknowledged, they have never lost the assertion of State sovereignty.

My thesis is that our Union is a Union of States; that the meaning of this Union has been obscured, that its inherent good value has been debased, and all but lost. Hold this truth to be self-evident: That government is least evil when it is closest to the people; that effective control of government moves away from the people, it becomes a greater evil, a greater restraint of liberty, in each instance.

My object is not to prove that the powers and functions of government have grown steadily more centralized, more remote from the people. It requires no proof; it requires only that one open one's eyes. Rather, my intention is to plead that the process of consolidation first be halted, then reversed, toward the end that our Federal Government may be strictly limited to its constitutional functions and the States be encouraged to look after their own affairs, for good or ill.

A long time ago, the geometric mind of Edmund Burke more than 200 years ago, the Senate and Federal Governments, he said, must follow the path of parallel lines, and that others in terms of spheres, separate but touching. The idea, when all this began, was that neither authority would intrude upon the other; and in the beginning, it was more feared that the States would usurp Federal powers than the other way around.

Now they fear that the States are being obliterated. The encroachments of the Federal Government have widened its road to the obliteration of the States to a footpath. Having deceptively added a dimension to the Federal list, the people declare their faithful adherence to the plans of the original draftsmen. Soon, a geometry unknown to Pendleton can proclaim the appar-
Mr. Kilpatrick has done a fine job and rendered a great service to this country in writing this book. "The two gentlemen," said Mr. Pendleton, with some irritation, "is that the two governments are established for different purposes, and not on different objects."

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. THURMOND. I am pleased to yield to the distinguished Senator from Louisiana, for a question.

Mr. LONG. Did I correctly understand the Senator to make the statement that, according to the preface or introduction to the book, the book would be displeasing to those who agreed with Alexander Hamilton, who was one of the authors of the Federalist Papers, the forerunner of the American Constitution?

Mr. THURMOND. That is correct. The editor said that the political heirs of Alexander Hamilton and John Marshall would not care much for the book. Mr. Kilpatrick has done a fine job and produced; but his philosophy, as the Senator well knows from studying his life and history, was different from that of Thomas Jefferson. They were both great Americans, but Alexander Hamilton believed more in the strong Central Government, with the power residing in Washington. Thomas Jefferson's idea was that the power should remain with the States, and that only so much power should be given to the Federal Government as was necessary to perform its functions as delineated in the Constitution. The Senator has probably read many books about Hamilton. In one of such books his philosophy is described in this way:

Speaking of education, Alexander Hamilton's thought was to select some of the brightest young men and educate them to make leaders. Thomas Jefferson's philosophy was to give all an opportunity, and let the leaders rise where they would.

So, when Kilpatrick wrote this statement, I consider that he was contrasting the philosophy of Hamilton more or less with that of Thomas Jefferson.

Hamilton was a very able man, one of the greatest Americans this country has produced; but his philosophy, as the Senator well knows from studying his life and history, was different from that of Thomas Jefferson.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. THURMOND. I am pleased to yield for a question.

Mr. LONG. Is it the view of the Senator that Alexander Hamilton would ever for a moment have approved of any proposal whereby an American accused of a crime would have been denied the right to present his case before a jury of impartial people who would hear the cause of his innocence, and find him guilty or innocent?

Mr. THURMOND. In reply, I will say no. I think Alexander Hamilton and Thomas Jefferson both would have approved of trial by jury. They were both delegates to the Constitutional Convention, and they both rendered magnificent service in many ways.

Mr. LONG. Mr. President, if the Senator will further yield, I believe he will find that Thomas Jefferson was not a delegate to the Constitutional Convention.

Mr. KNOWLAND. Mr. President, did the Senator yield for a question or a statement?

Mr. LONG. The Senator yielded for a question.

Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from South Carolina yield for a question?

Mr. THURMOND. I yield to the Senator from Louisiana for a question.

The Senator is correct about Thomas Jefferson. I had in mind Madison.

Mr. LONG. Does not the Senator realize that this Constitution was not a delegate to the Constitutional Convention?

Mr. THURMOND. That is correct. The Senator is perhaps confusing the Constitutional Convention with the convention which adopted the Declaration of Independence. Thomas Jefferson was the American Ambassador to France at the time the Declaration of Independence was drafted. In fact, he was the only delegate from New York State who signed the Constitution.

When I spoke a few minutes ago about Jefferson, I was thinking about Madison. Madison was the only delegate from the State of New York who signed the Constitution as did Blair. Both were from Virginia. George Washington presided over the Convention.

Mr. LONG. Is there any doubt in the Senator's mind that, so far as Alexander Hamilton was concerned, he would never for a moment have contested the right of any citizen to be tried before a jury if he were accused of a crime?

Mr. THURMOND. I agree. If he had taken any other position, he would not have signed the Constitution.

As I have stated, Alexander Hamilton was the only delegate from the State of New York who signed the Constitution as representing the State of New York. In the original Constitution, article III, section 2, provided for jury trial.

Mr. LONG. Is it not true that insofar as the right of a citizen to be tried by jury for a crime is concerned, Alexander Hamilton and Thomas Jefferson would have agreed 100 percent that American citizens should be tried by jury for a crime?

Mr. THURMOND. I agree. If he had taken any other position, he would not have signed the Constitution.

Mr. THURMOND. I yield for a question.

Mr. LONG. Is it not correct to state that, although the book from which the Senator is reading may not reflect the views of Alexander Hamilton, it is nevertheless correct to state that Alexander Hamilton and Thomas Jefferson would both have agreed that anyone accused of a crime should have the right to be tried by a jury?

Mr. THURMOND. I thoroughly agree. In my judgment, if Alexander Hamilton and Thomas Jefferson were living today, and both were Members of the Senate, they would be fighting for the right to a jury trial, as provided in the Constitution of the United States.

Mr. LONG. Mr. President, will the Senator yield for a further question?

The PRESIDING OFFICER (Mr. Scott in the chair). Does the Senator from South Carolina yield to the Senator from Louisiana?

Mr. THURMOND. I yield for a question.

Mr. LONG. Is it not correct to paraphrase more or less the words of Shakespeare, that those American politicians who have fought against the freedom of Americans to be tried by a jury when accused of a crime have been politicians who more or less strutted and strutted their brief hour on the stage to be heard from no more?

Mr. THURMOND. I do not think any man who takes a stand against giving a person a jury trial will be long remembered after he has gone or when his record is searched and it is found that he opposed a jury trial. I think we would immediately call for a reappraisal of his whole life in the event he had been considered a great man previous to that time.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. THURMOND. I yield for a question.

Mr. LONG. Is it not true that men like George Norris, William Borah, and Robert M. La Follette, who fought through the years for the right of trial by jury, have statues standing in the Hall of Fame in the Capitol Building?

Mr. THURMOND. The Senator is eminently correct. In fact, there is a quotation from George Norris which I read last night. If I can put my hand on it I should like to read it to the Senator from Louisiana. I have never read a
stronger statement in behalf of a jury trial. He said that in all cases a man should have a jury trial. The distinguished Senator from Virginia (Mr. Byrd) and the distinguished Senator from Mississippi (Mr. Eastland) and I introduced a bill in March to provide the only type of judicial trial which Senator Norris recommended.

Mr. LONG. Mr. President, will the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield for a further question.

Mr. LONG. The Senator from South Carolina having made a great study of all these matters involving jury trials, the freedom of Americans, and States rights, can he now name from memory a single one of those Senators who made a fight against the right of jury trials? Can he name from memory a single man whom I considered a great man or a great Senator who opposed jury trials?

Mr. THURMOND. I could not name a single man whom I considered a great man or a great Senator who opposed jury trials.

Mr. LONG. Does the Senator recall the names of any Americans who have served in this body and who have made a fight against the right of a man accused of a crime to be tried by a jury? Can the Senator recall the name of any such person?

Mr. THURMOND. I cannot recall the name of any American of any stature within my recollection who has opposed jury trials.

Mr. LONG. Mr. President, will the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield for a further question.

Mr. LONG. Is the Senator aware of the fact that Senator Borah's statue is just outside the main entrance of the Senate Chamber, immediately outside the door?

Mr. THURMOND. That is correct. I see it every time I go through the door.

Mr. LONG. Is the Senator aware of the fact that Senator William E. Borah, a great constitutional lawyer, even though he came from a very small Western State, was so seriously considered by the Republican Party as its nominee for the Presidency of the United States?

Mr. THURMOND. I have been told that, but I did not know the Senator personally; only through reputation. But I know he was a great American. He declared on April 8, 1939:

I am not contending here that labor organizations and any time employ threats, force, or violence or intimidation. They must keep within the law—

He was referring there to jury trials in labor cases.

I have a long report including a speech by Senator Norris on May 2, 1930. I read it last night.

Mr. LONG. Mr. President, will the Senator from South Carolina yield for a question at that point?

Mr. THURMOND. I shall be pleased to yield for a question.

Mr. LONG. Is it not true that those who oppose the right of jury trials are basically those who do not believe in the freedoms that Americans enjoy under the Constitution?

Mr. THURMOND. I certainly agree with the Senator. I think the jury trial is one of the greatest freedoms we have. I look upon it as the heart of the Bill of Rights.

Mr. LONG. Mr. President, will the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield for a question.

Mr. LONG. Is it not true that persons who fear that juries may not convict guilty persons are those who really have very little confidence in the determination of people to uphold free government?

Mr. THURMOND. It seems to me they could not have much confidence in human nature; otherwise they would favor jury trials. To be tried by a man's neighbors, his peers, his fellow men, is the fair and the best way. He is not exposed to be tried for 8 years and tried many cases. But I always felt much better about it when a jury passed on the question. I watched closely the verdict. If I were deeply impressed, I feel that juries come nearer to meting out justice to criminals than it can be done in any other way.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. THURMOND. I yield for a further question.

Mr. LONG. Recognizing the fact that it is possible for a jury to turn a guilty man free than to send 1 innocent man to the penitentiary or to his death, is it not also true that the freedoms which Americans enjoy under their Constitution were calculated in such fashion as to express the philosophy that it is better to turn a guilty person free, is it not also true that it is possible for a jury to turn a 9 guilty men free than to send 1 innocent man to the penitentiary or to his death?

Mr. THURMOND. I never did go on the theory of nine guilty ones being better than 1 innocent one. But there is a common saying to that effect. If I had to make a decision as to whether I would turn 9 guilty ones loose, or put 1 innocent man in prison, I would not be human if I thought that would be the thinking and the feeling of the average American.

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the last person to make the final decision on who should be punished for not obeying his order.

Mr. THURMOND. I agree with the Senator. In fact, this is known as in­junction-made law. That is what it is. It is injunction-made law, and it is bad law. It is much better to have a jury trial. This is the American way of doing things. That is one of the grievances complained of by those who signed the Declaration of Independence, as I have brought out, namely, that in a great many cases they denied jury trials. Provisions for jury trial are embodied in several places in the Bill of Rights and the Constitution, so there is no question about the integrity of our judicial system. Our administration of justice has been based upon jury trials. I think it is one of the most fundamental principles embodied in our type of government.

If this so-called compromise amendment were to go a little bit further, it would sound more like a Communist amendment.

I do not believe I read what Senator Norris said about jury trial. He said: I wonder if a suffering people, whose forefathers fought for liberty, are going to give up the idea of it in this day and in this civilizing age and are going to submit to injunction-made law.

He was wondering whether they were going to submit to it.

1. THE BEGINNINGS

"The true distinction," said Mr. Pendleton, with great power. "Our different governments are established for different purposes, and are on different objects."

This was on the sunset of the day of Thursday, June 12, 1788, in the New Academy on Shockoe Hill in Richmond. The Virginia Convention had been grappling for 10 days with the new Constitution, and Edmund Pendleton, aging and crippled, had been sitting in dignified silence for as long as he could. He was so old that he would have been a hard man to live with at any time, was being especially difficult. Once before, on the 5th, Pendleton had attempted to soothe him, but Henry would not be soothed.

The State and Federal Governments would be at war with one another. Henry had predicted. Not one of the States would be impossible to destroy and consolidated into the General Government. One by one their powers would be snatched from them. A rapacious Federal authority, ever seeking to expand its grasp, could not be confined by the States.

"Notwithstanding what the worthy gentleman said," remarked Mr. Pendleton with some warmth, for there were times when he regarded Mr. Henry as neither worthy nor a gentleman. "I believe I am still correct, and insist that, if each power is confined within its proper sphere, there can be no interference can never happen. Being for two different purposes, as long as they are limited to the different objects, they can no more clash than two parallel lines can meet."

They were big ifs that Edmund Pendleton, a judge whom Patrick Henry, as quoted, said, "I would not have him for my judge, even as Henry feared, and the clash did come, his prediction came true. Pendleton’s geometry was fine, but his powers of prophecy (for he believed that each government could be kept in check) were sadly in error.

To understand how the parallel lines of State and Federal Governments, wrangly, were drawn, it is necessary to look back at the period before these lines were drawn. The acts of ratification by Virginia and her co-members were acts of faith. The state was their consent to a written constitution. How, it may be inquired, did they come to be free and independent States? What is this concept of State sovereignty?

It would be possible, in any such review, to go back to the very beginning of American history, to the period of the wilderness, to the Indian country and the fur trade. That is one of the grievances that the States would have. But it is not the beginning of the Constitution: it was not the beginning of State sovereignty.

It is a very dear irony that Jefferson, as the Constitution was written at the beginning of the Constitution was written at the Constitutional Congress adopted it at Philadelphia; from this moment Americans were to be the years of their independence.

The eloquent beginning of the Declaration—the assertion of truths self-evident and among men—their unalloyed right to be free and independent States. It is a spreading irony that Jefferson, whose convictions were cemented in the inequality of man, should have been so happily disrupted by the leaders of a bulldozer society.

The Declaration’s beginning is too much rejected and too little read. What course would be the present purpose, is not the first paragraph, but the last. Let us inquire. What, precisely, was it that we declared ourselves the States of July, if Hitherto there had been colonies subject to the King. That form of government would have been, as it were, now be solemnly publish and declare to a candor world—what? That the people of the colonies had formed a free and independent nation? By no means. Or that they were henceforth a free and independent people? Still no.

This was the declaration: “That these United Colonies are, and of right ought to be, free and independent States. Not one State, or one Nation, but in the plural—States; and so we would now solemnly publish and declare to a candid world—what? That the people of the colonies had formed a free and independent nation? By no means. Or that they were henceforth a free and independent people? Still no.

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Vermont and Massachusetts. It is worth our while to keep in mind the first article of the aforesaid treaty. It was in 1783, before the War of the Revolution came to an end:

"His Britannic Majesty acknowledges the states of the United States of America, New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, North Carolina, Georgia, and Georgia, to be free, sovereign, and independent States; that he treats with them as such."

In the Cherokee Nation, the states of New York, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Georgia, to be free, sovereign, and independent States; that he treats with them as such.

More than 5 years earlier, a treaty of amity and commerce with France had established the rights of the States in foreign relations, states that were party to the contract. Louis XVI treated with the 13 American States, but he recognized each of them as a separate power. And it is interesting to note that Virginia, feeling some action desirable to complete the treaty, prior to action by Congress, on her own, entered into this treaty with France on her own. By appropriate resolution, transmitted by Governor Jefferson to the French minister at Philadelphia, the sovereign Commonwealth of Virginia declared herself individually bound by the treaty. In international law, Virginia was a nation; in terms of domestic law, she was a sovereign State.

2. THE STATE

To review the process by which the colonies became States is not necessarily to answer the basic question, What is a State? And it is not necessary to define. The standard definition is that a State is "a political body, or body politic; any body of people occupying defined boundaries, and organized under a government sanctioned and limited by a written constitution, and established by the consent of the people within them;" (in the Cherokee case, John Marshall described a State as "a distinct political society, separated from others, capable of managing its own affairs and conducting its own business.

Thus, variously, a State is defined as a body, a community, and a distinct society. Forty generations of Americans have called a tract of waste and uninhabited land cannot constitute a State. Nor are people, as such, a State. James Brown Scott once offered this clear and succinct definition:

"The State is an artificial person, representing and controlled by its members, but not synonymous or identical with them. Created for a political purpose, it is a body politic. It is a distinct body, an artificial person; it has a will distinct from its members, although its exercise is controlled by them; it has rights and duties distinct from its members, but subject to being changed by them; it may hold property distinct from its members, but subject to being changed by them; it may act in unity and distinctively from them and bind them by its acts, but only so far as it is authorized by the law of its creation, and may be altered by being changed by the power of that law."

Thus the State is seen as a continuing political entity by its citizens and may be changed by them. The State can be bound in ways that its own people cannot be bound; it can exercise powers that no citizen or group of citizens may exercise for themselves. The State may buy, sell, hold, grant, convey; it may tax and spend; it may sue, and if it consent, be sued; it exists to create law and to execute law, to punish crime, administer justice, regulate commerce, and conduct wars. Yet there is no State until a community of human beings create a State; and no State may exist without the will and the power of that community.

It is this combination of will and power which lies at the essence of the State in being. It is sovereignty. In the crisp phrase of the Constitution, the power of sovereignty is "the will to execute, the power to execute." Long books have been written on these "powers," but all will downhill to certain similarities; the State has power to make, power to enforce, power to unmake.

If there is to be a State, however, that the people as States claimed for themselves in 1776. Henceforth, they said, we are sovereign: The State government is not sovereign, nor is any other government. By their sovereignty, "sovereign State" we mean us citizens, the State; we collectively, within our established boundaries; this community of people; we alone who are possessed of the power to create or to abandon.

God knows it was a great, a priceless, power these people as States claimed for themselves. True, not everyone saw it that way. Mr. Justice Story, for one, never grasped the concept of States. Nor did Jackson's biographer, Albert J. Beveridge, in his biography of Marshall, refers sneeringly to the States as "these political entities, in a word, municipalities." Beveridge's is perhaps a high acknowledgment of the simple truth: These infant States, the people within them were proudly jealous of the fact. They saw themselves, in Blackstone's phrase, "a supreme, irresistible absolute, unqualified authority." They, among other things, was the aim they had fought for. It cannot be imagined that they ever would have relinquished this high power of sovereignty except in the most explicit terms.

3. THE ARTICLES OF CONFEDERATION

In time, the Continental Congress gave way to the Confederation Congress. The articles of Confederation with the utmost care; they are too little studied, and there is much to be learned from them.

First proposed in 1778, the articles became binding upon all the States with Maryland's ratification in 1781. Throughout this period, as the States, on each of the States was individually sovereign, each wholly autonomous. Mr. Justice Iredell was to observe, in 1795, that the individual States never surrendered any power.

The remaining 14 articles in the Confederation Congress' Articles of Confederation are as follows:

The articles are of less in total than the Constitution, but they were to follow in less than a year. There will be seen, in these opening paragraphs, the genesis of constitutional provis­ions that were to follow in less than a decade. Here is the forerunner of the 10th amendment, with its reservation of undelegated powers to the State or to the people; here are the "invasion of the common defense" and the "general welfare."

The fourth article advanced other phrases that were to follow in less than a year. The States in Congress assembled; no other pretense excepted) were to follow in less than a year. The delegates were to be inviolably observed by the States the delegates respectively represented, "and the union shall be perpetual.

Of course, it wasn't perpetual all. Before 6 years had elapsed, the States came to recognize grave defects in the Articles of Confederation that were to follow in less than a year. The States in Congress assembled; no other pretense excepted) were to follow in less than a year. The delegates were to be inviolably observed by the States the delegates respectively represented, "and the union shall be perpetual.

"Thus the State is seen as a continuing political entity by its citizens and may be changed by them. The State can be bound in ways that its own people cannot be bound; it can exercise powers that no citizen or group of citizens may exercise for themselves. The State may buy, sell, hold, convey; it may tax and spend; it may sue, and if it consent, be sued; it exists to create law and to execute law, to punish crime, administer justice, regulate commerce, and conduct wars. Yet there is no State until a community of human beings create a State; and no State may exist without the will and the power of that community."
enact and the power to execute, because they had made could unmakethem set out to do the good commandment is too valuable an admonition to be passed by. There is much interest to be found if one examined the debates of the time, in terms of the relationship there established between the States and the new Federal Government formed.

It may be inquired, was sovereignty here surrendered in whole or in part? What powers were delegated, what powers retained?

Mr. KNOWLAND. Mr. President, I do not want the Senator to strain his voice but I do have some responsibilities

Mr. KNOWLAND. Under the rules of the Senate, which are now being strictly enforced, both Senators being in their respective seats, and this happening to be my seat as the minority leader, I urge my request of the Senator.

Mr. THURMOND. We might get unanimous consent to allow the Senator to come closer to me if he wishes. I do not think my colleagues will raise any point. There is an excellent seat here, I think it fair to the Senator to allow him to sit there.

Mr. KNOWLAND. I am very well satisfied with the seat to which I am assigned.

Mr. THURMOND. Mr. President, I continue to read:

The self-evident fact, as plain as the written law, is that the people of the United States do own the power of the people of the United States. They surrendered nothing. It is the position of plain common sense. The Supreme and ultimate power must be precisely that. Finally, to degrees. In law, as in mountain climbing, there is a pinnacle; there is a summit; as the preserves are reached; nothing higher or greater remains. And so it is with the States of the American Union. In the law present, it is the people as comprising one whole. (not that of Congress, not that of the Supreme Court, not that of the whole people) to make or unmake, by the Constitution, any provision or alteration in it in any thing whatsoever. It is the power of the people as a whole, as sovereign, to be not of the people, but of the State governments, acting in their sovereign capacity, as well speak of half a square, or half a triangle, as of half a sovereignty. That was the position of John Taylor of Caroline, and John Randolph of Roanoke—thegovernment, like chastity, cannot be surrendered in part. This is eloquently proclaimed in 1776, so resolutely, so firmly. The self-evident fact, as plain as the written law, is that the people of the United States do own the power of the people of the United States. They surrendered nothing. It is the position of plain common sense. The Supreme and ultimate power must be precisely that. Finally, to degrees. In law, as in mountain climbing, there is a pinnacle; there is a summit; as the preserves are reached; nothing higher or greater remains. And so it is with the States of the American Union. In the law present, it is the people as comprising one whole. (not that of Congress, not that of the Supreme Court, not that of the whole people) to make or unmake, by the Constitution, any provision or alteration in it in any thing whatsoever. It is the power of the people as a whole, as sovereign, to be not of the people, but of the State governments, acting in their sovereign capacity, as well speak of half a square, or half a triangle, as of half a sovereignty. That was the position of John Taylor of Caroline, and John Randolph of Roanoke—thegovernment, like chastity, cannot be surrendered in part. This is eloquently proclaimed in 1776, so resolutely, so firmly. The self-evident fact, as plain as the written law, is that the people of the United States do own the power of the people of the United States. They surrendered nothing. It is the position of plain common sense. The Supreme and ultimate power must be precisely that. Finally, to degrees. In law, as in mountain climbing, there is a pinnacle; there is a summit; as the preserves are reached; nothing higher or greater remains. And so it is with the States of the American Union. In the law present, it is the people as comprising one whole. (not that of Congress, not that of the Supreme Court, not that of the whole people) to make or unmake, by the Constitution, any provision or alteration in it in any thing whatsoever. It is the power of the people as a whole, as sovereign, to be not of the people, but of the State governments, acting in their sovereign capacity, as well speak of half a square, or half a triangle, as of half a sovereignty. That was the position of John Taylor of Caroline, and John Randolph of Roanoke—thegovernment, like chastity, cannot be surrendered in part. This is eloquently proclaimed in 1776, so resolutely, so firmly. The self-evident fact, as plain as the written law, is that the people of the United States do own the power of the people of the United States. They surrendered nothing. It is the position of plain common sense. The Supreme and ultimate power must be precisely that. Finally, to
tion may be advanced: The framers of the Constitution were not interested in preserving the old ways of knowing how many states would assent to the compact.

Second, the delegates began the preamble, as they thought of doing, "We the people of New Hampshire, Massachusetts Bay, Rhode Island, &c., and the State of Rhode Island and Providence Plantations, etc. It was not written as to the drafting of the Constitution; it was not written as to the drafting of the Constitution. It was not until May 29, 1789, by a vote of 34 to 33 that Rhode Island agreed to join the Union. It had held back with New Hampshire's ratification nearly 2 full years before. Given a switch of two votes and the Rhode Island vote, New Hampshire would have left the Union.

A pact read. It bound the people of the States in international law, as any Luxembourg or Singapore. Some of these forebodings clearly passed through the minds of the delegates at Philadelphia. When the preamble first appears in the notes, on August 6, it reads, "We the people of the States of New Hampshire, Massachusetts, etc., do ordain and establish the following Constitution." In that form it was tentatively approved on August 7. But the preamble, in that form, never appeared. Why? When the document came back from the Committee on Style in early September, the preamble had been amended to eliminate the spelled-out names of the states and to change it so that "we the people" ordain and establish. The change was not haggled over. No sign of a compromise to the Virginia-Wyoming antagonism in New York or North Carolina (where there was opposition already enough) by spelling out the states. The change was simple, and leaves to the several States the right to a jury trial, did he not?

3. THE STATES IN THE CONSTITUTION

In the end, that was the way the compact read. It bound States—"The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between—between whom?—"between the States so ratifying the same." Not among people; it was "between States." And this proposal was put forward "by the unanimous consent," not of delegates assembled or of people gathered, but by "the unanimous consent of the States present..." 17th day of September in the year of our Lord 1787.

Some plain evidence of the instrument itself, it is therefore clear: States consented to the drafting of the Constitution; States undertook to bind themselves by its provisions. If 9 States ratified, the Constitution would bind those 9; if 10, those 10. Rhode Island had not even attended the convention; "poor, despised Rhode Island," as Patrick Henry later was to describe her, could stay aloof if she chose. There was no thought here of people in the mass. There was thought only of people as States, and while the new Constitution would of course act directly upon people—that was to be covered, because Congress would reach those people only because they first were people of States.

The present surmise is that for the State, as a ratify; then the people of the State would become themselves subject to the new Constitution. As such a man being, in his own capacity, possibly could assert to the new compact or bind himself to its provisions. Only as a citizen of Virginia or Massachusetts, if a State, could he become a citizen also of the United States.

Madison recognized this. He acknowledged in 1837 that ratification of the Constitution must come from the people "not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belonged." "Edmund Stone," he said, in ratifying the Constitution, "is considered as a sovereign body, independent of all others, and only as such subject to the general Government." This fact lay at the essence of the Federal Union being formed. The States, and within them their local governments, were each sovereign, each subject to their respective spheres, to the general authority, than the general authority is subject to them. The jurisdiction of the Federal Government was to extend "to certain enumerated objects only, and those only in the most explicit and inviolable sovereignty over all other objects." Even the most casual reading of the Constitution, it may be submitted, abundantly supports Madison's comment here.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield for a question?

Mr. THURMOND. I shall be glad to yield to the able Senator from North Dakota for a question. Mr. LANGER. I should like to ask whether at any time in the history of South Carolina the courts permitted a defendant to be tried without a jury. Mr. THURMOND. In 1789, South Carolina adopted the Constitution, in the summer of 1787, had no knowledge of how many states would assent to the compact.

Mr. LANGER. In what year was South Carolina admitted to the Union? Mr. THURMOND. It was one of the original colonies, was it not?

Mr. LANGER. Is that also true in North Carolina?

Mr. THURMOND. That is correct, and rightly so, because that was one of the original colonies. I yield.

Mr. LANGER. Is it true that in every State of the United States a defendant charged with a crime has the right to a trial by jury. Some persons confuse magistrate courts or minor courts, but even there, although we may not see it, there is a jury.

Mr. LANGER. That is true, for example, if a man is arrested and charged with spitting on the sidewalk or with stealing one cent?

Mr. THURMOND. Any crime.

Mr. LANGER. In other words, trial by jury is fundamental?

Mr. THURMOND. That is correct; and rightly so, because that was one of the original colonies. I yield.

Mr. LANGER. Is that also true in North Carolina?

Mr. THURMOND. In 1789. It was the eighth State admitted to the Union. Mr. LANGER. Mr. President, will the Senator from South Carolina yield further for a question?

Mr. THURMOND. I shall be pleased to yield for a question.

Mr. LANGER. Even at that time in South Carolina had the defendant had the right to a jury trial, did he not?

Mr. THURMOND. That is correct.

Mr. LANGER. That has been the law continuously up to the present time.

Mr. THURMOND. That is correct.

A defendant in South Carolina is always entitled to a jury trial when charged with a crime.

Mr. LANGER. Is that also true in North Carolina?

Mr. THURMOND. I would not attempt to speak for North Carolina, but I believe nine States ratified the Constitution before North Carolina did. So North Carolina came in after the Union was formed. So did Rhode Island. Rhode Island was the only State that did not ratify the Constitution at the Constitutional Convention in Philadelphia in 1787. The reason for that was that Rhode Island was in the hands of radicals at that time and it did not send any deputies.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield.

Mr. LANGER. Is it true that in every State in the United States under our Constitution a defendant has the right to a trial by jury in a criminal case?

Mr. THURMOND. In every State of the United States a defendant charged with a crime has the right to a trial by jury. Some persons confuse magistrate courts or minor courts, but even there, although we may not see it, there is a jury.
Mr. LANGER. Mr. President, will the Senator yield further for a question?

Mr. THURMOND. I will yield for a further question.

Mr. LANGER. Is it the opinion of the Senator from South Carolina that all of the 10 amendments in the Bill of Rights the very heart and very core of the Bill of Rights, in other words, if there should be cut out of the Bill of Rights the right of a trial by jury you have cut the heart of the Bill of Rights? That is the importance attached to it. It is generally spoken of as the heart of the Bill of Rights. In other words, if there should be cut out of the Bill of Rights the right of a trial by jury you have cut the heart of the Bill of Rights out; it would be excised.

What is it to have freedom of speech or freedom of religion or freedom of the press or right to petition the Government or the right to assemble, all of which are guaranteed by the Bill of Rights? All of which are protected, so to speak, troops of being quartered in our homes, or all the other things guaranteed by the Bill of Rights, if some tyrant, whether a Federal district judge, or any other kind of tyrant, can take a man and put him in prison; and, of course, if a man is in prison he cannot enjoy his civil rights?

Mr. LANGER. Mr. President, I think the distinguished Senator from North Dakota has manifested an unusual interest in this matter. The able and distinguished Senator from North Dakota has manifested an unusual interest in the right of trial by jury. He has the vision to see the importance of trial by jury, and the distinguished Senator from South Carolina is the right of the defendant to be tried by a jury?

Mr. THURMOND. All the 10 amendments known as the Bill of Rights are important, but I think the trial-by-jury provision is the heart of the Bill of Rights. That is the provision as generally spoken of is the defendant to be tried by a jury?

Mr. LANGER. Is it the opinion of the Senator from South Carolina that in his experience in South Carolina it is not possible that a man can get better justice from a jury than he can from a judge, no matter how honest and fair the judge may be?

Mr. THURMOND. Regardless of how fair and impartial the judge is or wants to be, it is my judgment from my experience on the bench for 8 years—and as I said for about half of that time I was in the Army during World War II—and then a trial by jury before then, since 1930 when I was admitted to the bar—and after I left the Governor's office in January 1951, I practiced until I came to the Senate—I consider that juries give fair verdicts, and I think it would be destroying the administration of justice if we should take any step to hamper or injure or interfere in any way the jury system of the United States.

Mr. LANGER. Again I want to thank the Senator.

Mr. THURMOND. Mr. President, I read further.

But the Constitution ought not to be read casually. Viewed from the standpoint of State and Federal relations, what does the Bill of Rights mean? What can it demand, before an ordinary mortal may explore the question, that he be ordained a constitutional lawyer or put on the chessboard of the judicial bench. Our Constitution is not the property of a juridical deity only. The laity may read it too, and with equal acuity understand. The terms are not ambiguous.

The first thing to note, perhaps, is that the words 'no' appear fewer than 94 times, either as proper nouns or pronouns. In the brief 6,000 words of the original 7 articles. The one theme that runs steadily through the whole of the instrument is the knitting together of States: It is a union that is being formed, and while the people are concerned for themselves and their posterity, the Constitution is to be established binding States.

Legislative powers, to begin at the beginning, are vested not in one national parliament of the people, but in a Congress of the United States. "The Congress" was chosen with precision; it repeated and extended only to those places "purchased by the consent of the legislature of the State" and that applies not only to military and naval installations but also to "other needful buildings."

Several provisions in section 9 merit attention. Article I, section 9, for instance, the power of Congress to be "the judges of the laws." One of the essential consequences without which the Constitution never would have been made was that the States could not be bound to any "intermediate" the appointment of officers and the authority to train their militia according to regulation established by Congress. The powers delegated to power of a federal government appear most fully, of course, in sections 8 and 9. The powers delegated to Congress are exclusive and unqualified powers. Thus, the Congress may raise and support armies, "but nothing in this Constitution shall prohibit the Congress from making reciprocal treaties with any State, or from granting to the States in any other Case a "national" or "federal" characteristic. They may establish uniform national qualifications for election to the Senate, but they did not. In Article I, section 9, it was provided that "the migration or importation of such persons as any of the States now existing shall think proper to admit," shall not be prohibited prior to 1800. Then follow seven paragraphs of specific restrictions upon the powers of Congress. The privilege of the writ of habeas corpus shall not be suspended; no bill of attainder or ex post facto law shall be passed; no direct tax shall be levied; no law shall impair the obligation of contracts; and this applies not only to mineral and naval installations but also to "other needful buildings."

In section 10, the States undertook to restrict themselves. No State shall enter into any agreement with another State shall coin money or make anything but gold and silver legal tender; no State shall enter into any agreement requiring the obliga-
Thus, the States reserved to themselves the right to levy tariffs on imports or exports sufficient to execute their inspection laws; and though the fact is often forgotten, the States even now retain the right of eminent domain. The eminent power they had claimed under the Articles of Confederation, to "engage in war," as the judiciary noted in the Northwest Ordinance, reposes in the States, and though it does not mean to deprive a citizen of a jury trial.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield to a question?

PRESIDING OFFICER (Mr. ELLINER in the chair). Does the Senator from South Carolina yield to the Senator from North Dakota?

Mr. THURMOND. I am pleased to yield.

Mr. LANGER. I am very curious. I ask the Senator from South Carolina whether he knows how the House of Representatives arrived at the decision to vote for a maximum of 45 days' imprisonment for any size; but that if the amount of imprisonment were longer than 45 days, or if the term of imprisonment were longer than 45 days, there must be a jury trial.

However, as I have understood in arriving at the compromise an attempt was made to get together on some provision; and the result was a monstrosity. It turned out to be an unconstitutional provision, in my opinion.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield again?

Mr. THURMOND. I am glad to yield.

Mr. LANGER. What I should like to know is this: Is there any precedent, other than the Articles of Confederation, to which the distinguished Senator from California [Mr. KNOWLAND] can correct me about this if I am mistaken—that there was an effort on the part of the Republicans to provide for a maximum of 45 days. But, since the Senate had not voted for any provision of this sort, but had voted only for a straight jury-trial provision, 45 days was selected as a compromise. The term of imprisonment in school can read it and understand it, and there should not be any difficulty in understanding it.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield again?

Mr. THURMOND. I know of no place in the United States where a person charged with a crime does not have the right to have the jury determine punishment for a crime. The decision in that case holds that the Constitution provides to the States, and the States are just as plain as they can be. They are listed in the Constitution.

The States entered into this pact, the Constitution, about which we are talking so much, and in this pact they delegated to the Union only certain things, and the State laws as plain as they can be. They are listed in the Constitution. I should like to read to the distinguished Senator what the Constitution says on that point.

Article I, section 1, provides:

All legislative powers herein granted shall be vested in the Congress of the United States, which shall consist of a Senate and House of Representatives.

I will not take the time to go through all that. I will skip to the pertinent portions.

Section 7 of article I provides:

All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills. Every bill which shall have passed the House of Representatives shall, before it becomes a law, be presented to the President of the United States; if he approves, he shall sign it, but if he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal and return the bill to the House that originally passed it after such reconsideration, two-thirds—

I will skip to section 8. That is more pertinent. This is what the Constitution has power to do. The powers are listed.

The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises
shall be uniform throughout the United States.

To borrow money on credit of the United States;

To regulate commerce with foreign nations and among the several States, and with the Indian tribes.

The PRESIDING OFFICER. Will the Senator suspend to receive a message from the President of the United States? Mr. THURMOND. Certainly.

MESSAGE FROM THE PRESIDENT
A message in writing from the President of the United States submitting nominations was communicated to the Senate by Mr. Miller, one of his secretaries.

EXECUTIVE MESSAGE REFERRED
As in executive session.

The PRESIDING OFFICER laid before the Senate a message from the President of the United States submitting the nomination of Edward L. McCarthy, to be United States marshal for the district of Rhode Island, which was referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE
A message from the House of Representatives, by Mr. Maurer, one of its secretaries.

EXECUTIVE MESSAGE REFERRED
As in executive session.

The PRESIDING OFFICER laid before the Senate a message from the President of the United States submitting the following bills and joint resolution of the House:


H. R. 3468. An act for the relief of J. A. Ross & Co.; and

H. J. Res. 374. Joint resolution for the relief of certain aliens.

CIVIL RIGHTS ACT OF 1957
The Senate resumed the consideration of the amendments of the House of Representatives to Senate amendments Nos. 7 and 15 to the bill (H. R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

The PRESIDING OFFICER. The Senator will proceed.

Mr. THURMOND. I continue to read from the Senate's amendment.

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.

Congress would not have the power to pass bankruptcy laws, indeed Congress could not pass a law on any subject except for the power given to it by the Constitution. This provision I have read is the basis for our bankruptcy law.

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

To provide for the punishment of counterfeiting the securities and current coin of the United States.

To establish post offices and post roads.

That is your authority for the Federal Government to act in that field.

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

To constitute tribunals inferior to the Supreme Court.

That gives authority to Congress to establish certain courts of appeals and district courts. They are inferior tribunals, that is inferior to the United States Supreme Court.

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations.

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

To raise and support armies, but no appropriation of money for that purpose shall be for a longer term than 2 years.

But no appropriation of money for that purpose shall be for a longer term than 2 years. We cannot appropriate money for the Defense Establishment for more than 2 years because the Constitution limits it. If we should attempt to do that, we would go beyond the Constitution.

I think that is a suggestion which may apply to foreign aid. If we should commit ourselves for 5 years or 10 years, I think that would be unconstitutional. But some of the defense items are classified under the term "foreign aid."

To provide for organizing, arming, and disciplining the militia, and for governing thereof; to provide discipline prescribed by the Constitution.

I want to read that last part again.

To provide for raising and supporting armies, but no appropriation of money for that purpose shall be for a longer term than 2 years.

That gives authority to Congress to execute the laws of the United States.

To raise and support armies, but no appropriation of money for the purpose shall be for a longer term than 2 years. We cannot appropriate money for the Defense Establishment for more than 2 years because the Constitution limits it.

I think that would be unconstitutional. If we should attempt to do that, we would go beyond the Constitution.

We have the income-tax amendment to the Constitution. The 16th amendment to the Constitution provides that Congress can levy an income tax. That is the only authority in the Federal Government to impose taxes. Congress does not inherently have that authority. The Federal Government can do only what the States gave it the authority to do, and it has entered into the compact in Philadelphia in 1787, and the amendments which have been adopted since then. Two years later, in 1789, the States adopted the 10 amendments known as the Bill of Rights, for which there was so much sentiment. I do not believe the Constitution would have been ratified if the delegates to the Convention had not promised the Bill of Rights would be submitted, and it was submitted and adopted 2 years after the convention, in 1799.

No tax or duty shall be laid on articles exported from any State.

No preference shall be given by any Regulation of Commerce or Revenue to the ports of any State over those of another; nor shall vessels bound to, or from, one State enter another State, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of receipts and expenditures of all public money shall be published from time to time.
That is the only reason the States do not impose duties on some articles; otherwise they would probably do it, but under the Constitution they cannot do it.

No title of nobility shall be granted by the United States: And no person holding any office of profit or trust under them, shall without the consent of the Congress, accept of any present, emolument, office, or title if any kind whatever, from any king, prince, or foreign state.

In other words, if I were an ambassa-
don in London and the Queen of England wished to confer on me a title or wished to give me extra compensation for some reason, I could not take the title or compen-
sation unless Congress permitted it. Congress would have to pass an act to permit it.

Sec. 10. No State shall enter into any treaty, alliance, or confederation; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

In other words, that goes right down the line to support the point I make.

The whole policy I am suggesting to you provides as clearly as possible what the Federal Government can do. What hurts me is to see some distin-
guished Members of Congress, able men who believe in the division of powers between the Federal and State Govern-
ments—or I always thought they did—going along with the bill, because this is a bill that takes power away from the State and gives it to the Federal Gov-
ernment.

The matter of elections is left up to each State. That power was not dele-
gated. The qualifications for electors, the holding of elections, and all relevant matters, were reserved to the States. There has been a movement, I under-
stand, to get the Congress to pass a bill eliminating the poll tax. I believe I told the Senate this morning, or this after-
noon, that the present law as it stands has been recom-
manded that the poll tax be removed in my State, and it was removed. But Congress may not pass a law to do it. It could do it, but it would be under the provision that there is a provi-
sion of the Constitution which states that the qualifications of electors shall be left to each State. Therefore, New Hampshire has qualifications and, if the people of that State wish to make as a qualification for voting in that State the payment of a poll tax, they have a right to do so. The only way such a measure can be passed is if it were going to be the law nationwide, would be for Congress to submit an amend-
ment to the Constitution eliminating the poll tax.

Senator from Florida [Mr. Hot-
lan] has now pending a proposed con-
stitutional amendment to eliminate the poll tax, amending the Constitution. To do that would be legal; it would be constitu-
tional, and it would be proper. Personally I think it is better to leave to each State the power to fix the qualifi-
cations for voting of its citizens. In my State, as I have said, we have very high qualifications. We have or heard much about people in my State not vot-
ing. I believe more people vote in my State than vote in New York, because New York has a much higher standard of qualifications for voting. That State requires, I be-
lieve someone said, a high-school edu-
cation. Someone else said it requires a grade-school education. It is certainly one of the two. In my State we require only that a man be able to read and write the Constitution, or that he own $300 worth of assessed property. So our re-
quirements for voting are not stringent. They are not nearly as strict as they are in New York. I do not believe the requirements in the State of the Senator from North Dakota.

A few years ago I was Governor of South Carolina. At that time a bill was going along with the bill, because this is a bill pending in Congress to remove the poll tax on a nationwide basis. Congress was to do it. It would have been just as unconstitutional as this so-called amendment, which the proponents are try-
ing to get it through the Congress, to deprive the people of a jury trial.

Mr. LANGER. I thank my distin-
guished friend.

Mr. THURMOND. The Senator is welcome.

Mr. President, I do not believe that American history is taught sufficiently in our high schools and colleges. I do not believe that course in government is taught in our high schools and colleges. I come in contact with a great many in-
telligent people, people who have been taught in our high schools and colleges, have made a great deal of money, and many others; yet they do not know the fundamentals of the Constitution. It is because they have not studied it. I think the people of this country would be wise to study the Constitution. I think it is more im-
portant today than ever before for the people to study it and be able to delineate the powers of the Federal Government, and learn what the Federal Government has not the power to do.

For example, the Congress has no power to abolish the poll tax as a pre-
requisite for voting, because the qualifi-
cations for voters are left to each State. There are a great many things which Congress cannot do. Yet pressure is brought on Members of Congress, and they vote for certain measures anyway, because of the pressure.

Why do Senators think this so-called compromise on the civil rights bill is be-
ing pressed? Why is there any civil rights bill before us? Why call this a measure a right-to-vote bill? It is a per-
fet farse. It is not a right-to-vote bill. As I have stated, every State in the Union has statutes providing for the right to vote. The Federal Government has statutes providing for the right to vote.

Why is such a bill as this being con-
sidered at this time? Because there are groups in Congress trying to do so. Some Members of Congress at-
ttempted to do so, even though they were doubtful of the constitutionality of the measure. The Senator from Wyoming [Mr. O'Manley] stated earlier in the day that he did not think the jury trial amendment which was put in the com-
promise bill in the House was constitu-
tional, and the Senate amended it.

I would rather see him vote against it now. If the bill should pass anyway, he could later offer his amendment. But if a bill is unconstitutional, I think it is better for us not to vote for it. I think Members of Congress must develop stamina, fortitude, and courage to resist pressures, and to stand by the Constitu-
tion. If we stated earlier in the day that we would whittle away the rights of the States until, after a while, the States will not have any rights. There will be a powerful Central Government, but it will be a monster, too. Everything will radiate from Washington.

I understand there is a movement on foot to establish a national police system. It is not a law-enforcement agency. Congress would not have the right to establish a na-
tional police agency, because under the Constitution the police power is re-
served to the States.

However, this investigative agency, the FBI, is in a different situation. It does not depend on the pendulum of polls and pressures to control criminals and works with the States, and cooperates in the execution of Federal laws, apprehending violators and bring-
ing them to trial. But it is not a police agency. I am glad that Mr. J. Edgar Hoover said that he was opposed to a national police system. I am sorry to see that the President has been recom-
manded to pass a bill which would aid to education by way of construction of school buildings. I have been amazed at the fact that so many people are not acquainted with the fact that in the en-
tire Federal Constitution there is not a sentence which contains the word "edu-
cation." The word "education" is not to be found in the United States Constitu-
tion. Therefore, since the States did not do it, the Federal Government, the Federal Gov-
ernment has no jurisdiction in that field, unless we amend the Constitution and give the Federal Government jurisdic-
tion in the field of education.

We can amend the Constitution. We can follow one of the four methods of amending the Constitution, and give the Federal Government authority in that field, if that is the wise thing to do, which I do not think it is. However, that is the way it must be done. We have no authority to appropriate money for Federal aid to education. I know that the President's intentions are good. However, at Columbia University several years ago he was against Federal aid to education. At any rate, it would be a mistake for the Federal Govern-
ment to enter the field of education.

After we begin giving money for Fed-
eral aid to education by way of construc-
tion, the next demand from the powerful groups in the National Education Association, which I understand is building a tremendous office building in Washington, will be for a supplement to the salaries of teach-
ers. The National Education Association will bring pressure on Members of Congress as do all pressure organizations, and will say, "We need supplements to teachers' salaries."
When we enact legislation for Federal aid to construct the buildings, and to provide supplements to teachers' salaries, the Federal Government will be asked to pay a larger share of such salaries, and there will be more and more control to go with it. Before we know it, there will be Federal control of education, and the parents of the Nation will find their children studying books selected in Washington, instead of by the people in Delaware, North Dakota, and South Carolina.

It is a mistake for us not to follow the Constitution. If the Constitution needs amending, we can amend it. There is a provision for amending it, and it should be amended from time to time. There are amendments that have been adopted. In 1789 the first 10 amendments were adopted. Since then 12 other amendments have been adopted. There are now 22 amendments to the Constitution.

We were talking about the 16th amendment awhile ago, the income-tax amendment. I think most people feel that it is necessary, although the income tax argument is high. Therefore there had to be a way to bring it about. Congress could not pass an income-tax law. It had no authority to do so until the Constitution had been amended to give Congress the power to do it.

I think it is important to understand what we mean by the division of powers between the Federal Government and the State governments. We have a compound Republic because there are Federal powers and State powers. There are three branches in the Federal Government, each of which checks on the others, with the exception of the Supreme Court. It has practically no check on it, and it has gone wild.

There are three branches in the State governments. Each is supposed to be a check on the other. Each has a check on the others, with the exception of the Supreme Court. It has practically no check on it, and it has gone wild.

There are two checks on the Supreme Court. In the first place, we can impeach Supreme Court justices. However, unless impeachment itself is unconstitutional and the Senate sits as a jury to hear the case, so, there is not much the Senate can do from that standpoint.

The other one is that, under the Constitution, the appellate power of the Supreme Court can be controlled by the Congress, so that if Congress saw fit to pass a bill to limit the appellate power of the Supreme Court, Congress would have that right. Therefore there had it the power to do that. Many persons think we have to amend the Constitution before we can do that.

Mr. KNOWLAND. Mr. President, will the Senator from South Carolina yield for a question?

Mr. THURMOND. I yield for a question.

Mr. KNOWLAND. Would the Senator say that would be a form of cruel and inhuman punishment to impose upon his colleagues?

Mr. THURMOND. I would say it is cruel and inhuman punishment to impose on the citizens of America if we pass a bill without providing for a jury trial.

-Manifestations of applause in the galleries.-

The PRESIDENT PRO Tempore. The galleries will be in order.

Mr. THURMOND. I have received letters from a number of States, and I have been in California. I spent a week there in the fall of 1953. Starting at Los Angeles, and worked my way to San Francisco, I addressed all the way up the coast. I even went to Bakersfield and saw an old friend of the Senator from California. We talked with many persons there. Unless they had a change in sentiment, they think, just as the people of South Carolina do, that there should be jury trials.

Mr. KNOWLAND. Mr. President, will the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield for a question.

Mr. KNOWLAND. Does the distinguished Senator also think that the people of California are interested in the 15th amendment to the Constitution, assuring all American citizens the right to vote?

Mr. THURMOND. I am sure that the people of California are, and I am sure the people of South Carolina are. The people of South Carolina have done nothing to interfere with the people of California. Last night, when the distinguished Senator from California was resting comfortably, I was speaking here and trying to rouse the people of America to see that California was not getting away their right of trial by jury. I placed in the Record the statutes of California on that subject, and here is what they provide:

California: Unless otherwise designated, references are to Elections Code Annotated—West's—1955.

"Hindering public meeting: Every person who, by threats, intimidation, or unlawful violence, willfully hinders or prevents electors from assembling in public meetings for consideration of public questions, or who passes out books, pamphlets, handbills, or other printed matter to be handed out, is guilty of the misdemeanor of hindering public meeting (Penal Code, sec. 11500)."

"Penalty: Any corporation guilty of intimidating a voter shall forfeit its charter (Penal Code, sec. 11586).

"Misdemeanor: Unless a different penalty is prescribed, a misdemeanor is punishable by a fine of not more than $600, or by both (Penal Code, sec. 1198)."

"Scope of penalty provisions: All penalty provisions listed above apply to both federal and state elections and primary elections (sec. 11500)."

Those are statutes of the State of California, and they are good statutes.

Mr. KNOWLAND. Mr. President, will the Senator from South Carolina yield for another question?

Mr. THURMOND. I yield for a question.

Mr. KNOWLAND. Does the Senator not recognize the fact that under the voting rights bill which the Senate is attempting to pass but which the Senator from South Carolina has, for the moment, successfully prevented the Senate from passing, there is not a single voter who can be cited for either civil or criminal contempt if another American citizen is deprived of his right to vote under the Constitution? So, if the Senator from South Carolina is right, no person is deprived of his right to vote in his State—and I feel certain that no American citizen is denied the right to vote in my State—nor South Carolina would cite any public official or other person criminally unless they were depriving people of their right to vote under the laws of the State.

Mr. THURMOND. I think some part of the Union could nullify the Constitution, just as I think some juries turn loose some defendants who are guilty. Some judges will make mistakes, too. Why do we not let the States alone and let them handle their own problems? I know the southern people and I know they are doing all they can for the Negro.

I see my friend the Senator from Kentucky [Mr. COOPER] sitting next to the Senator from California, and I see that his State is doing all it can. I know the State of Mississippi, from which come my good friends, Senator Eastland and Senator Gravel, is doing all it can. We cannot change currents unless we have to let the local people work these things out. But Congress did not care to let the local people work these things out.

All that is necessary is to have enforcement of the Federal statute. There is a Federal statute, to which I called attention today. For the benefit of Senators who were not here at the time, I want to say that this statute provides that whoever intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, any person, for the purpose of interfering with the right of such other person to vote, or to vote as he may choose, is guilty of a crime, punishable by a $1,000 fine or by imprisonment of 1 year.

Mr. COOPER. Will the Senator yield?

Mr. THURMOND. I yield for a question.

Mr. COOPER. Does the Senator know that there has never been any question, since the War Between the States, about the Negro population in

August 29
Mr. THURMOND. I have never heard any question about it. I simply say that in my State the Negroes are voting in large numbers. They claimed the credit for carrying the election for Stevenson in 1952, and at that time there were 32,000 Negroes. They claimed they cast more than 80,000 votes, which was about 25 percent of the total. Their own newspaper contained that information. I have a clipping from the Lighthouse, the Light House, and Informer. So they are certainly voting in my State, and I am sure they are voting in the Senator's State.

Is it not better to let the local people work out these problems, rather than to rush things on them, and try to change their customs overnight?

As a matter of fact, if you gentlemen want to take any action, however, if the provisions of this bill are not satisfied, then the governors and the other officials are the chief executive officers of the States and are responsible for enforcing the law—or if the Federal Government is not satisfied with the enforcement being given by the governors to the voting laws of the States to protect the rights of people to vote, then why do they not enforce the Federal statute, which is already on the books?

Mr. THURMOND. I am sure that is the case, because I have heard that they were voting in Kentucky in large numbers in larger numbers than ever before. No persons in my State are deprived of the right to vote. If they are qualified to vote, they are allowed to vote. Of course, not all Negroes are qualified to be allowed to vote. New York State has a much higher standard, as I said a while ago, than we have. If a person can merely read or write in my State, he can vote. In New York one has to be a high-school graduate, I believe or at least has to meet a literacy test. So we are not nearly so strict in South Carolina as they are in New York.

The Senator from North Dakota what he would do. Suppose he were to find himself in such a situation; and suppose the judge were to say to him, "Mr. LANGER, I will not give you a jury trial." He might say, "I will try the case myself." Then, under the provisions of the compromise measure, the judge would try the case; and the person being tried could not complain.

What would the Senator from North Dakota do under those circumstances? Then, under the compromise measure, the judge would have a right to try him under the provisions of the compromise measure which has come to us from the House of Representatives.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield for another question?

The PRESIDING OFFICER. Mr. Freak in the chair. Does the Senator from South Carolina yield to the Senator from North Dakota?

Mr. THURMOND. I shall be pleased to yield for a question.

Mr. LANGER. As much as section 594 is on the statute books, why is not this right-to-vote bill entirely superfluous?

Mr. THURMOND. Mr. President, the Senator from North Dakota has put his finger on exactly what I have been discussing in the Senate for—let me see, Mr. President, how long has it been?

The PRESIDING OFFICER. Twenty-one hours.

Mr. THURMOND. No; Mr. President, it has been 22 hours and 10 minutes.

Mr. LANGER. Mr. President, will the Senator from South Carolina have the floor?
Mr. THURMOND. If there has been one, I have not heard of it. I would not say there has not been one in some cases, but that is a case of that sort which has been tried in the Federal courts. Some have been tried in the State courts; we are enforcing our State laws.

But I have not heard of a case in which anyone has been tried under this Federal statute—which carries with it a heavy penalty, namely, a fine of $1,000 or imprisonment in jail for 1 year. I have never heard of anyone who has been tried under that law. But, Mr. President, of course I am not surprised at that, because in South Carolina, everyone who wishes to register and to vote, does register and does vote, if he is qualified. So I do not think it likely that there would be any cases of that sort in South Carolina.

Mr. President, there have been instances when the Southern States are doing anything wrong; people the right to vote. I think insinuations about any States should stop—whether that be Northern States, Southern States, Eastern States, or Western States. All of us are Americans. We have a great country. In all the wars the United States has ever fought, the United States has had brave soldiers from all sections of the country. It is very bad to have people in one section of the country try to snipe at people in another section of the country. That is the very thing George Washington warned against in his Farewell Address.

Mr. LANGER. Yes, I am familiar with that admonition by George Washington.

Mr. THURMOND. Mr. President, if anyone in the South has been intimidated or coerced or threatened with regard to voting—if anyone in any Southern State has been treated in that way—the district attorney in the State can take action any day he wishes to; and if the Department of Justice does not do it, the Senator from South Carolina, or the Senator from any other State, can do it under the statute.

So evidently there have not been any violations of that sort in the State of South Carolina. No one has complained about them. As a matter of fact, I am quite sure that there have not been any violations of that sort in my State, because, as I have said, anyone who wishes to vote, and who is qualified to vote, and who registers, can vote.

Mr. President, I should like to read what George Washington said.

Sometimes, Mr. President, when I see the able and estimable [Mr. Cooper] sitting in his seat in this Chamber—a able judge and lawyer, and a fine soldier in World War II; and when I see in the Chamber the distinguished Senator from Michigan [Mr. Potter], who lost both of his legs in that war; and when I see my other fellow veterans who are distinguished Members of the House of Representa tives, and then when I see matters of a sectional nature brought up here, and when one group wishes to try to have enacted into law a measure aimed at punishing another section of the country, it makes my heart ache. My colleagues who are veterans did not feel like that when they were serving in the Armed Forces overseas; they did not feel that way when they were in uniform. If the Members of Congress from various sections of the United States would just accord to all the other States in the same respect that they expect to have accorded to their own States I am sure that we would not be having this trouble; and then I would not have been getting up here on this subject for more than 22 hours in an effort to arouse the American people.

The PRESIDING OFFICER. For 22 hours and 10 minutes.

Mr. THURMOND. No, Mr. President, for 22 hours and 30 minutes. (Laughter.)

I would not be trying to arouse the American people if it were not necessary. But why should the North want to pick on those of us who live in the South? Why do the people in New York want to pick on us? Why do the people in New Jersey want to pick on us? Or why should the citizens of the country want to pick on us? We think we are fairly good people. We think we are patriotic. The Members of Congress from the Southern States want to extend every courtesy to every other Member of Congress, and I want to see those who live in the Southern States return the same courtesy that they expect to have extended to themselves.

But, Mr. President, I can tell you this: This right-to-vote bill—and I say this because I know something about its history—is aimed at the South. It is aimed at the South; and it hurts me to see that, because South Carolina is not guilty, and this bill should not be enacted. I do not believe the other Southern States are guilty. The Southern States have done their part in every war that has been fought. The Members of the Southern States have fought for their country and have served in public office in every way. They have been honorable people.

In order to try to win the votes of certain minority blocs, some pressure groups are willing to punish us, to put us under the heel, and to grind and grind and grind us. I am getting tired of it. I want to intimate that there was any intention upon the part of the Senator from Ken tucky [Mr. Cooper] to show any bias or prejudice toward his own people in the South.

Mr. THURMOND. I am sure that there was not, Senator.
Mr. COOPER. Does the Senator remember?

Mr. THURMOND. I remember, and I am the Senator from Kentucky; he is one of the finest and most gracious gentlemen I have known.

The Senator from Kentucky is not one of those ardant proponents of the bill who try to say that the bill is constitutional. I do not know how he is going to vote, but he is a good constitutional lawyer. I hope he will not vote for it. I hope he will think over the jury trial issue and vote for it.

He has not been one of those who has been bating the South.

Mr. COOPER. The Senator from Kentucky is a good friend of the Senator from South Carolina, but the Senator from Kentucky will vote for civil rights. He intends to vote for the bill this evening or at some later time.

The debate he said again and again that he believes in the juries in the South, and that the people of the South would respect the law and would follow the law. I am sure the Senator from South Carolina will vote against the Senator from Kentucky said that.

Mr. THURMOND. I am sure he did say that.

The only thing is that if the Senator feels that the South obeys the law, I do not understand why he should want to have this bill passed.

I will get on with what George Washington said.

Mr. President, George Washington, in his Farewell Address, used his strongest language against those who would divide our country; he urged a union of spirit.

He said:

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by geographical discrimination—northern and southern—Atlantic and western; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular divisions of the country, is the open up the question of the public happiness.

You cannot shield yourselves too much against the jealousies and heartburnings which spring from these mistaken speculations; and tend to condemn alien to each other those who ought to be bound together by fraternal affection.

That was George Washington speaking.

George Washington wanted to see the people from the North to the South, and to the East and the West, bound together with a fraternal feeling. He wanted a fraternal attitude manifested. We are not trying to have a real difference of local interests and views. One of the expedients of party to acquire influence within particular divisions of the country, is the open up the question of the public happiness.

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deserve to be treated as such." And he adds, at another point, that:

"There is no position which depends on excellence so entirely as that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, of powers, may do not only what their powers are greater than his principal;—that the branches of the Federal Government—the legislative, executive, and judicial, no less than the legislative, are void. No legislative act, therefore, of powers, may do not only what their powers do not authorize, but what they forbid.

Surely, it may be urged that precisely the same prerogatives could be exercised by the other branches of the Federal Government—the executive and judicial no less than the legislative. By extension, thus, judgments of the Court, to be supreme law of the land, must be made pursuant to the Constitution. A judgment of the Court, so violent, so far from being an excellent construction of the Constitution as to invade the residuary powers of him, is greater than his principal;—that the branches of the Federal Government—the legislative, executive, and judicial, no less than the legislative, are void. No legislative act, therefore, of powers, may do not only what their powers do not authorize, but what they forbid.

Finally, this brief examination of the Constitution may be concluded with a second look at article VII. It should be read carefully, for this is the clause that binds: "The ratification of the conventions of 9 States shall be sufficient for the establishment of this Constitution between the States so ratifying the same."

Thus, on September 17, the Convention concluded its work. George Washington, President of the Convention, transmitted the document to the Congress. A prophetic letter was written, which has been called the Compromises necessary for the surrender of sovereign powers: "It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved." The States had done the best they could through their delegates. Eager to consolidate their Union, each State had been disposed "to be less rigid on points of inferior magnitude than might have been otherwise expected." They launched the ship.

"Well, Doctor," said the lady to Mr. Franklin, "what have we got, a republic or a monarchy?" "A republic," replied the doctor, "if you can keep it."

It is pretty hard to keep when bills are introduced to violate the Constitution by chipping off and whittling away the rights of the States in an effort, it seems, to reduce them to colonial status.

Continuing the quotation from the Kilpatrick book:

4. THE PROPHETIC MR. HENRY

We can look not only to the internal evidence of the Constitution itself, but to the debates in the Convention and the contemporary criticism, notably in the Federalist papers. We can look, also, to some of the most pertinent portions of the Supreme Court from time to time, and to the writings of scholars of our own day.

The evidence is overwhelming. By written comments, they agreed mutually to delegate certain of their sovereign powers to a Federal Government. They enumerated these powers. All other powers thereon were to be reserved to themselves, so these reserved powers did not need to be enumerated: the reserved powers constituted all inherent powers of sovereign States not specifically abridged.

So plain was this understanding, in reading comments of the period, of one in credibility that anyone should doubt it. "The Constitution," said Hamilton, "so far from implying an abolition of the State governments, makes them constitutional. The object hereby is to allow them a direct representation in the Senate, and leaves in their possession certain exclusive and very important portions of sovereign power."

So, too, said Madison:

"It is to be remembered that the General Government is charged with the whole power of making and administering laws. Its jurisdiction is limited to certain enumerated objects with which concern the members of the Republic, but both are not to be attained by the separate provisions of any. The subordinate governments, which can extend their care to all other objects which can be separately provided for, will retain their due authority and activity."

Neither Hamilton could quite imagine the Federal Government ever seriously encroaching upon the States. "Allowing the love of which any reasonable man can require," said Hamilton, "I confess I am at a loss to discover what temptation the provisions of the Constitution will be sufficient for the establishment of this Constitution between the States so ratifying the same."

Then he added, with a singular absence of prophecy: "The administration of private justice between the citizens of the same State, the supervision of agriculture and of other concerns of a similar nature, all those things, in short, which are proper to be provided for by local legislation, can never be desirable objects of Federal legislation; the extent of the General Government could ever feel to divest the States of the authorities of that care. The General Government can extend its care to all other objects which can be separately provided for, and retain their due authority and activity."

He preferred to assume that the Federal Government would be disinterested in the rights of the individual States, or, if the Constitution did not so exclude them, that the Federal Government would be disinterested in the States. For the States' understanding of what the Constitution was to mean to them, as States, we can look not only to the internal evidence of the pronouncements of the Supreme Court, but to the debates in the Convention and the contemporary criticism, notably in the Federalist papers. We can look, also, to some of the most pertinent portions of the Supreme Court from time to time, and to the writings of scholars of our own day.

In No. 45, Madison treated at considerable length the widespread apprehension that the States would be chafed. More than likely he was thinking of what he has to say about the election of Senators, for example, unhappily has been kept out of the Constitution by amendment. Some of his other observations, dealing with functions of what was to become the Bureau of Internal Revenue, the President's relation to the Congress, the power to form States, etc., would have length by which even a Madison could miss his guess. But as contemporary evidence of the Federalists' desire to keep the States "always take care to preserve the constitutional equilibrium between the general and the State governments."

In No. 45, Madison treated at considerable length the widespread apprehension that the States would be chafed. He said that the States could through their delegates. Eager to keep what bills are introduced to violate the Constitution by chipping off and whittling away the rights of the States in an effort, it seems, to reduce them to colonial status.

That is where he was wrong. In other words, Hamilton had no idea that the Federal Government would ever attempt to encroach on the rights of the States. In his day it looked to him as though the States would encroach on the rights of the Federal Government, and the Federal Government ever feel to divest the States of the authorities of that care. The General Government can extend its care to all other objects which can be separately provided for, and retain their due authority and activity.

They are trying to make of it a national government; it is not a national government; it is a Federal Government. The States came together in a federation and formed this Government. That is the conception which I hope we can get on the side of the States. But in recent years has been much more likely to beget a disposition too obsequious than too overbearing toward the people. On the other side, the component parts of the States have been much more like a disposition too obsequious than too overbearing toward them. The Senate will be elected absolutely and exclusively by the State legislatures. Even the House of Representatives, which is chosen immediately from the people, will be chosen very much under the influence of that class and those influences which obtain for themselves an election into the State legislatures. Thus, each of the principal branches of the Federal Government will owe its existence more or less to the favor of the State governments, and must consequently feel a dependence, which is much more likely to beget a disposition too obsequious than too overbearing toward them. On the other side, the component parts of the States have been much more likely to beget a disposition too obsequious than too overbearing toward the people. On the other side, the component parts of the States have been much more likely to beget a disposition too obsequious than too overbearing toward them.
beyond all proportion, both in number and influence. The same process, too, would be employed in the administration of the Federal system. Compare the members of the three great departments of the 13 States, exclusive of military, naval, and diplomatic officers of 3 millions of people with the military and marine officers of any establishment which is within the compass of probability, or, to put it another way, if the power were exercised at all, we may pronounce the advantage of the States to be decisive."

"The proper object of a government is to have collectors of revenue, the State governments will have theirs also. And as those of the former will be principally on the seas, and not very numerous, whilst those of the latter will be spread over the face of the country, and will be very numerous, the advantage in this view also lies on the same side. It is true, that the confederacy is to possess, and may exercise, the power of collecting internal as well as external taxes throughout the States; but it is probable that this power will not be resorted to, except for supplemental purposes of revenue; that an enumeration of the powers given to that end by the confederacy will supply their quotas by previous collections of their own; and that the eventual collection of the State governments, with the Union, will generally be made by the officers, and according to the rules, appointed by the several States.

"The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain to the States are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; the latter, on those objects only in so far as the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

"The operations of the Federal Government will be most extensive and important in those concerns which, by the Constitution, are committed to the United States in times of peace and security. As the former periods will probably bear a small proportion to the latter, the States have great advantage over the Federal Government. The more adequate, indeed, the Federal powers are made to subsist in the defense, the less frequent will be those scenes of danger which might favor their ascendancy over the governments of the particular States.

"If the new Constitution be examined with accuracy and candor, it will be found that the change which it proposes consists much less in the addition of new powers to the Union, than in the invigoration of its original powers. The regulation of commerce, the war and peace, the army and revenue, are powers essentially equal to the exigencies of the Articles of Confederation. The proposed change does not enlarge these powers; it only substitutes a more effectual means of executing them."

"Even John Marshall, who did more than any man in our history to magnify the Federal Government and to weaken the Constitution by the abuse and misappropriation of divided powers. Consider, briefly, his comment in the famed case of McCulloch v. Maryland. The Federal government established the Bank of the United States, and Maryland undertook to levy a tax upon the bank's Baltimore branch: James Madison, the Virginia railroad baron, refused to pay the tax, and Maryland sued.

"The legal questions were two: Did Congress have power to incorporate the bank, and then assess the states and the states to tax it? Marshall answered the first one "Yes," the second, "No." With the bulk of his reasoning, he rendeth unto the people of States rights will disappear: Marshall's sophisticated mind did not bog by stretching "necessary" to mean "conven- thout the actual act of ratification by which the Union was formed, Marshall was not much impressed by the fact, that the people of States met in state conventions. "Where else should they have assembled?" he asked. But even here, a couple of sentences merited quotation as evidence from the States' greatest detractor."

"It is true, [the people] assembled in their several States—and where else should they have assembled? No political dreamer was ever wild enough to think of breaking up the lines which separate the States, and of composing a single American people into one common mass. Of consequence, when they act, they act in their States."

"No, we have two kinds of governments. "States" and "State governments," thus set up a convenient strawman to better show the change which it proposes. Marshall, with a glittering display of intellectual swordsmanship, neatly discovered the insidious consistent objection. Then he went on to say:"

"This Government is acknowledged by all to be one of limited powers. The principle that it is exercised over the people is, and the power of combination will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

"The operations of the Federal Government will be most extensive and important in those concerns which, by the Constitution, are committed to the United States in times of peace and security. As the former periods will probably bear a small proportion to the latter, the States have great advantage over the Federal Government. The more adequate, indeed, the Federal powers are made to subsist in the defense, the less frequent will be those scenes of danger which might favor their ascendancy over the governments of the particular States."

"If the new Constitution be examined with accuracy and candor, it will be found that the change which it proposes consists much less in the addition of new powers to the Union, than in the invigoration of its original powers. The regulation of commerce, the war and peace, the army and fleets, treaties and finance, with the other more considerable powers, are powers essentially equal to the exigencies of the Articles of Confederation. The proposed change does not enlarge these powers; it only substitutes a more effectual means of executing them."

"Even John Marshall, who did more than any man in our history to magnify the Federal Government and to weaken the Constitution by the abuse and misappropriation of divided powers. Consider, briefly, his comment in the famed case of McCulloch v. Maryland. The Federal government established the Bank of the United States, and Maryland undertook to levy a tax upon
chains of consolidation, is about to convert this country into a powerful and mighty empire. In this government, what can avail the United States in the 20th century? Henry saw the empty prospect: "This Constitution is said to have beautiful features; but when I come to examine these features, sir, they appear to me horribly frightful. Among other deformities, it has an awful squinting; it squints toward monarchy; and does not this raise indignation in the breast of every true American?"

It was monarchical, per se, that Henry foresaw. And it was despotism at the hands of a general government that he feared.

"What are your checks in this Government?"

No one answered him accurately, though half a dozen members of the Convention, including M. de Lattin, repeated Madison's alleged apprehensions. Randolph, replying to the objection that the country soon would be too large for effective government from the capital, commented that "on earth seems to me too great," but he added, "provided the laws be wisely made and executed." It had proved to be a large qualification.

Madison also responded to Henry's general objection that the liberty of the people was in danger from the "new government," or mankind, he said, "I believe there are more instances of the abridgment of the freedom of the people, by gradual and secret encroachments of those in power, than by violent and sudden usurpations."

Follow closely what Madison had to say next. He is expounding the relationship of the State and Federal Governments as he, above all men, understood it.

"It is not and cannot be something of the nature of the Government. * * * There are a number of opinions; but the principal question is, whether it be a federal or consolidated Government. In order to determine the propriety of the question before us, we must consider it minutely in its principal parts. I believe it is of a mixed nature; it is in a manner unprecedented; we cannot find one express example in the experience of the world. It stands by itself. In some respects it is a government of a federal nature; in others it is of a consolidated nature. * * * Who are parties to it?"

Madison, especially, it was quoted earlier but it bears repetition: "The people—but not the people composing one great body; but the people composing the General Government." But he might as well have said that the States are parties to it.

Francis Corbin, one of the ablest political students of his time, then joined Madison in expounding the growing fear that the Federal Government would be "a mighty government. He could not accept the idea that this new government would be "a mighty government to us."

"Sir, I am made of so inconsiderable materials as to be easily intimidated. I do not see the manner in which it will satisfy me. I must be convinced, sir, I shall retain my infidelity on that subject till you give me perfectly satisfactory to my understanding."

This exchange occurred on Friday, June 16. The following Monday, Henry renewed his assault:

"A number of characters, of the greatest eminence in this country, object to this government in great national concerns. This is not imaginary. It is a formidable reality. It consolidation proves to be as mischievous to this country as it has been to other countries, what will the poor inhabitants of this country do? This government will operate like an ambush. It will destroy the State governments, and swallow the liberties of the people, without giving previous notice."

Madison came back with fresh replies and new remonstrances. The States were safely preserved by a Constitution. A Convention. And renewing the arguments he had advanced in the Federalist, "There will be a war between the State and Federal Governments."

It was utterly improbable—almost impossible—that the Federal Government ever would encroach upon the States. The States would have the power of disposing of the funds and emoluments, and in the number of persons employed by and depending upon the Government. A gentleman compare the number of persons which will be employed in the General Government with the number of those which would be involved? If the number of dependents upon the State governments will be infinitely greater than those upon the General, I may say, with truth, that there never was a more economical government in any age or country, nor which will require fewer hands, or give less influence."

Pendleton again gained the floor to tackle Henry's objection. We are told, he said, "that there will be a war between the two bodies equally our representatives, and that the State government will be destroyed, and consolidated into the General Government. I do not mean that the States will be destroyed, but their powers will be taken away. The two governments act in different manners, and for different purposes—the General Government in great national concerns, in which we are represented as members of the Union; the State legislature in our more local concerns. * * * Our dearest neighbors, the Virginians, are still in the hands of our State legislature."

Patrick Henry remained unconvinced. His opinion and Madison's were "diametrically opposite." The mild-mannered Madison said the States would prevail. Henry, a stiff neck, said the Federal Government would prevail. Bring forth the Federal allurements, he cried, "and the sedition laws will be productive of much mischief. Things that the State legislatures can bring forth. * * * There are rich, fat, Federal emoluments. Your rich, smug, fine, fat, comfortable Federal legislators, who collect these taxes and excises—will outnumber anything from the States. Who can cope with the constitutional officers of the States?"

Henry did not imagine that the dual governments could be kept each within its proper orbit. "I assert that there is danger of encroachments. He added, "because no line is drawn between the powers of the two governments, in many instances; and where interference is to be feared, it is in the one from encroaching upon the powers of the other. I therefore contend that they must intermingle and infringe each other. I must therefore subvert the State government as being less powerful. Unless your government have checks, it must inevitably terrify in the defection of your powers."

William Grayson, a burly veteran of the Revolution, was another member of the Virginia convention who clearly perceived the Federal Government's menace to the States. "Power ought to have such checks and limitations," he said, "as to prevent bad men from doing any thing they please. We have a supposition that men will be bad; for it may be eventually so."

Grayson was here discussing his apprehensions toward the powers vested by article III in the Supreme Court of the United States. "This Court," he protested, "has no connection with the States. The Court's appellate jurisdiction, especially, aroused his alarm: "What has it in view, unless to subvert the State governments?"

Mr. President, only in the past few months this Court rendered a decision which struck down the sedition statutes in 48 States and two Territories, merely because the Federal Government had a statute on sedition. The Supreme Court held that because of that fact, the Federal statute preempted the local, the whole field, and struck down the State statutes on sedition. Sedition means overthrowing the Government. That is the practical effect of it.

Sir, New York, Pennsylvania, was convicted under Pennsylvania law. He appealed his case to the United States Supreme Court, and the Court turned him loose, on the ground that when the sedition statute was enacted, that statute preempts the field. Thus it struck down all the State statutes on the subject. Forty-two States and two Territories had statutes on the subject.

Judge Howard calmly said the bar was, who was the author of the bill, said there was no such intention on his part when he introduced the bill. There was even a provision in the bill that the State laws should not be affected. Yet the Supreme Court struck down the sedition statutes in 42 States and two Territories. Nine men overruled the legislatures of 42 States, and would have overruled the State laws in all States if their statutes had been tested.

In New York a man named Slochter was employed by the City College of New York. The charter of the City College provides that if any schoolteacher takes refuge behind the fifth amendment, upon being asked by an official body about his Communist connections, he shall be automatically dismissed. He was questioned by an official body. He was automatically dismissed. But what happened? The Supreme Court reinstated him in his job. City College of New York had refused to fire him because of these nine men in Washington. Forty-eight State legislatures cannot have sedition statutes because of these nine men in Washington.
connections. Both of those men—one a former Communist, the other tied in with the Communists—were refused licenses to practice law, one in New Mexico and the other in California. But the nine men comprising the Supreme Court who decided the cases have to give the applicants their licenses.

Also, in California there were 14 Communists convicted of actually organizing Communist cells. They were preaching communism and were caught the next day. He was caught about 2 o'clock. They held the admitted criminals for about 2 o'clock one day to 9 o'clock the next day, especially when those criminals have confessed to their crimes.

Hereafter in judicial administration there has been no particular time fixed. A person could be held incommunicado—without counsel, without a hearing—before arraignment. Under this decision the man would have to confess at just about the time he was arrested, because the Supreme Court held that after he is arrested he is under coercion; and because he was held that short time the Supreme Court reversed the case, and the district attorney said there were not enough facts to show that there was no coercion. The Supreme Court held that the evidence depended on the confession.

As a result of that case, the Chief of Police in Washington said it would be a dangerous doctrine to which we would adhere and detect criminals and arrest them hereafter and be able to make the evidence stand up in court. He called it a terrible handicap to the investigations by the Congress. The President, which has hampered investigations by the Congress. The FBI, the law-enforcement agencies, police officers chase down Communists and arrest them as they ashamed when those Communists convicted of contempt and violating the Decency Act and organizing does not begin until a future time. If criminal cells and who are advocating communism all he wants to.

In the city of Washington, Mr. President, which has hampered investigations by the Congress. The Supreme Court handed down a decision after Watkin had been convicted of contempt and turned him loose. The Court, in effect, held that a member of the counsel or someone who wanted to ask questions would have to explain the questions to the witness. A smart witness would never admit his understood or comprehended what was meant.

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In the city of Washington, Mr. President, one of the most dangerous decisions handed down involved the man Mallory, who raped a white woman. He was caught the next day. He was caught about 2 o'clock. Along about 8 or 9 o'clock the following day, he was turned over to the police and he confessed the crime and admitted that he raped the white woman. The officers could not get hold of the United States Commissioner that night, and had to wait until the morning, about 9 o'clock. They held the admitted criminal from about 2 o'clock one day to 9 o'clock the next day, and in the meantime gave a confession to the police in Washington. The accused, convicted, and sentenced to death. He had confessed his crime. But the case was appealed to the Supreme Court. What did the Court do? It reversed the decision and said the police had held the man too long.

What is going to happen in this Nation if police officers cannot hold criminals from 2 o'clock one day to 9 o'clock the next day, especially when those criminals have confessed to their crimes?

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States do not retain every power not expressly relinquished by them and vested in the General Government of the Union.

New Hampshire was the eleventh State to be admitted to the Union. New Hampshire's ratification of the rights reserved to the several States was very bad.

I do not believe that the action by the South Carolina convention was unanimous. I am not sure whether the action by the South Carolina convention was unanimous or not.

Mr.President, I wish to extend my sincerest gratitude to the officials of the Senate, to those who have come in to listen to this debate, to the various Senators who have listened to this debate and who are some of the very distinguished governors of their State, and to all who did everything they could to make me as comfortable as possible during the 24 hours and 22 minutes I have spent on the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. SMATHERS. Mr. President, I ask unanimous consent that the order for the roolcall be rescinded.

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

SENIOR FROM WISCONSIN

At 1 o'clock and 5 minutes p. m. Thursday, August 29, 1957, Mr. Johnson, the Senator-elect, Mr. WILLIAM JOHNSON, of Wisconsin, said: Mr. President, will the Senator from South Carolina yield to me?

Mr. THURMOND. I yield for a question.

Mr. JOHNSON OF TEXAS. Mr. President, will the Senator from South Carolina yield to me, in accordance with the agreement previously reached, under the conditions previously stated, so the Senator-elect from Wisconsin may preside?

Mr. THURMOND. I yield in accordance with that agreement.

Mr. JOHNSON OF TEXAS. Mr. President, the Senator-elect, Mr. WILLIAM PROXMIRE, of the State of Wisconsin, comes to the Senate today with an overwhelming mandate from the people of Wisconsin. His victory represents the unity which has been achieved in every part of the State, by people from every walk of life.
CIVIL-RIGHTS ACT OF 1957

The Senate resumed the consideration of the amendment of the House of Rep­resentatives to Senate amendments Nos. seven and 15 to the bill (H. R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

Mr. ELLENBERG. Mr. President, this morning I was aroused to come to the Senate at 10 o'clock to make the short speech tonight that I have been sitting in my place now for 11 hours and 45 minutes awaiting my opportunity. While I am on my feet I wish to com­pliment the distinguished Junior Senator from South Carolina [Mr. Thurmond] for his great feat of endurance. I know what an ordeal he went through. I wish to say that I hold title of the longest filibuster for about 2 or 3 years until another idiot, in the person of the senior Senator from Oregon [Mr. Moss] beat my record. [Laughter.]

But there is one record I hold which I do not believe anyone will ever exceed. It was established about a year after I became a Member of the Senate over 19 years ago, and I was successful in holding the floor for 6 successive days by unanimous consent, and speaking from 6 to 8 hours a day through which my good friend from South Carolina went in the 24 hours he spoke.

Mr. President, I am opposed to the so-called compromise of H. R. 6127. As I have stated previously, the entire concept of the measure is repugnant to our Constitution and the separation of Federal and State powers provided under that Constitution. The bill, as it passed the Senate, was opposed by me and by a number of other Senators because it permits unwarranted and unjustified inter­ference by the Federal Government of one of the great rights of the States, the right to fix qualifications of voters without interference from the Central Government. I am still opposed to it for that reason. Moreover, it still involves the question of placing the grand jury with nationwide jurisdiction, au­thorized and empowered to rove at will over the length and breadth of our country ferreting ways and means of inject­ing the heavy hand of the Federal judi­ciary into the electoral processes of our States.

But, Mr. President, the Senate bill pro­vided one important safeguard against the exercise of power by the Attorney General and the Federal judi­ciary: The right to trial by jury as a matter of right only if the penalty to be imposed exceeds 45 days in jail or a fine of $300. This appears to be not only acceptable, but actually pleasing, to the so-called liberals in Congress.

Is it not strange now, Mr. President, that the very same Members of the Con­gress who cry in one breath that we must not encumber the right to vote with dollar qualifications, such as the poll tax, are now clamoring for and supporting an amendment which places a dollar value on jury trials?

This is an abomination for no other reason than it puts a price tag on the right of trial by jury.

Of course, some of the membership of the other body would have our people believe that the alleged compromise merely brings the jury-trial feature of this bill into line with a District of Columbia law. This is not only poppycock; it is foolishness.

To the District of Columbia law from which the compromise was patterned and with which the jury trial would be aligned. It is found in section 616 of title 11 of the District of Columbia Code.

In short, it is a clear negation of the Constitution of the United States, the accused would be entitled to a jury trial, the trial shall be by jury, unless the accused shall in open court expressly waive such trial by jury, and request to be tried by the judge, in which case the trial shall be by such judge, and the judgment and sentence shall have the same force and effect as if the same had been entered and pron­ounced upon the verdict of the jury. This is not the rule. It is a rule adopted by the courts with respect to offenses which would not be crimes if they were committed within the jurisdiction of the United States. This is clearly a negation of the Constitution. It is a clear negation of the Constitution.

Mr. President, I ask unanimous consent to add to the bill the following provision: "The right to trial by jury in all cases arising under it shall be by the United States District Court for the District of Columbia and shall have the same force and effect as if the same had been entered and pronounced upon the verdict of the jury."
I remind Senators that the only reason jury trials are not guaranteed in some proceedings before the District of Columbia municipal court is because of the limited number of offenses, all of which are of minor significance, such as violations of traffic regulations.

The reason why such minor infractions as those that come within the classes of offenses for which trial by jury is guaranteed under the Constitution is not complex—it has its roots in the English common-law tradition that petty criminals be tried by a jury, or by judge alone in the lower courts. However, he perfected an appeal to the Supreme Court of the United States, claiming that the provision of District of Columbia law dispensing with a jury trial in prosecutions by an information before the District of Columbia police court were unconstitutional, and that he was being wrongfully confined in the District of Columbia penitentiary.

In finding for Callan and ordering his discharge from custody, the Supreme Court of the United States, speaking through Mr. Justice Harlan, said:

Without further reference to the authorization of the Constitution, conceding the general idea of petty or minor offenses, not usually embraced in public criminal statutes and not even of the class of grade trial by jury is forbidden to be tried by a jury, and which, if committed in this District, may, under the authority of Congress, he tried by the court and without a jury, we are of opinion that the offense with which the appellant is charged does not belong to that class. A conspiracy as is hereinafter shown, is a conspiracy of work by threatening to suspend the municipal court is because offenses punishable by imprisonment in the penitentiary.

For the reasons stated above, it would be wise and more prudent to elevate the District of Columbia police court to the same level as the municipal court, to the same level as the district courts, for offenses as a jury trial is concerned.

In other words, Mr. President, by adopting the so-called jury-trial compromise, the pattern of jury trials in contempt cases before Federal district courts has been cut from the same cloth that I have heretofore stated as that courts has been cut from the same cloth as the old police court of the District of Columbia.

The policy in the District of Columbia, to which I have referred, controls only the action of the District courts and not the United States District Court for the District of Columbia. Thus, once again, we have concrete proof that the amendment drags our Federal judicial system down to the same level as the municipal court of the District of Columbia insofar as trial by jury is concerned.
he has been once fully tried otherwise than by a jury, in the court of original jurisdiction, and sentenced to pay a fine or be imprisoned for not paying it, does not satisfy the requirements of the Constitution. When, therefore, the Senate acted, it was brought before the Supreme Court of the District, and the Act was disclosed that he had been adversely adjudged guilty of the crime of conspiracy, and it was held that the act was null and void. This is the situation in this case, without ever having been tried by a jury, he should have been restored to his liberty (Gallen v. Wilson).

In other words, Mr. President, in the case just cited, the Supreme Court of the United States held that a conspiracy was a crime of such magnitude that it could not be withdrawn from the protection of trial by jury, even though the dollar amount of the fine imposed was within the maximum stated in the statute governing the District of Columbia police court.

The Senate should also realize the burden the new language places upon an individual charged with violating one of the injunctions issued under the authority of this bill. Instead of having to undergo the punishment of confinement in prison or 45 days in jail. If he did, the defendant would have to pay for and endure two.

This would result simply because, after he has been convicted by the judge building a case to impose a penalty exceeding $300 or 45 days in jail. If he did, the defendant would be entitled, as a matter of right, to demand a new trial, with a jury. Thus, in order to obtain the right to jury trial, as a matter of procedure.

Lawyers do not try cases for charity, Mr. President. Court costs are frequently not insignificant. Besides, the personal anguish to a defendant in having to be tried twice, the expense of supporting two trials would be most burdensome, to say nothing of the loss of time to an accused involved under such a proceeding.

It is my considered judgment, Mr. President, that the compromise bill is no more than a compromise—no matter of principle, of his judgment to that of a very few—a small group of men who desire to use the constitutional rights of American citizens as steppingstones to the political plum tree. I emphasize with all the strength I have that the Senate will have assisted, aided, and abetted, the perpetration of a monstrous civil wrong under the guise of protecting civil rights. If it passes this bill, I plead with Senators to vote down the so-called House compromise, to stand firm on the jury-trial amendment approved by the Senate. Senators who support the compromise are supporting a matter of principle, of the 600 or more amendments of the House of Representatives to the bill (S. 1049) for the relief of Mrs. Ahsapet Gamityan, that is, to strike out all after the word "paragraph." I urge all Senators to vote against this bill.

ORDER OF BUSINESS

During the delivery of Mr. Thurmond's speech.

Mr. JOHNSON of Texas. Mr. President, will the Senator from South Carolina yield for a question? Mr. THURMONT. I yield.

Mr. JOHNSON of Texas. Will the Senator yield under the same conditions and circumstances in the House as in the Senate, so that I may ask unanimous consent that the Senate concur in House amendments on minor bills, with the understanding that when he shall require his remarks shall not be counted as an extra speech on the part of the Senator, and with the further understanding that he shall not lose the floor? Mr. THURMONT. I am pleased to yield with that understanding.

The PRESIDING OFFICER. The understanding of the Chair is that the request of the majority leader is that the Senate address the Senate be asked to yield to him so that he may ask for action on minor bills, with the understanding that the Senator shall not lose his place on the floor. Is there objection? The Chair hears none.

FAVORING SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the concurrent resolution (S. Con. Res. 40) favoring the suspension of deportation in the case of certain aliens, which was passed Senate Concurrent Resolution 40, to record Congressional approval of suspension of deportation in certain cases in which the Attorney General had suspended deportation for more than 6 months. Subsequent to this action, the Immigration and Naturalization Service requested that one case included in the resolution be referred back to headquarters, and returned to the jurisdiction of that service.

The motion is acceptable and I move that the Senate concur in the House amendment to Senate Concurrent Resolution 40.

The motion was agreed to.

LETIZIA MARIA ARINI

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1972) for the relief of Letizia Maria Arini, which were, on page 1, line 3, strike out "paragraph" and insert "paragraphs." I move that the Senate concur in the House amendments to S. 1972, with amendments.

There is no objection to the amendments, and I move that the Senate concur in the House amendments to S. 1972.

The motion was agreed to.

MRS. AHSAPET GAMITYAN

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1049) for the relief of Mrs. Ahsapet Gamityan, that is, to strike out all after the word "paragraph." I move that the Senate concur in the House amendments to S. 1049.

The motion was agreed to.

DANIEL ALCIDE CHARLEBOIS

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1271) for the relief of Daniel Alcide...
Mr. JOHNSON of Texas. Mr. President, on August 5, 1957, the Senate passed S. 1271, to grant the status of permanent resident alien to the United States citizen to the beneficiary. On August 22, 1957, the House of Representatives passed S. 1271, with an amendment to merely cancel outstanding deportation proceedings in behalf of the beneficiary.

The amendment is acceptable, and I move that the Senate concur in the House amendment to S. 1271.

The motion was agreed to.

PENDING SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the concurrent resolution (S. 1321) for the relief of Junko Matsuoka Eckrich, which were, in line 3, strike out "paragraph" and insert "paragraphs (9) and", and in line 9, strike out "paragraph" and insert "paragraphs."

MR. JOHNSON of Texas. Mr. President, on July 8, 1957, the Senate passed S. 1321, to waive a ground of inadmissibility in behalf of the United States citizen.

The Senate concurred in the House amendments to S. 1321.

The motion was agreed to.

COMMITTEE MEETING DURING SENATE SESSION

During the delivery of Mr. THRUMMOND's speech.

MR. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations be permitted to sit during the session of the Senate today.

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

Mr. JOHNSON of Texas. I make that same request for that committee for the remainder of the week.

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

PERMISSION TO COMMITTEES TO FILE REPORTS

During the delivery of Mr. THRUMMOND's speech.

MR. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Committee on Banking and Currency be permitted to file a report during the adjournment of the Senate summarizing its activities during the 85th Congress, 1st session.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JOHNSON of Texas. I also ask unanimous consent that during the recess of the Senate the Select Committee on Improper Activities in the Labor or Management Field be permitted to file a report, and that the Committee on Foreign Operations be permitted to file a report of the Permanent Subcommittee on Investigations.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

IMPORT EXCISE TAX ON LEAD AND ZINC

During the delivery of Mr. THRUMMOND's speech.

MR. MURRAY. Mr. President, as has been pointed out on this floor many times recently, the domestic lead and zinc producing industries are in dire straits as a result of dumping of these commodities on the American market by foreign producers.

On July 10 the administration recommended to the Congress that it impose an import excise tax on lead and zinc. Hearings were held both by the Ways and Means Committee of the House and the Finance Committee of the Senate.

At the conclusion of the Ways and Means Committee hearings, Chairman Jere Cooper, of that committee, addressed a letter to President Eisenhower pointing out that the President, under the so-called escape-clause provision of the Trade Agreements Extension Act of 1951 and the national security amendment—section 7 of the Trade Agreements Extension Act of 1958—had an avenue under which he could provide relief from import competition and suggested that such a course be followed.

Chairman Cooper stated in his letter to the President, and I now quote:

It is clear that in this instance you have not made recourse to existing administrative procedures which are available to provide relief to these industries.

On August 23 President Eisenhower replied to Chairman Cooper's letter in which he stated that in the event the involved industries initiated an escape-clause proceeding be-
Import excise tax on lead and zinc is almost identical in major respects with the recom- mendations of the Committee on Ways and Means, save to you under the lead and zinc escape-clause proceeding in 1954. You rejected this recom- mendation on the ground that the proposed relief did not meet the needs of these industries. The testimony of your committee and the industries and the situation today in the lead and zinc industries is substantially the same as it was at the time of the escape-clause investiga- tion by the Tariff Commission and your con- dition by the Tariff Commission and your con- cession of the unanimous finding of the Tariff Commission.

The proposal which the public hearings also clearly showed that the proposal which the Secretary of the Interior now recommends on behalf of the Tariff Commission is almost identical in effect to a proposal that was before the Committee on Ways and Means in 1933 and on which a strongly adverse re- port was submitted by the State Department. The State Department set forth ten reasons why this proposal was inadvisable and con- tradictory to the national interest. This report was made a part of the recent public hear- ings.

The proposal which the Administration has now recommended would not become effect- ive, in event of its enactment, until Janu- ary 1958. Yet, under the national security relief found in the proposal could be put into effect by you almost immediately. Also, under the escape clause, as you can imagine, the Tariff Commission to report to you within a stated time as to measures which it would recommend to the benefit of these industries, and I see no reason why you could not have done so on June 19, the date of the proposal, or even earlier for that matter. It is understood that the Commerce Commission presented to our committee, aside from the merits of the proposal, that relief can be afforded by you without the need of the proposal, would have been a case even with enactment of the proposal.

As you of course know, I have been a strong and consistent supporter of the re- coupable trade agreement program since the inception of the program in 1934. I have consistently supported and worked for pro- posals which have made to continue our foreign trade policies, including, for example, your proposal during the last Congress and in the arenas of international law by the Congress for membership in O.T.C.

You have gone on record strongly sup- porting the program. At your request the Congress has provided three extensions of your authority during your Administration. An important consideration in the extension of these extensions was the fact that should trade-acceptances concessions result in such import competition that domestic industries are injured or threatened with injury you would have the authority where it is in the national interest to relieve domestic indus- tries of such injury.

I cannot refrain from expressing to you my very great concern as to the impact of a proposal which the Administration has made concerning lead and zinc on the whole structure of the trade-agreement program. I intend to imply that the lead and zinc indus- tries may not need relief. My concern is due to the fact that this proposal would completely bypass existing authority given you in present trade-agreements legislation. You are asking the Congress to do that which you have never done nor does it appear you are nor do I believe you should. The authority which you have is not selective, but broad and general, and applies to any and all industries in distress and are threatened with injury as a result of trade-agreements concessions. I am sure you are aware of the important industries in the industries that are asking for relief from im- port competition. Among these are textiles, velveten, and ginghams; tuna fish, hard- wood-plywood, stainless-steel fastenware, fluor- spar, natural gas, petroleum, and many other industries which you have not consid- ered before the Committee on Ways and Means which would provide relief from import com- petition, and many others. I am confident that you would not want to see the Congress by- pass the Tariff Commission in lieu of trying under trade-agreements legislation by act- ing on individual items.

I sincerely urge you to personally review the proposals that are consistent with the lead and zinc industries and the proposal submitted to the Congress. Upon such a review, I am sure you will be able to find the more ample and more timely authority to provide such relief as you deem necessary in the national interest to the lead and zinc industries. I am also confident that you will agree that to bypass the existing provisions of our trade-agreements law will undermine the trade-agreements program.

I can only observe in closing that there is considerable sentiment that, in the absence of your exercising such authority as you may have in the last instance, you will resign your authority under our foreign trade and the protection of domestic industries, the Congress will be forced to study again the question of executive order for relief under the trade-agreements legislation. This is an eventuality which neither you nor I would contemplate with equanimity.

I am cordially yours,

J. E. COOPER,
Chairman, Committee on Ways and Means.

THE WHITE HOUSE, August 23, 1957.

The Honorable Jere Cooper, Chairman, Committee on Ways and Means,

Washington, D. C.

Dear Mr. Cooper: I appreciate having your letter concerning the administration's proposal for sliding-scale import excise taxes on lead and zinc. It is gratifying to know that your committee is giving attention to the distressed condition of the lead and zinc mining industries.

In 1954, as you pointed out, the Tariff Commission recommended higher duties for lead and zinc under the escape clause of the Trade Agreements Extension Act of 1951. But other means were available at that time both to meet the public need and afford the necessary relief. Relief measures were found in the program of increased pur- chases of domestic ores for the stockpile and the barrier of surplus agricultural commod- ities for foreign lead and zinc. These programs had the advantage of in- creasing our inventories of these materials as a security measure while, at the same time, removing price depressing excess supplies from the domestic and world markets. Re- cently, however, the attainment of our stockpile goals has necessitated adjustments in these programs, and the problem of distress has reappeared.

As I pointed out in my press conference on August 21, my view with respect to main- taining the integrity of section 7 of the Trade Agreements Act is one that I share with yours and, I am sure, with that of all the members of the House Ways and Means Committee. H. R. 6894, as you know, is the sole exception proposed by this administra- tion in over 4% years. In view of this fact, I think you will agree that such exceptions are not without prejudice to the basic purposes of the trade-agreements legislation. The special circumstances of this case that suggest the desirability of following the leg- islative route were set forth by administra- tion witnesses before both your committee and the Senate Finance Committee.

It must be kept in mind that the initia- tion before the Tariff Commission of an escape-clause proceeding by the industry is available in the last instance. It is un- derstanding that the industry will take such course if the Congress does not pass the re-quired legislation. In that event, I would request the Tariff Commission to expedite its consideration of the matter.

I am very greatly concerned over the possibility of relief through the national-security amendment of the Trade Agreements Extension Act of 1955. Although a continuously productive mining industry is of fundamental importance to the national security, it is deemed appropri- ate in present circumstances to invoke the provisions of the national-security amendment of the Trade Agreements Extension Act of 1951 if the Congress does not enact H. R. 6894. The importance of this industry to a strong na­ tional defense should, however, not be overlooked.

I share your belief that expansion of for- eign trade is in the best interests of the United States and I reiterate my conviction that such an objective can best be imple- mented by reciprocal trade agreements pro- grams.

Sincerely,

DWIGHT D. EISENHOWER.

NOMINATIONS OF GERARD C. SMITH AND DR. HENRY VAN ZILE HYDE

During the delivery of Mr. Thurmond's speech, Mr. GREEN. Mr. President, late yes- terday afternoon the Senate received the nomination of Gerard C. Smith, of the District of Columbia, to be an Assistant Secretary of State for economic affairs, which would be in charge of policy planning.

The rules of the Committee on Foreign Relations require that nominations lie over 6 days before they can be consid- ered. The rules further provide that public hearings be held on nominations to posi- tions in this category.

In view of the apparently imminent adjournment of Congress, it would not be possible to act on the nomination unless these rules were waived. Although this could be done by a majority vote of the committee, it is my feeling—and the feeling of such members of the commit- tee as have been consulted—that it would be unwise to do so. This nomina- tion is to one of the most important posi- tions in the Department of State, and it should not be considered in haste.

The President can give Mr. Smith a recess appointment. He can also send the nomination back to the Senate in the next session, and it can then be considered in orderly fashion.

I want to make it clear that lack of Senate action on the nomination in the current session is without prejudice to consideration of the matter next year.

Finally, I might say also, Mr. Presi- dent, that there is also pending before the Committee of the Senate, and the nomination of Dr. Henry Van Zile Hyde of Maryland to be the United States Repre- sentative on the Executive Board of the World Health Organization. This nomination was received subsequent to the last meeting of the Foreign Relations Committee, and it is also being passed over without prejudice. I am informed that no meeting of the World Health Organization Executive Board is sched- uled until January, so that there will be no embarrassment if the nomination is not confirmed at this session.
MESSAGE FROM THE HOUSE
A message from the House of Representa-
tives, by Mr. Bartlett, one of its reading clerks, announced that the House insisted upon its amendments to the joint resolution (S. J. Res. 35) to provide for the observance and commemoration of the fiftieth anniversary of the first conference of State governors for the protection, in the public interest, of the natural resources of the United States, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Faust, Mr. Frazier, and Mr. Alexander were appointed managers on the part of the House at the conference.

ENROLLED BILLS SIGNED
The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the President:
H. R. 3028. An act to provide for the relief of certain female members of the Air Force, and for other purposes;
H. R. 3928. An amendment to section 214 of the Interstate Commerce Act, as amended, to prevent the use of arbitrary stock par values to evade Interstate Commerce Commission jurisdiction;
H. R. 3940. An act to grant certain lands to the Territory of Alaska;
H. R. 6562. An act relating to the transfer of the property of the Hahnewald Hospital of the District of Columbia, ordered to lie on the table.
H. R. 8039. An act to amend the Agricultural Adjustment Act of 1938 with respect to acreage history; and
H. R. 8418. An act to further amend the act of August 7, 1946 (60 Stat. 896), as amended by the act of October 25, 1951 (65 Stat. 681), to provide for the transfer of the property of the former missionary hospital of the District of Columbia, formerly the National Homeopathic Association, to the newly organized Woman's Memorial Hospital in the District of Columbia.

PETITIONS AND MEMORIALS
Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the VICE PRESIDENT:
A resolution adopted by the Maryland State, No. 129, the American Legion, Department of Maryland, favoring the enactment of legislation to provide all known means of safeguarding the health and lives of all Americans from the dangers of the threatening influenza epidemic; to the Committee on Labor and Public Welfare.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

RESOLUTIONS OF GENERAL FEDERATION OF WOMEN'S CLUBS
Mr. LANGER. Mr. President, I ask unanimous consent to have printed in the Record the resolutions adopted at the 66th annual convention of the General Federation of Women's Clubs, at Asheville, N. C., June 3-7, 1957.

Whereas television vitally affects the interests of all the general public; Therefore Resolved, That the General Federation of Women's Clubs in convention assembled, June 1957, urges the Congress of the United States and/or governmental agencies, when evaluating and licensing stations, to consider the use of television, to keep in the forefront of their thinking the necessity of assuring a freedom or choice in the selection of programs while at the same time insuring the maintenance of free television service as it now exists, and further improvement of such television service for all our people.

Mrs. SAMUEL J. McCARTNEY, Chairman, Communications Department.

RESOLUTION OF STATE SENATE OF NEW JERSEY
Mr. SMITH of New Jersey. Mr. President, I have just received from the Senate of the State of New Jersey a resolution which was adopted on August 18 with regard to the drought situation in our State.

Whereas the farmers of the State have suffered and will continue to suffer tremendous losses by reason of damage to crops occasioned thereby; and
Whereas the President of the United States has been requested to determine that a disaster is in existence in certain areas of this State and may be made available to those suffering damage by reason of the drought and said request has been denied; Now, therefore, be it
Resolved by the New Jersey Senate, That—
1. The President of the United States is hereby respectfully requested to reconsider his determination as to the areas of the State of New Jersey which are not now eligible for the issuance of drought relief aid, with particular reference to the request from your Senator for the issuance of such relief aid to those areas of the State which are not now eligible therefor;
2. The President of the United States is hereby respectfully requested to reconsider his determination as to the issuance of drought relief aid, with particular reference to the request from your Senator for the issuance of such relief aid to those areas of the State which are not now eligible therefor.

Whereas there is much concern in the minds of our people and in the Congress of the United States that the lessons so dearly learned in the struggle against the 1930's should not be forgotten, but should serve as incentives for an adequate national defense; and

There being no objection, the resolution was referred to the Committee on Agriculture and Forestry, and ordered to be printed in the Record, as follows:

Resolved, That the General Federation of Women's Clubs in convention assembled, June 1957, urges the Congress of the United States to pass, with its approval and support of the proposed legislation by the Congress of the United States which names December—
Whereas the leadership of certain professional groups has opposed school bands and orchestras, musical instruction by radio, noncommercial radio programs by student musicians, and has interfered with the school activities involving music instruction to the detriment of the instruction and development of young people; and

Whereas there have been instances where interference with the conduct of music camps, a program with which the general federation has long been associated, has hampered activities in such camps, and seems to have as its purpose the destruction of such camps: Therefore

Resolved, That the General Federation of Women's Clubs in convention assembled, June 1957, declares its conviction that

The General Federation of Women's Clubs is vitally concerned with the health of the family, and realizes that the health of our people is menaced by the fact that mandatory antiseptic and post mortem inquests are not required of poultry processed for human consumption: Therefore

Resolved, That the General Federation of Women's Clubs, in convention assembled, June 1957, urges Congress to enact legislation which will require that poultry placed on sale and intended for human consumption be inspected by the United States Meat Inspection Division of the United States Department of Agriculture under the same conditions that now obtain in the case of meat and meat products.

Mrs. J. R. Patterson, Chairman, Health and Welfare Division. Approved: Mrs. Walter V. Magee, Chairman, Community Affairs Department.

PRISON REFORM

Whereas the concept of punishment alone as a deterrent to crime has been outdated by statistics and by modern scientific studies of treatment of criminals which take into account the physical, sociological, mental and spiritual aspects of personality; and

Whereas use of enlightened modern methods often develops responsible, law abiding citizens with consequent reduction of repeated offenses and recommitments; and

Whereas incarceration usually demonstrates that the inmate did not adapt himself to an answerless pattern of behavior, and since it is an established fact that the vast majority of prisoners will return to the outside world to be absorbed by their communities: Therefore

Resolved, That the General Federation of Women's Clubs in convention assembled June 1957, requests all women's clubs to cooperate in "皦 study, and to urge their legislators to study recent advances in the conservation of human resources through psychological evaluation and wise use of all available methods of rehabilitation, and further, to encourage prison boards and administrators to take advantage of every possible measure in order that prisoners may be provided with and make use of:

1. Psychological evaluation and psychiatric treatment when indicated;
2. Adequate health standards and correction of physical defects where possible;
3. Remedial education;
4. Suitability for employment and training;
5. Opportunity for religious education and counseling;
6. Opportunity for development of latent abilities for better use of leisure time; and further

Resolved, That efforts be made to improve rehabilitative services through raising educational and training standards of prison personnel and to provide adequate followup services upon release of prisoners in order to assist them in their adjustment as productive members of society.

Chairman, Rehabilitation Division. Approved: Mrs. Walter V. Magee. Chairman, Community Affairs Department.

RESTRICTIVE ACTION IN MUSICAL ACTIVITIES

Whereas the General Federation of Women's Clubs has consistently held that the cultural value of music and music study are integral parts of the educational experience, and should be available to the young people of America; and

Whereas the Congress of delinquent and juvenile offenders, and further, to encourage prison

Whereas the General Federation of Women's Clubs strongly condemns the use of mental or physical brutality and/or coercion on the part of an occupying power against a people seeking freedom.

Mrs. Zao Woodford Schroeder, Chairman, International Affairs Department.

MAINTENANCE OF STRONG UNITED STATES ARMED FORCES

Whereas the deterrence of wars, and achieving victory in case wars are forced upon us, are basic national objectives demanding an every-ready system of adequate forces in all branches of the military system; and

Whereas it is obvious that the conditions of future warfare will render impossible systems of deliberate mobilization and unshuffled training after an emergency situation has developed; and

Whereas the General Federation of Women's Clubs, in convention assembled, June 1957, declares its conviction that this Nation should maintain its military forces in adequate quality and numbers; in strength and equipment; and in organization and deployment so as to permit it to meet fully its obligations.

Resolved, That the General Federation of Women's Clubs, in convention assembled, June 1957, respectfully requests the President of the United States, in his proclamation officially declaring the observance of a day during National Education Week each year to be known as Teachers' Day; and further

Resolved, That the General Federation adopt Teachers' Day as a nationwide project, for the purpose of giving recognition to the outstanding profession for its great influence on the training and development of character of our children. Therefore

Whereas the General Federation of Women's Clubs recognizes and endorses the progress that has been made in establishing some special recognition for teachers.

Mrs. Aubrey Mauney, President, North Carolina Federation of Women's Clubs. Approved: Mrs. J. Howard Hodge, Chairman, Public Affairs Department.

ANNUAL NATIONAL TEACHERS DAY

 Whereas the General Federation of Women's Clubs has shown substantial interest in the educational progress of the United States; and

Whereas it further recognizes the need for a positive program to stimulate citizens' interest in educational problems; therefore

Resolved, That the General Federation of Women's Clubs, in convention assembled, June 1957, respectfully requests the President of the United States to issue a proclamation officially declaring the observance of a day during National Education Week each year to be known as Teachers' Day; and further

Resolved, That the General Federation adopt Teachers' Day as a nationwide project, for the purpose of giving recognition to the outstanding profession for its great influence on the training and development of character of our children. Therefore

Whereas the General Federation of Women's Clubs recognizes and endorses the progress that has been made in establishing some special honor for teachers.

Mrs. John L. Whitehurst, Chairman, Education Department.
Blinded Veterans Association, Inc., of Washington, D. C., at its convention held at Hartford, Conn., on August 24, 1957, reaffirming their faith and trust in the Republican party and all citizens by the Constitution of the United States, and that no further legislation is needed to guarantee these rights to blind persons.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

RESOLUTION 9 ADOPTED BY THE BLINDED VETERANS ASSOCIATION, 13TH ANNUAL CONVENTION, NEW CANTON, CONN.

Whereas the Blinded Veterans Association, Inc., is a national membership organization comprised entirely of blind individuals; and

Whereas this association has, since its inception in 1945, recognized its constitutional right to organize nationally and locally without restriction by any Federal or local laws; and

Whereas the association does, in fact, work closely with Federal, State, and local governmental and voluntary agencies serving blind persons, and has, in turn, been consulted by these agencies;

Whereas the association, in its efforts to promote higher standards of service for all blind persons in the United States, recognizes the value of a constructive approach to achieve this objective; and

Whereas S. 2411 and H. R. 8800, which have been before the 86th Congress, appear redundant in the light of the above and would seem to serve no practical purpose, and, in fact, may be detrimental to the best interests of all blind persons: Now, therefore, be it

Resolved, That the members of the Blinded Veterans Association in national convention assembled in the city of Hartford in the State of Connecticut on August 24, 1957, do hereby reaffirm their faith and trust in the basic rights guaranteed all citizens by the Constitution and Bill of Rights of the United States and believe no further legislation is needed to guarantee these rights to blind persons; and be it further

Resolved, That the members of the Blinded Veterans Association do hereby offer the full cooperation of the association and its members with Congress in raising standards of service to blind persons; and be it further

Resolved, That copies of this resolution be sent to all members of the Senate and House of Representatives of the United States; to the executive directors of the American Association of Instructors of the Blind, the American Foundation for the Blind, the National Federation of the Blind, and the Council of State Agencies for the Blind; and to the officials of Government and voluntary agencies serving blind persons in the United States.

RESOLUTION OF DEPARTMENT OF NEVADA, THE AMERICAN LEGION, REGARDING PROPOSED INCREASES IN SERVICE-CONNECTED DISABILITY COMPENSATION

Mr. MALONE. Mr. President, the 39th annual department convention of the department of Nevada, the American Legion, assembled in the city of Reno, in the State of Nevada, on August 15 to 17, 1957, passed seven very pertinent and timely resolutions:

RESOLUTIONS

Service-connected disability compensation.
The veterans' employment service.
Foreign aid.
Status of forces agreements.
The Bricker amendment.
Red China.
The McCarran-Walter Immigration Act.

Our new department commander for 1957 and 1958 is Victor F. (Vic) Whittlesey.
The new president of the women's auxiliary is Mrs. Leona Smith.

I am glad to say that the service-connected compensation bill S. 52 was passed by both Houses of Congress and signed by the President.

Mr. President, I ask unanimous permission to have the resolutions appear at this point in the Record as a part of my remarks.

Mr. President, the resolutions passed by my department of Nevada, American Legion, correctly represents the thinking of Americans throughout the Nation.

There being no objection, the resolutions were ordered to be printed in the Record, as follows:

RESOLUTION, SERVICE-CONNECTED DISABILITY COMPENSATION

Whereas H. R. 52, a bill to provide increases in service-connected disability compensation and to increased dependency allowances, passed the House of Representatives May 15, 1957; and

Whereas on July 22, 1957, this bill was favorably reported by the Senate Committee on Finance for consideration of this body; and

Whereas since this action information has been given to the public that the Executive Office of the President, Bureau of the Budget, under the signature of Percival Brundage, Director, opposes the enactment of this legislation which will make it possible for disabled veterans to have the aid and comfort of such 40% ratings. The President has asked Congress to accept his statements in this matter.

Resolved, by the 39th department convention of the Department of Nevada of the American Legion in convention assembled at Elko, Nev., August 15-17, 1957, that the Senate and Representatives of the United States: Now, therefore, be it

Resolved, That the President of the Senate and the Speaker of the House of Representatives be directed to remove all interference and pressure by the Communist sphere of influence, and especially opposed to supplying any such nations any armament which may be critical to the defense of the free world.

Resolved, That the 39th department convention of the Department of Nevada of the American Legion in convention assembled at Elko, Nev., August 15-17, 1957, urge upon our Senators and Representatives in Congress and upon the Department of Veterans Affairs, prompt early action on this worthy measure before their respective Houses to the end that the measure may be passed at the present session of Congress; and be it further

Resolved, That a copy of this resolution be sent to the Senators from Nevada and the Representatives in Congress for their consideration at the present session of Congress.

RESOLUTION, SUPPORTING THE VETERANS' EMPLOYMENT SERVICE

Whereas by the passage of the Service Men's Readjustment Act of 1944, Public Law 346 (better known as the GI bill of rights) Congress reaffirmed the will of the Nation to provide for readjustment of veterans to civilian life; and

Whereas the American Legion has, and always will, be a strong voice in seeing to it that service to veterans for which they, by reason of wartime service, are entitled; and

Whereas with the inclusion of the Korean veteran under the GI bill, there is still a great need for an effective readjustment program; and

Whereas because of the age bracket of World War I veterans, and some World War II veterans, there is little need for a new program which would need that emphasis be placed on an older-worker program, this need becoming more and more urgent each year; Therefore, be it

Resolved, by the delegates assembled at the 39th American Legion convention held at Elko, Nev., August 15-17, 1957, That there be not further appropriation to the Veterans Employment Service and the Bureau of Veterans' Reemployment Rights, Department of Labor, or curtailment of service to veterans by that agency thereby assuring that the programs as outlined under Public Law 346 be continued.

RESOLUTION, FOREIGN AID

Whereas the annual appropriations of this country for foreign aid are reaching stupendous proportions, this year higher than ever before and the distribution of foreign aid to the people of the United States is definitely without the approval of the majority of American citizens; and

Whereas much of the appropriations go to countries that are not allies of the United States and in most cases are aiding and abetting the Communist cause throughout the world; and

Whereas economic and military aid to Yugoslavia and Poland, two Communist controlled countries which are now scheduled to receive millions of American tax dollars, as well as other Communist nations which are also the recipients of our foreign aid, cannot do anything but harm to the United States; Therefore, be it

Resolved, by the delegates assembled at the 39th American Legion convention held at Elko, Nev., August 15-17, 1957, That we are strenuously opposed to supplying any such nations any army equipment which may be critical to the defense of the free world.

Resolved, by the delegates assembled at the 39th American Legion convention held at Elko, Nev., August 15-17, 1957, That we are strongly opposed to any economic or military foreign aid to any nation within the Communist sphere of influence, and especially opposed to supplying any such nations any armament which may be critical to the defense of the free world.

Resolved, That this resolution be sent to the Senators and Representatives in Congress for their consideration at the present session of Congress.

This (is this) resolution is particularly directed to present situations where such action with Poland and Yugoslavia the recipients,)
1957

CONGRESSIONAL RECORD—SENATE

16465

zens should not be sacrificed while the rights of freedom and self-government are secured to the peoples of other nations and that in order to maintain the rights and privileges for our citizens who are serving with our Armed Forces in other countries, and to maintain the prestige and dignity of the United States, the President should forthwith address to the North Atlantic Council, as provided for by an agreement signed at Washington on December 16, 1949, that the United States may exercise exclusive criminal jurisdiction over American military personnel stationed within the boundaries of that Organization or recognition of Red China. Therefore, be it

Resolved, by the 39th department convention of the American Legion at Elko, Nev., August 15-17, 1957, That we reiterate our pleasure at the repetition of the Resolution of the Bricker Amendment and again urge our Representatives in Congress to do whatever is possible to put same in effect.

RESOLUTION, RED CHINA

Whereas, many of our so-called allies are propagandizing and pressuring this country to recognize Communist Red China; and Whereas, the American Legion has repeatedly pointed out the futility of recognizing the Communist Chinese government, its principles and admit to the United Nations Organization, and to our family of friends this murderous, traitorous nation that has cruelly tortured hundreds of American soldiers and civilians and has broken all the laws of decency in conducting war and has broken every agreement and treaty they have made with us; Now, therefore,

Be it

Resolved, by the 39th department convention of the American Legion at Elko, Nev., August 15-17, 1957, That we reiterate our previous resolutions of the Red China, of the Bricker Amendment and again urge our Representatives in Congress to oppose any action by the United States of America that would allow this to happen.

RESOLUTION SUPPORTING MCCA RM-WALTER IMMIGRATION ACT

Whereas there is now on the statute books of the United States the McCarran-Walter Immigration Act of 1952 which controls immigration to this country; and Whereas this law establishes fair and just quotas for the admission of aliens to enter this country and is a recodification of all previous immigration laws and regulations and has been endorsed by over 100 patriotic organizations, the FBI, the Department of Justice, and many other organizations and individuals conversant with the problems of immigration; and Whereas, this year there is a movement on action to do away with many of the protective provisions of this law and allow an influx of possibly undesirable persons to enter this country without regard to the country’s interest as regards safety and health; and Whereas, these demands for revision of the McCarran-Walter Immigration Act are mostly from vociferous minority groups, American do-gooders and anti-Communists and subversive and Communist groups who are against any safeguards that would prevent the admittance of subversives and Communists; and Whereas, indiscriminate entry of foreign aliens to our country would increase our problems of employment, housing, schools, and other problems caused by lowering the bars of the present national origins quota system: Be it

Resolved, by the 39th department convention of the American Legion at Elko, Nev., August 15-17, 1957, in regular meeting assembled, That we are strenuously opposed to any amendment of the Act that would destroy the efficacy of the McCarran-Walter Immigration Act and allow entry of aliens without any of the safeguards provided by said act and that we respectfully request our Senators and Congressmen in Washington to do all in their power to maintain the McCarran-Walter Immigration Act in its present form on the statute books of this country without any lowering of the various restrictions or permit, in 1957, President decree, or otherwise.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 2864. A bill to provide for the appointment of additional judges for the Court of Appeals for the Second Circuit and the district courts for the southern and eastern districts of New York (Rept. No. 1197).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 2714. A bill to require the Attorney General of the United States to give written notice to any foreign government or representative of foreign nationals of the United States of American nationals of the United States who have been notified by their foreign governments of retention abroad of United States nationals for possible deportation; and to the Committee on Interior and Insular Affairs (Rept. No. 1136).

By Mr. MCCLELLAN, from the Committee on Government Operations, without amendment:

H. R. 7964. An act to remove the limitation on the use of certain real property herefore conveyed to the city of Austin, Tex., by the United States (Rept. No. 1130).

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CHAVEZ:

S. 2879. A bill to authorize the granting of mineral rights to certain homestead patentees who were wrongfully deprived of such rights; to the Committee on Interior and Insular Affairs.

S. 2879. A bill for the relief of Hioroyasu Hatakeyama; to the Committee on the Judiciary.

By Mr. HOLLAND:

S. 2880. A bill to amend paragraph (k) of section 161 of the Cosmetic Act, as amended, to define the term "chemical preservative" as used in such paragraph; to the Committee on Labor and Public Welfare.

By Mr. LANGER:

S. 2861. A bill for the relief of Paul Hege- duc; to the Committee on the Judiciary.

By Mr. ALLOTT (for himself and Mr. CARROLL):

S. 2882. A bill to authorize the Administration of General Services to acquire certain land in the State of Colorado for the city of Denver, Colo.; to the Committee on Government Operations.

By Mr. SMITH of New Jersey (for himself, Mr. Case of New Jersey, Mr. Clarks, and Mr. Humphrey):

S. 2883. A bill to amend the Legislative Appropriation Act, 1955, to eliminate the requirement that the extension, reconstruction, or alteration of the center portion of the United States Capitol be in substantial accord with the architectural plan of 1935; to the Committee on Public Works.

INVES TIGATION OF LABOR-MANAGEMENT RELATIONS AT THE SANDIA CORP., NEW MEXICO

Mr. CHAVEZ submitted the following concurrent resolution (S. Con. Res. 51), which was referred to the Joint Committee on Atomic Energy:

Whereas indiscriminate entry of foreign aliens to our country would increase our problems of employment, housing, schools, and other problems caused by lowering the bars of the present national origins quota system, etc.:

Be it

Resolved, by the Senate (the House of Representatives concurring), That the Joint Committee on Atomic Energy is authorized and directed to make a full and complete investigation and study of labor-management relations at the Sandia Corp., for the purpose of determining what action can be taken to improve such relations and thereby help maintain the integrity of the federally financed atomic energy programs vital to the Nation's security.

Mr. CHAVEZ. The Joint Committee shall report its findings, together with such recommendations as it may deem advisable, to the Senate and to the House of Representatives at the earliest practicable date, but not later than February 1, 1958.
INVESTIGATION OF LOSSES TO PERSONS BY DEPREDA TIONS OF WILDFOWL AND ANIMALS FROM FEDERAL WILDLIFE REFUGES

Mr. LANGER submitted the following resolution (S. Res. 196), which was referred to the Committee on the Judiciary.

Resolved, That a subcommittee of the Committee on the Judiciary, consisting of three Senators appointed by the chairman, is authorized and directed: (1) to make a full and complete study and investigation with respect to damage to crops and other loss claims of persons living in the vicinity of Federal wildlife refuges and other Federal refug es, by reason of depredation by wildfowl and animals from such refuges; and (2) to report their findings to the Committee on the Judiciary such measures as it may deem desirable for the relief of persons sustaining such damage or loss.

ELIMINATION OF REQUIREMENT FOR REMODELING OF CENTRAL PORTION OF CAPITOL BUILDING

Mr. SMITH of New Jersey. Mr. President, on behalf of myself, my colleagues, the junior Senator from New Jersey [Mr. CASE], the Senator from Minnesota [Mr. Humphrey], and the Senator from Pennsylvania [Mr. Clark], I introduce, for appropriate reference, a bill to prevent the emasculation of this lovely Capitol Building.

During the 1st session of the 84th Congress, the Congress unfortunately added a provision to the Legislative Appropriation Act of 1956 which authorized an extension of the Capitol in order to provide for additional offices and restaurant facilities, but required such extension to conform with the so-called plan B which was submitted to the Congress in 1905. The substance of plan B provided that the east facade of the central block of the Capitol be torn down and extended 32 feet 6 inches to the east.

Mr. President, this scheme not only will cost the American taxpayers an exorbitant sum of money for the additional space which will be obtained, but it will also do violence to the architectural beauty of this grand structure. The plan has been roundly criticized by the American Institute of Architects at 5 of their annual conventions, including the last 3 meetings in 1955, 1956, and 1957. I cannot believe that there is any justification for proceeding to emasculate this building in such a manner.

The purpose of this bill is to repeal the restrictive language which binds the Architect of the Capitol to undertake the expansion of the Capitol facilities in accordance with this plan. I ask unanimous consent that the bill may lie open for a period of 24 hours for the purpose of permitting additional Senators to examine the measure.

THE VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will lie on the desk, as requested by the Senator from New Jersey.

To amend the Legislative Appropriation Act, 1956, to eliminate the requirement that the extension, reconstruction, and replacement of the central portion of the United States Capitol be in substantial accord with the architectural plan of March 3, 1905, introduced by Mr. SMITH of New Jersey (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Public Works.

AIR TRAINING FACILITIES

Mr. SYMINGTON. Mr. President, I have written a letter to the Secretary of the Air Force, and in as much as the subject matter of the letter has been discussed in the Senate, I ask unanimous consent that my letter to the Secretary be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

HON. JAMES H. DOUGLAS,
Secretary of the Air Force,
Washington, D. C.

DEAR MR. SECRETARY: In a letter to you of August 20, Senator Neuburger said that on Wednesday, August 15, he informed you that before the Task Force on Air Training Facilities, a subcommittee of the Senate Armed Services Committee, I expressed a fundamental concern of Senator Stuart Symington.

As I discussed with Senator Neuburger this morning, this was not a meeting of this task force. Rather, it followed as a result of the request of Senator Jackson, who asked that there be present members of the Air Force who knew about this matter and a representative of the General Accounting Office.

No stenographer was present, no record was kept of the conference, and therefore no conclusions were reached.

Sincerely yours,
STUART SYMINGTON.

LETTER OF GORDON GRAY, DIRECTOR OF THE OFFICE OF DEFENSE MOBILIZATION, TO CHAIRMAN OF MONOPOLY SUBCOMMITTEE OF SENATE JUDICIARY COMMITTEE

Mr. DIRKSEN. Mr. President, in the course of the hearings of the Antitrust and Monopoly Subcommittee of the Senate Judiciary Committee on the question of the issuance of tax amortization certificates to the Idaho Power Co., a log-eply developed when Mr. Gordon Gray, Director of the Office of Defense Mobilization, appeared before the committee, as result of which Mr. Gray, either expressly or by implication, was in effect saying that he had concealed information from the subcommittee.

Speaking for myself, let me voice my complete confidence in the integrity of Mr. Gray, and his constant effort to disclose all information which the subcommittee requests.

Since the charges appeared, Mr. Gray submitted his views in a letter to Senator KEFAUVER under date of August 27, covering the question of the issuance of tax amortization certificates, and I requested that his letter be inserted in the Congressional Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,

The Honorable ESTES KEFAUVER,
United States Senate,
Washington, D. C.

DEAR SENATOR KEFAUVER: Because there have been public charges to the effect that I attempted to conceal evidence from the subcommittee on Antitrust and Monopoly when I testified before the subcommittee on the issuance by ODM of accelerated tax amortization certificates to the Idaho Power Co., I should like to set forth the following facts which demonstrate why I could not produce such certificates and why I was unable to produce them.

On March 11, 1957, addressed to Dr. Flem­ ming, at the time I appeared before the Byrd committee on May 9 and at my first appearance before your committee on May 21. These facts will also explain why Secretary Seaton's letter involved a serious question of executive privilege.

On October 25, 1955, the Department of the Interior through Assistant Secretary Asdahl, who was the customary channel for such communications, advised ODM that the application of the Idaho Power Co. for tax amortization with respect to the 1957 issue and related criteria then applicable and recommended that necessity certificates be issued covering 60 and 65 percent respectively of the cost of the projects. On March 13, 1957, Dr. Arthur S. Flem­ ming, on whom I was to succeed as ODM Direc­ tor, asked the Secretary of Interior and ODM to issue necessity certificates to the Idaho Power Co. Dr. Flem­ ming told me that he had examined care­ fully the arguments that had been advanced against issuing the certificates and had con­ cluded that these applications, as far as the law and regulations were concerned, could not be differentiated from the other applica­ tions that had been granted. He stated that he felt that Secretary Seaton's recommen­ dation grew out of a general disposal of the basic criteria that had been applied to all cases under the electric power goal. He stated further, however, that he had not been able to obtain any communications from the Idaho Power Co. because of his inability to explore the matter thoroughly with Secretary Seaton by reason of his other responsibilities.

In due course I concluded on the basis of my own judgment that certificates of necessary should be denied under the criteria obtaining at the time of the Idaho Power Co's applications. My studies confirmed that Secretary Seaton's objections were not germane to the question of whether the govern­ ing criteria warranted issuance of the certificates.

On April 10, I notified Mr. Elmer Bennett, then Assistant to the Secretary of the Interior (the Secretary still being in the hospital), that I had concluded that certification should not be denied to the Idaho Power Co. under the criteria obtaining at the time of the company's applications, and that in my opinion, Secre­ tary Seaton's letter did not discuss whether the company's application met the governing criteria but whether the governing criteria were in fact wise. Mr. Bennett and I agreed that the governing regulations did not provide for this type of application, and that the Secretary's letter, therefore, did not have any legal status under the regulations. Consequently, it was agreed that the Secretary's March 11 letter could appropriately be withdrawn, the decision to issue the certificates having been made by ODM.
On April 17, following a telephone conversation between Mr. Bennett and Mr. Charles E. Mathews, General Counsel of ODM, the Secretary's letter, together with the carbon copy, was returned to the Department of the Interior. Mr. Mathews had returned it as having been withdrawn for the reasons stated above.

On the same day, April 17, Mr. Bennett sent a letter to Mr. Mathews in response to Mr. Mathews' letter of March 11, in which he agreed that Secretary Seaton's letter of March 11 would furnish the original of the letter to ODM. Mr. Bennett expressed his appreciation of the fact that Secretary Mathews had not regarded his letter as an official letter, a matter of record. Based on this assurance, Mr. Bennett apprised me of the fact that my belief (although subsequently the Secretary continued to apprise me of the fact that my belief was incorrect) the Secretary's views were clearly privileged and I was under a duty not to discuss them.

At the time of my appearance before the Senate Committee on OPM, I was advised by Mr. Mathews that Secretary Seaton had returned to his desk and that the Secretary did not regard his letter as an official expression of the views of the Department in this respect and that he did not wish me to make what I therefore believed to be his personal views, as set forth in the letter, a matter of record. Based on this assurance, the Senate Committee, which he stated had been cleared with him, that the Secretary did not regard his letter as an official letter, a matter of record. Based on this assurance, the Senate Committee, which he stated had been cleared with him, that the Secretary did not regard his letter as an official letter, a matter of record.

On the first working day of the Senate, Mr. Seaton continued to disapprove the criteria on which certificates were based, and I was advised by Mr. Mathews that the Secretary did not regard his letter as an official expression of the views of the Department in this respect and that he did not wish me to make what I therefore believed to be his personal views, as set forth in the letter, a matter of record. Based on this assurance, the Senate Committee, which he stated had been cleared with him, that the Secretary did not regard his letter as an official letter, a matter of record.

Mr. Seaton's views on such an unpredictable basis, it is obviously necessary for management to pay for 5 hours of work even though they may work for a shorter period and it is also necessary for management to pay for 5 hours of work even though they may work for a shorter period and it is also necessary to maintain a standby force which is large enough to handle a heavy dinner business if the Senate stays in session until a late hour.

The Senate Members are fully aware of the fact that the Senate may adjourn or recess at 5 o'clock, 7 o'clock, 10 o'clock or some hour in the early morning but no matter when it may close, the restaurant must maintain service during that period.

The employees on such an unpredictable basis, it is obviously necessary for management to pay for 5 hours of work even though they may work for a shorter period and it is also necessary for management to pay for 5 hours of work even though they may work for a shorter period and it is also necessary to maintain a standby force which is large enough to handle a heavy dinner business if the Senate stays in session until a late hour.

When the Senate is not in session, the food facilities are maintained for a 4- or 5-month period on a reduced basis. Here again, the restaurant income drops to less than half its normal volume and, while it can operate with a reduced staff, it is impossible to actually reduce the staff to the point where the restaurant drops in income. Then, too, it is necessary as a practical matter to retain key employees during the months that the Senate is in adjournment, if management is to have ready an efficient and trained force when the Senate returns in January.

It is quite evident to any observer that the present dining area is entirely too small for the crowded business which develops during the lunch period, and this has provoked some criticism from Senate Members and others. The fact that it is difficult to use side stands in connection with restaurant service has manifestly prevented the use of certain available space and this in turn necessitates more frequent and longer trips to the service pantry in order to serve the patrons.

Mr. Dirksen, Mr. President, much has been said on the floor of the Senate over a period of time about the operation, management, prices, and service of the Senate restaurant. Some of this has been critical, and I believe the time has come, in the interest of truth, to place the facts before the people and before the Senate.

The Senate owned Food Service of Chicago, which operates the Senate restaurant and other food establishments for the benefit of the Senate and its employees and guests, carries on this operation independently. In addition to the Senate Office Building, the coffee shop in the Senate Office Building, the snack bar in the Capitol, and the dining room in the Capitol, including quite a number of rooms which are used for private dining purposes.

For the week of August 19 to August 24, 1957, the Senate facilities served 21,963 patrons or guests and the income derived therefrom was $13,303.40.

The Senate dining room is open from 6 in the morning until the Senate goes out of session and of particular importance in this connection is the fact that 69 percent of the business done is handled between the hours of 11 a.m. and 3 p.m., making it in fact a single-meal operation. No business from 3 until 5 in the morning and from 3 in the afternoon until closing time is a period of low income and consequently a losing period for the restaurant since it is necessary to carry a staff during these periods.

Since the restaurant management does not know when the dining room will close in the evening, it is always necessary to maintain a standby staff which is large enough to handle a heavy dinner business if the Senate stays in session until a late hour.

The Senate Members are fully aware of the fact that the Senate may adjourn or recess at 5 o'clock, 7 o'clock, 10 o'clock or some hour in the early morning but no matter when it may close, the restaurant must maintain service during that period.

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It is quite evident to any observer that the present dining area is entirely too small for the crowded business which develops during the lunch period, and this has provoked some criticism from Senate Members and others. The fact that it is difficult to use side stands in connection with restaurant service has manifestly prevented the use of certain available space and this in turn necessitates more frequent and longer trips to the service pantry in order to serve the patrons.

Let me point out also that the kitchen is located down two flights of stairs below the pantry and this requires the maintenance of a very considerable utility force to help bring trays of food to the service pantry. Since it is not feasible to hire these people for just the 2-hour period when they are needed, it becomes necessary to carry them on the payroll for a longer period in order to retain their services. Finally, let me say that here as elsewhere there has been an upward trend in all food prices, which must be absorbed, and it is my considered opinion that the prices and the service of the restaurant facilities, when considered in the light of the tremendous expense they are confronted with, are, indeed, outstanding.

One other bit of testimony might be of interest that and that is that the Senate restaurant has steadily reduced the losses compared with other years. As an example, for the period July 1, 1957, to August 3, 1957, the loss on the entire food operation was $6,131.96. This is one-half of the loss which was sustained for a comparable period in 1956. I believe that the management and the personnel of the Senate Restaurant deserve high commendation for the way they have performed under great difficulty.

THE MUTUAL-SECURITY PROGRAM

Mr. SMITHERS of New Jersey. Mr. President, in connection with the mutual-security program, I take this opportunity to pay a tribute to my colleagues in the Senate. As my friends know, I have been deeply interested in our foreign policy ever since I came to the Senate 13 years ago and it has been a half for all of us, whether we have been interested in helping, as best we could, in the development of our so-called foreign-aid program. I was one of those who worked continuously with the study we had made last year of the new approach to the mutual-security program and was most hopeful that the reports of the investigators whom we chose from among the most expert in their field would be so sufficiently comprehensive for the new approach. The results of these studies and the independent studies that the President had made gave us what might be called a new look on some of the problems. There was no difference of opinion by any of those who participated in the studies as to the need to continue the program and especially the need for the support of our military aid and defense assistance for our allies in various parts of the world.

Also it was felt that from the standpoint of the underdeveloped countries we should provide for a long-range revolving loan fund to enable those countries to secure their economic stability and to aid them in developing their own freedom, independence, and self-determination as the other nations of the world that have achieved freedom, independence, and self-determination as the other nations of the world.

Reviewing the action of the Senate, I am sure that the President originally asked for $3.6 billion. The Senate reported a bill authorizing $5.8 billion. The Senate vote on this
authorization bill was 57 to 25. The Senate brought the House appropriation bill in conference up to $3.5 billion only, and finally, in the Appropriations Committee, the Senate restored $500 million of the House slash of $800 million bringing the appropriation up to $3,035 billion. The Senate vote on this appropriation was 62 to 25. We have now witnessed the most unfortunate development, namely the unwillingness of the House to go above $2.7 billion for the final appropriation for fiscal 1958. This is a devastating defeat not only for the President, but for the safety of America. However, I want to take this opportunity to pay a tribute to our own senator from Wisconsin, the majority leader, the Honorable Lyndon B. Johnson and our minority leader, the Honorable William F. Knowland. Their work was one of the finest evidences of bipartisan teamwork and last ditch fighting in support of the administration and the security of our country.

The only conclusion I can possibly draw from this development is that there are those in the Senate who are determined to destroy the mutual security program. The matter needs our immediate attention and at the hands of the Senate we have an opportunity to fight vigorously to present the American people the issue involved in these unfortunate developments this year.

Major Issues Facing Wisconsin

Mr. Wiley. Mr. President, I ask unanimous consent that in the final edition of the Congressional Record there be printed a statement by myself on the subject of the principal issues of interest to the people of Wisconsin and the Nation.

The Presiding Officer (Mr. Fehr in the chair). Without objection it is so ordered.

The Legislation of the 85th Congress

Mr. Wiley. Mr. President, I ask unanimous consent that in the final edition of the Record, it contain a statement by myself, in which I am preparing on the subject of the legislation acted upon during the first session of the 85th Congress, and the subjects which await our attention in the second session, convening next January 7.

The Presiding Officer. Without objection, it is so ordered.

Civil Rights Act of 1957

The Senate resumed the consideration of the amendment of the House of Representatives to Senate amendments Nos. 7 and 15 to the bill (H.R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

Mr. Watkins. Mr. President, the civil rights bill compromise which has come over from the House for action in the Senate is not all that I had hoped for, but it is about all that can be expected under circumstances. Most controversial legislation finally emerges as a result of compromises. The present bill is no exception. With jury trials limited to voting rights only, some of the major objections I had to the Senate bill have been eliminated.

I believe the bill as amended is one that will make for decided progress toward the objective of preserving the civil rights of the colored people of this Nation. Whether it will be effective will depend largely upon the attitude of the white people of the States where colored people have been constitutionally denied the right to vote. If white people in these areas act in good faith, the measure will be effective. Without their cooperation there will be a difficult enforcement. I have a very firm conviction that the people will act in good faith.

It was stated in Congressional debate that southern juries will convict in criminal contempt proceedings if a case has been made that the court's orders have, in fact, been violated. The proof of this claim, and the effectiveness of the new law, now is entirely up to the people of the South. If it is claimed that voting rights of colored people have been denied.

With the passage of this measure, the eyes of the whole Nation will be upon the south. What the white people do in the fight vigorously to present the American people the issue involved in this bill will be the test of the willpower of the American people. The power of public opinion should go a long way to help correct a situation that has long been unfair to our colored citizens. Every American citizen should be allowed to vote, no matter what his color, creed, or economic status may be. The Constitution guarantees this right to all citizens of this land of the free.

Next year is an election year. The Civil Rights Commission provided for in the bill should be in operation well ahead of that election. It should throw some needed light on conditions affecting voting rights. Colored people will, more than ever be interested in voting, and I hope that their constitutional rights will be preserved, as President Eisenhower so vigorously insisted.

The American people will be watching to see what the response will be to the first civil rights law in more than 80 years. I sincerely hope that the compromise language worked out in lengthy and difficult consideration in the Congress, will prove effective.

Mr. President, I shall vote for the compromise.

Mr. Byrd. Mr. President, I have already spoken at length in opposition to this proposed legislation, but I wish again to make very clear my strong opposition to this so-called civil-rights bill now pending.

When this bill was before the Senate previously, I enumerated all of the rules which were broken in its highly unorthodox consideration, and predicted that the Committee on the Judiciary would consider any case of such rule-breaking procedure as was being used to force the bill into law.

After the bill was passed by the Senate, and sent back to the House of Representatives, it was subjected again to more compromise. In the ordinary routine the House of Representatives is no exception. With jury trials limited to voting rights only, some of the major objections I had to the Senate bill have been eliminated.

In the ordinary routine the House would have accepted the Senate amendment to the Conference Bill. Did this bill get the ordinary routine? No. It was given a procedure unused in the House for years. It was submitted to the full House for amendment.

Personally, I believe the underlying purpose of this legislation was misguided and generally bad. The first House bill was greatly improved by Senate amendments, and the Senate is to be highly commended for the watering-down job it did under the harsh parliamentary circumstances which were forced upon it.

A victory for good government was won by kicking out the vicious part III which would have set up star-chamber proceedings for the very broad field of civil rights. In the Federal-election section of the Senate bill, was provided for jury trials in alleged criminal-contempt cases.

There is not adequate time for study of the provisions of the House amendments. With the States now being given a promise remedy, worked out in lengthy compromise, will be made.

Next year is an election year. The Senate will be printing a statement by myself on the subjects which await our attention in the second session, convening next January 7. I have noted the majority leader's proposal for a thorough study of the question of trial by jury in criminal-contempt cases. I hope some good will come out of legislation adopted in the House. I have been told that before the proposed procedure became such an important part of the pending bill.

The Senate cannot overlook the fact that the bill now before us would establish theogue Commission authorized to go abroad in the land stirring up trouble; and provides, further, for a new Division in the Department of Justice, with a special Assistant Attorney General, to supervise the use of Federal powers of the Department, for operations in this delicate field. It will be easy to foment strife through these activities in which allegations, supported and otherwise, will be made.

No good can come out of legislation characterized by the kind of consideration given this bill, and I am unwilling to carry acquiescence in any part of it on my conscience.

I can remember the reaction of shock which spread immediately across the country when the senior Senator from Georgia [Mr. Russell] pointed out that the armed might of the military forces of the United States could be used under the infamous part III of the bill.

I remember the reaction of surprise, even by Members of Congress, when, during the previous Senate debate, equally iniquitous provisions were pointed out in other sections of the bill.

I am aware of a tremendous reaction at the time of the so-called compromise adopted by the House.
What has been compromised is the right of an American to trial by jury in criminal cases and the fundamental rights of citizens to vote.

I deny the publicized contention that this bill represents an improvement over the Senate bill. Nothing is improved unless we would allow the innocent people to suffer severe punishment at the whim of a Federal judge without being able to submit proof of their innocence to a jury of their fellow citizens who owe no allegiance to a politically appointed Attorney General.

The Nation will regret enactment of this bill as it stands, just as it regrets the actions of a Supreme Court which hands down political-social decisions which undermine our fundamental principles of government, which preempts State laws, which lightly frees a felon guilty of horrible crime to roam the community, which opens up FBI confidential files, and which strikes down the will of a private citizen which has stood for decades.

I am opposed to this bill. It deserves the Senate's most vigorous rejection.

Mr. SMATHERS. Mr. President, I voted for the Senate version of the civil-rights bill when it passed the Senate on August 7. I am prepared now to vote for the House version of this bill again. I thought the Senate bill was a sensible civil-rights bill. It embodied two basic principles. It protected the right of qualified citizens to vote regardless of race or creed, and it affirmed and strengthened the basic right of trial by jury for all citizens who are charged with criminal contempt or crime.

The House of Representatives has now sent us a compromise version of that bill. It retains all the provisions with respect to voting rights, but, in my judgment, it effectively destroys the protection of trial by jury in criminal-contempt cases which we in the Senate had put into the bill. In my opinion, the basic civil right of trial by jury is as fundamental and precious as is the right to vote. The Congress had united in the states and in the legislatures in Congress in four separate instances the importance of trial by jury. It mentions voting rights in only one section.

I do not believe that we, as responsible legislators adhering to basic democratic principles, should be willing to sacrifice the basic right of trial by jury, even to get a provision which has as its purpose the protection of voting rights. I do not believe we should exchange one fundamental civil right in order to try to strengthen or improve another. I do not believe that it is judicious, nor wise, nor fair to try to give to one group of citizens the full enjoyment of one civil right, by taking away from other groups of our citizens other more fundamental civil rights.

For these reasons, I shall not support this compromise version of the so-called civil-rights bill.

Mr. SCOTT. Mr. President, we have been through a long and laborious ordeal concerning the civil-rights bill that is now before us.

I will not dwell at any length, but there are a few points that I would like to make concerning the bill.

Everybody, naturally, strives for the day when all sections of this Nation can come together in public opinion with clean hands concerning their social, economic, and political problems.

I would be the last to say that there has been no Negro in the South denied the right to vote, but the matter is not as serious and the problems are not as extensive as many people would try to lead the public to believe.

Of course, there are soft spots in the South, and there are soft spots in the North, but we are fast reaching the day when demagogues dare not dabble in our race problems.

People everywhere are realizing that these are problems that must be settled man to man and neighbor to neighbor.

Once we realize this, once we face the fact that the weakness of the social structure of democracy, then everyone will know that human relations is something the makers and molders of laws and orders had best leave to the hearts and minds of men.

With these thoughts as a background, I once again ask the Members of the Senate to search deep into their souls before casting a final vote on the bill before us. If I have ever thought the Senate will defeat the bill. There are great many reasons why the Senate would be well advised to defeat the bill before it.

As I have said that the bill itself is not as harsh as it could be, but the important point is this: Its ultimate effect—be it damage or benefit—will depend upon how it is administered.

This, Mr. President, is the danger in this whole area of problems—in this whole business of the day-to-day relations between men.

If the bill becomes law, and is administered with restraint and reason, then that is one thing.

But if it is administered with the idea of getting mass blocks of votes in the big cities to the detriment of those responsible will be guilty of the sorriest crime of our times.

This is the fear that is held in the hearts of the people of the South—this is the danger of this whole bill—because if it happens you will see violence and bloodshed.

Nobody will deny that we have made a great deal of progress in race relations in the South in the past generation. In recent years' duration, in which this progress has been frustrated to an extent by several decisions of the Supreme Court, but basically we are still people of good will and we want to keep it that way.

To pass this bill and have it administered by careless and reckless people would bring about complete chaos in the South. There is too much at stake to take such a risk.

The South, Mr. President, is on the move. We are rounding out our economy with industrial expansion and more diversified agriculture. We are building schools and hospitals and health centers and roads, and we are achieving a standard of living that is unbelievable under present conditions.

We of the South, Mr. President, are determined to continue our progress, and we resent the idea of outsiders trying to coach us from the sidelines.

I ask, therefore, that we not be hindered; that we not be interfered with; that we are left to solve our own problems.

Mr. HILL. Mr. President, I had concluded when the Senate adopted the civil-rights amendment on August 2 by the substantial majority that the House body had acted with finality in rejecting the plea of advocates of civil-rights legislation that in the name of buttressing that which the vote was won only to deny the right to trial by jury. Today, however, we find ourselves once again fighting the same old battle for individual liberty. The most recent threat to personal freedom is the peril under the banner of a compromise—a compromise that is held out to us as a constructive proposal, which comes halfway between the stand of the Senate in favor of jury trials and the insistence of the House of Representatives that this ancient bastion of human liberty be denied under this bill. I submit, Mr. President, that this proposal is not and cannot be regarded as a compromise. It is, rather, an abdication of principle.

I am categorically opposed to this strange proposal to give to the unfettered discretion of a Federal judge the power to determine whether a person shall or shall not be entitled to a trial by jury. I strongly believe that the proposal is unconstitutional, and if the proponents of the so-called compromise are successful in securing its enactment I should devoutly hope that the judiciary would strike the measure down. I am also opposed to the compromise because it would revere a legislative history of 128 years' duration, in which the Congress has repeatedly expressed itself in favor of preserving and extending the right to trial by jury, as opposed to restricting it or abolishing it in the wake of powerful pressures arising out of the political issues of the day. The American people are innately contemptuous of despotic power whether it be exercised by kings, dictators, or judges. I believe that the arbitrary powers the compromise would grant to Federal judges might well bring the entire judiciary into disrepute.

For at least 70 years the judiciary has evinced growing and thoughtful concern for the preservation and strengthening of the right to trial by jury. In the course of this debate there have been those who have argued that Congress has no legitimate concern to provide for jury trials in cases of criminal contempt. They have insisted that when we set a jury before an accused person in a contempt proceeding and summarily punish him we question and aflict the dignity of the court and the power of the court to vindicate its dignity. I submit, Mr. President, that in recent expressions of Justices of the Supreme Court of the United States there are voiced admonitions against the process of abandoning such constitutional guaranties as the right to trial by jury in the name of preserving the dignity of the courts.

It certainly in no wise can be argued that the jury-trial amendment which the Senate adopted is either a constitutional or an extension of statutory rights of
which the courts themselves would disapprove. In the case of Michaelson v. United States (160 U.S. 42, 16 S. Ct. 583), the Supreme Court of the United States clearly disposed of any doubts in this regard. Justice Sutherland, in delivering the opinion of the Court, said:

The simple question presented is whether Congress, or the court itself, or by jury upon the demand of the accused in an independent proceeding at law for a criminal contempt which may arise in the course of such proceedings, or in any other way, may not be compelled to be a witness against the accused in an independent proceeding at law for a criminal contempt which may arise in the course of such proceedings, or in any other way.

Petitioners were imprisoned for terms up to 6 months, but these terms could be extended without limitation. The Court held that the demand of the accused in an independent proceeding at law for a criminal contempt which may arise in the course of such proceedings, or in any other way, may not be compelled to be a witness against the accused in an independent proceeding at law for a criminal contempt which may arise in the course of such proceedings, or in any other way.

The Court further states:

The statutory extension of this construction to nonjudicial contempts, which are properly described as criminal offenses, does not, in our opinion, invade the powers of the United States courts, or the powers of the Congress, to make or enforce laws to authorize the courts to punish or violate that instrument in any other way.

In the case of Sacher et al. v. United States (343 U.S. 1 (1952)), two Justices took the position that even in cases of direct criminal contempt an accused person is constitutionally entitled to a trial by jury.

The Sacher case grew out of a turbulent 9-month trial of 11 Communist leaders on charges of violating the Smith Act. Defendants' counsel in the presence of the trial judge held the defense counsel guilty of direct criminal contempt and sentenced them to imprisonment. Although the majority of the Court upheld the power of the trial judge under rule 42 (a) to impose such punishment, Justices Black, Frankfurter, and Douglas dissented.

In his dissenting opinion, Justice Black listed the reasons why the conviction ought to have been reversed, among which was:

Petitioners were constitutionally entitled to have their guilt or innocence of criminal contempt decided by a jury.

The opinion further states:

I would reverse on the further ground that petitioners are entitled to have the accused persons named in the indictment of the complaint for contempt tried by a jury. The opinion provides that "no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury. * * *" These contempt proceedings are "criminal proceedings," and any accused persons named in the complaint for contempt are entitled to have the accused persons named in the indictment of the complaint for contempt tried by a jury. The accused should enjoy the right to a speedy and public trial by an impartial jury.

The historic power of summary contempt grew out of the need for judicial enforcement of orders to appear in the court or to obey court orders. To compel obedience to court orders, the idea of judges having power to bind the Bill of Rights in relation to criminal trials and punishments is an illegitimate offshoot of this historic coercive contempt power. It has been said that such a "summary process of the law" has been applied to "objectionable" law courts, and that the alleged ancient history to support its existence is "fiction." With the specific reservation that I think summary contempt proceedings may not be employed solely to enforce obedience and order, and not to impose unconditional criminal punishment, I believe that contempt charges may be filed before a different judge, citing Cooke v. United States (267 U. S. 518).

Several Justices joined in the opinion of the Court and concurred in the re-
vernal and remand of the case for hearing before another judge. They stated that "they would go further, however, and direct that petitioner be ordered a jury trial for reasons set out in the dissent in Sacher v. United States (343 U. S. 1, 14–23), and Isserman v. Ethics Committee (345 U. S. 227).

I agree that these opinions go much further than the jury trial amendment the Senate adopted, first, because they state that an accused has a constitutional right to a jury trial in a criminal contempt proceeding, whereas the O'Mahoney amendment merely sought to provide a statutory right of trial by jury, and, secondly, the opinions which have now extended the constitutional right of trial by jury to cases of direct criminal contempt, whereas the O'Mahoney amendment would extend this cherished liberty only to cases involving foreign crime and contempt.

A recent expression of the Supreme Court of the United States was given in the jointly decided cases of Reid against Covert, and Covert against Reid, decided in Nos. 701 and 713 of the October term, 1955, decided on June 10, 1957. These were the famous cases involving the wives of servicemen who had been convicted of deserting their husbands or having murdered their husbands, who were serving in the armed services abroad. I need not recite all the facts in the cases, but the Court had originally decided that the military trials of Mrs. Smith and Mrs. Covert were constitutional, 351st United States Reports, page 470, 487.

The majority in those cases held that the provisions of article III and the fifth and sixth amendments are applicable to the armed forces, and that crimes committed by members of the armed forces outside the United States were subject to military jurisdiction. After declaring that all criminal trials must be by jury, the section states that when a state or territory is without the limits of any State, the trial shall be at such place or places as the Constitution may by law have directed. If this language is permitted to have its normal meaning, it is applicable to the armed forces, because the Constitution expressly provides that "persons in the military forces, or in the militia, when in actual service in time of war or public danger." And the opinion went on to declare: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed."

The language of article III, section 2 manifests the consistent efforts of the framers of the Constitution to fasten on all departments and arms of the government the fundamental right of trial by jury in criminal trials. The Norris-La Guardia Act of 1932 was an additional recognition of this right of jury. The Norris-La Guardia Act of 1932 provided as section 2, title 18, United States Code, 3601 of title 18. These sections likewise extend rather than restrict the right to trial by jury.

Similarly, the adoption of the proposition of the Constitution is entitled to the right of trial by jury in a prosecution for criminal contempt. The decision in the combined cases, however, clearly shows the emphasis that the Supreme Court of the United States places upon the sanctity of the right to trial by jury, and indicates that with the recently changed composition of the Court, there will be no hesitancy on the part of the majority of the members to upset even a recent case on the constitutional ground that the right to trial by jury had been denied.

Let us consider some of the passages from the majority opinion. The opinion declares:

The rights and liberties which citizens of our country have enjoyed under our system and tradition alone, have been zealously preserved from the encroachments of Government by express provisions of our written Constitution.

Among those provisions, article III, section 2, and the fifth and sixth amendments are expressly directed to the cases. Article III, section 2, lays down the rule that: "The trial of all crimes, except in cases of impeachment, shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as Congress may by law have directed."

The fifth amendment declares: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger."

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constitutional right to trial by jury, that precious right should be freely given or freely taken away upon the whim and caprice of a single man.

In addition to the fact that the proposal before us is clearly an abridgment of the principles embodied in our constitutional and statutory laws and judicial decisions, it is one that is bound to be productive of great evil and may well bring the entire judiciary into scorn, ridicule, and disgrace.

In the first place, despite the fact that the so-called compromise has been modified since its original presentation last week, it still requires a Federal district judge to prejudge the facts in a case before he can make a determination as to whether or not an accused person shall be entitled to the right to a trial by jury. It would invite a judge to make his decision upon the basis of hearsay, newspaper articles, and insinuations and unsubstantiated assertions whispered into the ear of the judge. I agree with those who assert that any good judge would grant the right to trial by jury, but we cannot afford a democracy which would afford a person on the part of all men having life tenure of office when we are considering granting them such broad and unlimited authority. As Senator Ewing has stated regarding a feature of the pending measure, this proposal gives to a single official broad powers which no bad man ought to have and no good man ought to want.

In the second place, the so-called compromise injects, for the first time, into our Anglo-American jurisprudence the strange and alien philosophy that the fundamental democratic process of trial by jury is not a matter of right but is rather a privilege which can be granted or denied on the basis of considerations other than legal—on the basis of financial or fiscal considerations. Thus they seek to affix to the sentence of a defendant’s sentence to jail. Is a fine of exactly $300, or a jail sentence in excess of 45 days, then a fixed of exactly 1 day, 1 hour, 1 minute, as part of a defendant’s sentence to jail? Is a paltry sum or a fleeting moment to destroy the precious right to trial by jury?

The compromise proposal, on the premise of doing away with that which has been the democratic idea of class privilege, is, in fact, providing for a second-class contempt—a contempt proceeding whereby the basic rights of a free people may arbitrarily be swept away and an accused person be left shorn of the basic safeguards that protect him from tyranny.

In the third place, in many instances it would strip from the Federal judge his right and duty to be a fair and impartial arbiter of the rights of an accused person. In cases where the judge decides to impose a fine in excess of $300 or a jail sentence in excess of 45 days, the accused person could demand a trial de novo before a jury. We would then behold the incredible spectacle of the judge who previously had made the law the defendant was accused of violating. Thus the defendant, who had tried the accused, who had found the accused to be guilty, who had affixed the sentence, presiding at the jury trial in which the accused would have the right to the theoretical right to a jury trial and the right to a fair and impartial judgment rendered. Such a strange and indefensible procedure, I submit, Mr. President, can only be calculated to engender contempt in the minds and hearts of a free people for any man who possesses such powers.

As I have previously emphasized, the Founding Fathers embodied in the Constitution and the Bill of Rights their determination to provide the accused with the right of trial by jury. Thus they sought to avert the necessity of having to fight again and again the same old, hard-won battles for individual freedom. They would never have provided government with the power to secure forever cherished liberties such as the right to trial by jury, to place the country forever under the rule of law. The Founding Fathers, who knew the imperfections of man, knew that this country would have what? They represent every man’s conception of the supreme and guaranty of trial by jury in all criminal prosecutions is exactly what the Constitution says it is: It is a right—not a privilege, not special treatment, not an institution to be bargained away or to be granted or denied at the discretion of some man or any group of men. As Jeremiah Black said:

"I prove my right to a trial by jury as I would prove my title to an estate if I held it by a solemn deed conveying it to me, coupled with undeniable evidence of long and undisturbed possession under and according to the deed. There is the charter or instrument which we claim to hold it. It is called the Constitution of the United States. It is signed by the sacred name of George Washington, and by 38 other names only less illustrious than his. They represent every independent State then upon this continent, and each State afterwards ratified their work by a separate convention of its own people. Every State that subsequently came in acknowledged that this was the great standard by which we were to govern our lives. Every man that has ever held office in the country from that time to this, has taken an oath to defend the Constitution through good report and through evil.

Mr. President, I reiterate, for all those who will listen, that the sixth amendment to the Constitution provides:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed.

As Jeremiah Black further declared:

"Is there any ambiguity there? If that does not signify that the exclusive and only means of ascertaining guilt in criminal cases, then I demand to know what words or what collocation of words in the English language would have that effect? Does this mean that a fair, open, speedy, public trial by an impartial jury shall be given only to those persons against whom no special grudge is felt by the Attorney General, or the Judge Advo cate General of a department? Shall this inestimable privilege be confined only to men whom the administration does not care to convict? Is it confined to vulgar criminals, or may it be availed of by men who seem to regard trial by jury as the battle of society, and shall it be denied to men who are accused of other offences? The words of the Constitution are all embracing "as broad and general as the casing air."

Mr. President, the sanctity of the tradition and guaranty of trial by jury were enshrined in these immortal words:

I do not assert that the jury trial is an infallible mode of ascertaining truth. Like everything human, it has its imperfections. That it is far from perfect for innocence and the surest mode of punishing guilt that has yet been discovered. It has borne the test of a longer experience, and it is far more likely to do the justice to the individual than any other cause put together. It has had the approbation not only of those who lived under it, but of great thinkers who looked upon it with admiration, and it is impartially * * * and no people ever adopted it once and were afterward willing to part with it.

Mr. President, I want the record to be abundantly clear that I was never
counted among those who inherited that great safeguard of personal freedom, the institution of trial by jury, who endowed its benefits, and its blessings, and who "were afterward willing to part with it."

In a moment of impatience for ad­
mendment, let us not unadvisedly vote to
comprise with principle, for compromise with principle is nothing more or less
than surrender of principle. The Sena­
tor from Rhode Island [Mr. GREEN], the
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and appointments had to be arranged
assignment, and a date was set well be­
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The assignment called for an extensive
ity throughout these great and
nous areas of the world. The asso­
ment was of such a nature that details
its impact on the amendments
numbered 7 and 15 to

The Junior Senator from Alabama [Mr. SPARKMAN] to undertake for
his colleagues in both Houses of Congress, so that men may always say, "Here was the Senate in its finest hour, rendering its highest service to the American people."

The important thing to remember is that this compromise will take away the absolute right to trial by jury in criminal cases, and substitute for the constitutional right of jury trial, a non-constitutional provision which is nothing more or less than a surrender of principle.

The Senate has already made its stand—I would hope, its irrevocable stand—in behalf of the principle of trial by jury. Let us neither retreat 1 inch nor surrender a single principle of justice where the rights and freedom of our people are at stake. Let us purge this legislation from the Halls of Congress, so that men may always say, "Here was the Senate in its finest hour, rendering its highest service to the American people."

I have just made. ...
I now invite the attention of the Senate to amendment No. 7 of the Senate, which was a part of the amendment to the bill as passed by the House of Representatives, and which, therefore, for the benefit of the House, I will briefly explain.

In any event, the Senate from California proposed an amendment to section 105 as it originally passed by the House of Representatives, provided that the Commission could accept and utilize the services of voluntary and uncompensated personnel.

Mr. KNOWLAND. I wish to say that the Senator from South Dakota has made an ultimate statement of the situation. He not only made on the floor the statement to which he refers, but he sent letters together with copies of certain suggested language to me and to the majority leader of the Senate, the minority leader of the Senate, and the majority leader of the House, and, as he pointed out, also, to some of the possible House conferences.

When this bill got to the House it had been delayed for some time, and then finally there were suggestions being made of a way whereby acceptable language might be worked out, and the other problems had been solved, at informal meetings I discussed with the distinguished majority leader and with some of the leadership in the House the question of solving this problem which had caused some concern to the press of the country. The language which was suggested was the language which the Senator from South Dakota had previously proposed and of which advised a number of other Senators. That language, after having been gone over by the majority leader and the minority leader and the leadership of the House, was found to be acceptable, and the fact that the Senate had amended the section to which the Senator from South Dakota had referred made it possible to make this correction when the Senate concurred with amendments.

The Senator is to be thanked for developing this record; he has made an excellent contribution toward solving the problem which had existed.

Mr. JAVITS. Mr. President, will the Senator yield?

CASPER of South Dakota. Mr. President, I deeply appreciate the remarks of the distinguished minority leader.

I yield to the Senator from New York.

Mr. JAVITS. I should like to join the majority leader in commendation of the Senator from South Dakota. I raised the question after the third reading of the bill. I stated that I could see no other way in which the correction could be made possible. The Senator from South Dakota and the House had adopted the same language, a concurrent resolution might have been in order before the President signed any bill. The Senator from South Dakota made a very resourceful suggestion. He solved that dilemma for all of us, and I think both the Senate and the press should
be very grateful to him for having made this excellent contribution.

Mr. CASE of South Dakota. I appreciate the remarks of the Senator from New York. I would like to take this opportunity to handle it directly in the bill itself than to try to do it by concurrent resolution, which, might or might not be adopted before the President signed the bill. To try to take care of a situation by the adoption of a concurrent resolution, in an attempt to amend a bill which has not been enacted, has always seemed to me of dubious quality if direct amendment is not feasible.

By making the direct amendment in the bill itself before it is finally passed, we have taken care of the situation beyond doubt or question. But I do not believe that would like to incorporate in my remarks at this point the remarks I made on the 19th of August, together with a brief colloquy I had with the Senator from New Mexico [Mr. Adam]. I believe that the term 'whoever' as used in paragraph (g) of section 102 hereof shall be construed to mean a person whose services are compensated by the United States, to include reporters of newspapers or radio or other media of public information.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CASE of South Dakota. I yield.

Mr. JAVITS. I am very anxious to have the Senator from South Dakota explain why he considers it necessary to add to the amendment numbered 7 which reads:

Paragraph (g) states:

This bill will be an outstanding piece of legislation, in my judgment. It is a well-rounded piece of legislation, and it is not entirely satisfactory, for instance, to every Member of the Senate but it has worked its way through the procedures of the House of Representatives and of the Senate in the best parliamentary traditions.

Changes may come with experience in operation, but I predict that this Civil Rights Act of 1957 will be a landmark in the legislative history and the social and political history of the United States, so that if they developed information in some way, they would not come under the penalty provisions.

Mr. CASE of South Dakota. I thank the Senator from New York. He is familiar with the rules of the House. All amendments, presumably limiting the jury-trial provision to criminal contempt cases arising under the so-called civil-rights bill would imperil the so-called so-called compromise bill. The bill as it passed the House sometimes adopts the House will not be printed in the Record, as follows:

It may be very gratifying to him for having made this excellent contribution. The cooperation of others and the distinguished majority leader, the Senator from Texas [Mr. Johnson], and the spirit of trying honestly to serve our common country, exhibited by Members on both sides of the aisle and the two extremes of the issue, so to speak, must also be credited for the enactment of this legislation. There has been debate. There has been difference of opinion. But there has not been blind, stubborn, unreasoning bitterness. So we come to this point of final voting on the amended bill as modified by House amendments to Senate amendments.

This bill, when passed into law, will be an outstanding piece of legislation so far as the Eisenhower administration is concerned. Civil-rights legislation has been a part of the Eisenhower program. It is the first major effort by this character in some eighty-odd years.

There are the specific provisions of part IV to protect the right to vote. This is a well-rounded piece of legislation, I am sure, it is not entirely satisfactory to every Member of the Senate but it has worked its way through the procedures of the House of Representatives and of the Senate in the best parliamentary traditions.

Mr. LONG. Mr. President, during the past 2 months my opposition to the so-called civil-rights bill has been made slightly clear to the Senate and to the public. I urge my colleagues to reject the so-called compromise bill.

The bill as it passed the Senate protected in his right to a jury trial every citizen who is charged with criminal contempt and for unauthorized disclosure of evidence taken before the Commission in executive session. Members of the press could not be considered to be persons compensated by the United States, so that if they developed information in some way, they would not come under the penalty provisions.

In closing, I should like to recall, in essence, what I said earlier during the debate when the bill was before the Senate. That this Congress is to pass this civil-rights bill is due in large degree to the determination of this country that the distinguished minority leader, the senior Senator from California [Mr. Knowland]. It was his action that kept the bill before the Senate when it came over from the House of Representatives. It was his motion that made it the pending business of the Senate. He resisted every effort to sidetrack it. He worked steadily to improve the bill and to prevent amendment by the other chamber. In this he was joined by the distinguished majority leader, the Senator from Texas [Mr. Johnson].
to a jury trial, as a judge may do if he desires. In that way I hope to prevent the evil in the bill from injuring citizens in Louisiana, in the event the bill should pass.

It would be a serious mistake for Congress to eliminate the due process of justice which citizens enjoy under the Constitution and replace it with the contempt powers of a Federal court. Government by contempt will achieve little more than contempt for Government.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senate is not at a quorum.

The legislative clerk proceeded to call the roll.

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

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

The question is on amending the House of Representatives amendments Nos. 7 and 15.

Mr. KNOWLAND and Mr. MANSFIELD asked for the yeas and nays.

The yeas and nays were ordered.

Mr. TALMADGE. Mr. President, H.R. 6137 was introduced into the Senate in a form, the majority thought, would eliminate the most vicious and injurious provisions in the House amendments. It is the task of the Senate to pass a civil-rights bill, and we do not wish to delay the bill.

As taken up initially by the Senate, it was a force bill of the ranker kind. It would have conferred upon the Attorney General of the United States unlimited power to harass, intimidate, and control the lives, public and private, in the South. Under the guise of the bayonet rule, the Attorney General acting for him—to use the full armed might of the Nation to force the Army, Navy, and Marine Corps to integrate the Negro acting for him—could not possibly be because they were more successful in eliminating the more vicious and injurious provisions of the bill.

To be sure, there is a grandstand of long-winded speeches would be immediately popular with our constituents—who, like us, are unalterably opposed to this bill in any form—was not lost upon us.

But reason dictated that, in determining our course of action, we should measure the gains we had made against the potential losses. A delay of the House returned the bill to the Senate.

The problem then confronting southern Senators was how best to protect the interests of their constituents. Certain resolutions were submitted to the minority of Representatives presumed to advocate that we conduct a filibuster against the bill. I do not know why these men arrogated unto themselves greater wisdom than the legislative body that is supposed to represent the southern Senators. It could not possibly be because they were more successful in eliminating the more vicious and injurious provisions of the bill.

The proposal to forms a grandstand was a foregone conclusion for some resolution which I am convinced would, in the long run, wreak unspeakable havoc upon my people.

And it is to them, Mr. President, that I leave the judgment of my decision and action.

Mr. KNOWLAND. Mr. President, during the course of this debate, I have differed on numerous occasions with the distinguished junior Senator from Georgia [Mr. TALMADGE]. He has thought that this approach to the pending bill was wrong, and I have thought that it was right. I respect him for his opinions, and I believe he respects me and those who have differed with him for our opinions.

Anyone who knows the Senate of the United States is aware of the fact that the Senate, with its traditions, wishes to pass a civil-rights bill.

As one who has served in the Senate for over 12 years, I honor the Senate of the United States and its great tradition. These traditions is that of free debate. During the entire debate up until yesterday, the discussion was both germane and helpful. Up until then, the debate

The success of the southern Senators in pyramiding their 17 votes to win these herculean victories for constitutional government and individual liberty was beyond their fondest original expectation. As repugnant as are the remaining provisions to constitutional principle and States rights, it nevertheless had to be admitted, even by advocates of the measure, that southern Senators gained for the people what they wanted.

It had been hoped that the House of Representatives would sustain the full gains made by the Senate.

Unfortunately, through a so-called compromise which compromises at best principle and at worst the Constitution of the United States—the jury-trial guaranty was sacrificed.

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But reason dictated that, in determining our course of action, we should measure the gains we had made against the potential losses.

The facts we had to face were these: First. It would be impossible for 17 Senators to conduct a filibuster until the convening of the 86th Congress in January. The Senate, at that time, can be limited by 64 votes, and with 79 Members of the Senate favoring a civil-rights bill, there exists 15 votes more than the number necessary to impose gag rule at will. Second. In Senate Rules, there is a subcommittee of the Rules Committee of which I am chairman 7 different resolutions—Senate Resolutions 17, 19, 21, 28, 29, 30, and 32—to liberalize the provisions of Senate rule XXII, under which debate in the Senate can be limited. Those resolutions contain an aggregate of 54 signatures—5 more than necessary to pass any one of them.

As chairman of that subcommittee, I have been successful in my insistence upon full hearings on, and thorough study of, these resolutions before any action was taken. It will achieve elimination of those provisions which would have given the Attorney General dictatorial powers to regiment the thoughts and actions of the American people.

The Talmadge version contained an ironclad guaranty that the constitutional right of trial by jury would be respected and upheld in all cases of criminal contempt arising under it.
had contributed to the working out of amendments and modification of the bill, some very substantial in character.

Because of the high standard of the general debate, the majority properly declared the Senate amendments not to be a cloture petition nor to attempt to invoke cloture. Had the Senate been blocked by dilatory tactics and obstructionism in debate, we would have had no other choice. That the amendment did not come about is due to the restraint and the statesmanship of the opponents of the proposed legislation and to the reasonableness and the moderation of the proponents.

It has been a hard fight. I hope it leaves no scars that cannot be quickly healed.

We honor and we respect our colleagues from the South who have made an honorable and a determined fight against heavy odds. Their fight resulted in substantial amendments to the bill as it came to the Senate from the House of Representatives. I hope and believe that the Senate version that will be appointed by the President of the United States under this bill will be a fair and moderate one in its approach to the great problems involved.

In my view, the principles of the Senate's jury-trial amendment have been left intact. The deficiencies of the House version have been grossly exaggerated.

The House version is not a big bad wolf with sharpened fangs and scutched claws ready to leap upon innocents. The hopes of its backers, in my opinion, are based on a misapprehension of the facts. Mr. President, in my opinion, it cannot, in my opinion, be justified.

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present he would vote "nay." If I were permitted to vote, I would vote "yea." I withhold my vote.

Mr. GREEN (when his name was called). On this vote, I have a pair with the Senator from Alabama [Mr. Sparkman]. As I have said before, I asked Senator Sparkman to undertake for the Senate Foreign Relations Committee an assignment essential to the welfare and defense of the Nation.

He did so with the understanding that I would give him a live pair.

Were he here he would vote "nay." Were I at liberty to vote, I would vote "yea." I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the senior Senator from Oregon [Mr. Morse]. If the senior Senator from Oregon [Mr. Morse] were present and voting, he would vote "nay." Were I at liberty to vote, I would vote "yea." I withhold my vote.

Mr. MORAN (when his name was called). On this vote I have a pair with the senior Senator from South Carolina [Mr. Johnston]. If the senior Senator from South Carolina [Mr. Johnston] were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

The rolcall was continued.

The vote was recapitulated.

Mr. DOUGLAS. Mr. President, let me ask whether the clerk announced that the Senator from South Carolina [Mr. Johnston] voted in the affirmative.

The VICE PRESIDENT. The Chair will have the clerk call the roll.

The Chair is informed that the Senator from South Carolina [Mr. Johnston] is not recorded.

Mr. DOUGLAS. Mr. President, I understand the Clerk to say that on the recapitulation of the vote, that the Senator from South Carolina [Mr. Johnston] had voted in the affirmative. I realize that that was not the case and that the Senator from South Carolina [Mr. Morse] would have voted in the negative, although, of course, if the Senator from South Carolina had been present and had voted, I would wish that he had voted in the affirmative.

However, the fact is that the senior Senator from South Carolina did not vote, being absent.

Mr. MANSFIELD. I announce that the Senator from Oregon [Mr. Mansfield], the Senator from New Mexico, [Mr. Anderson and Mr. Chavez], the Senator from South Carolina [Mr. Ervin], the Senator from South Carolina [Mr. Foulke], the Senator from North Carolina [Mr. Kerr], the Senator from Oregon [Mr. Morse], the Senator from West Virginia [Mr. Neely], and the Senator from Alabama [Mr. Sparkman], are absent on other business.

I further announce that, if present and voting, the Senators from New Mexico [Mr. Anderson and Mr. Chavez] and the Senator from West Virginia [Mr. Neely] would each vote "yea."

Mr. DICKSEN. I announce that the Senator from New Hampshire [Mr. Bridge] and the Senator from Maine [Mr. Payne] are absent because of illness.

The Senator from Ohio [Mr. Bricker], the Senator from Kansas [Mr. Carlson], and the Senator from Indiana [Mr. Jenner] are necessarily absent.

The Senator from Maryland [Mr. Butler], the Senator from Indiana [Mr. Capehart], and the Senator from Nevada [Mr. Malone] are absent on official business.

The Senator from Kentucky [Mr. Morton] is detained on official business. If present and voting, the Senator from Ohio [Mr. MoRSE], the Senators from Indiana [Mr. Capehart and Mr. Jenner], the Senator from Nevada [Mr. Malone], the Senator from Kentucky [Mr. Monroe] and the Senator from Maine [Mr. Payne] would each vote "yea."

The result was announced—yeas 60, nays 15, as follows:

YEAS—60
Allen
Alford
Barrett
Beall
Benett
Bible
Brock
Case, N. J.
Case, S. Dak.
Clark
Cooper
Cotton
Curtis
Dirksen
Douglas
Flanders
Frear
NAYS—15
Aiken
Anderson
Bricker
Briggs
Butler
Capehart
Carlson
Chambliss
Cotton
Creas
Currie
Dole
Douglas
Drysdale
Farris
Frear
Byrd
Eastland
Elender
Eliot
Ewing
Hill
NOT VOTING—21
Anderson
Bricker
Briggs
Butler
Capehart
Carlson
Chambliss
Chambliss
Cotton
Creas
Currie
Dole
Douglas
Drysdale
Farris
Frear
Byrd
Eastland
Elender
Eliot
Ewing
Hill

So the motion that the Senate concur in the amendments of the House of Representatives to Senate amendments Nos. 7 and 15 to H. R. 6127 was agreed to.

Mr. JOHNSTON of Texas. Mr. President, may we agree to the motion which the motion was agreed to reconsider.

Mr. KNOWLAND. Mr. President, I move that the motion to reconsider be laid on the table.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from California to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. KNOWLAND. Mr. President, I ask unanimous consent that I may have inserted in the body of the Record a memorandum concerning the constitutionality of the provisions concerning trial with and without a jury contained in part V of the civil-rights bill.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

MEMORANDUM CONCERNING THE CONSTITUTIONALITY OF THE PROVISIONS CONCERNING TRIAL WITHOUT A JURY CONTAINED IN PART V OF THE CIVIL-RIGHTS BILL

The contention that the provisions contained in part V of the civil-rights bill now embodied in House Resolution 410 relating to trial with and without a jury in cases of criminal contempt arising under its provisions is in conflict with the guaranties of the right to jury trial in criminal cases.

There being no objection, the memorandum was ordered to be printed in the Record as follows:

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Mr. President, let me state that the Constitution as now interpreted by the United States Supreme Court embodies a jury trial without a jury in cases of criminal contempt arising under its provisions.

The constitutional guaranty of the right to jury trial in criminal cases has been extended not only to the United States Supreme Court, but to the United States District Courts and the United States Circuit Courts of Appeals. It is a well-established rule that a jury trial on an accusation of contempt of Congress, brought in a United States District Court, must in all cases be conducted by a jury. The United States Supreme Court has declared that the accused may insist on a jury trial in United States District Courts, in criminal cases and in civil cases, as a matter of right. The United States Supreme Court has declared that the accused may insist on a jury trial in United States District Courts, in criminal cases and in civil cases, as a matter of right.

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The Senate has well established that minor offenses may be tried without a jury. See, e.g., Callen v. Wilson (177 U. S. 640); Sieck v. United States (186 U. S. 68); District of Columbia v. Colts (282 U. S. 63); District of Columbia v. Claysone (300 U. S. 6); State v. Parker (202 Ark. 237; 187 S. 161); Loeb v. Jennings (133 Ga. 707); Ex Parte Wooten (1194 Miss. 714); Ex Parte Garner (246 S. W. 371 (1922)), Texas Criminal App. 4.

Congress has provided for the trial of minor offenses without a jury in the District of Columbia by the enactment of section 11-616 of the District of Columbia Code, which provides: "where the accused would not be entitled to a trial by jury, after conviction of a defendant in the United States, be entitled to a trial by jury, in which case the trial shall be by jury," and that section has been held to be constitutional. See, e.g., United States v. District of Columbia (1940), title 13, sec. 617.

Laws have been enacted in many States to provide for the trial of minor offenses without a jury in the District of Columbia. Among such States are Alabama, Arkansas, Delaware, Florida, Georgia, Louisiana, Mississippi, and Virginia.

The provision in the bill for the trial de novo before the circuit court with the benefit of a defendant and therefore the sentence after conviction by the circuit court shall be without a jury, unless in such of said last-named cases wherein the fine or penalty may be more than $500 on imprisonment or punishment for the offense may be more than 30 days, the accused shall demand a trial by jury, in which case the trial shall be by jury," and that section has been held to be unconstitutional. See, e.g., United States v. District of Columbia (1940), title 13, sec. 617.

The Code of Alabama (1940), title 13, sections 329, 330, provides that a indictment in the county court and before a justice of the peace shall be without a jury, and that after conviction the defendant may demand a trial de novo before the circuit court with the benefit of a defendant and therefore could not violate his personal rights. Furthermore, such a provision for trial de novo before the circuit court with the benefit of a defendant and therefore could not violate his personal rights. Furthermore, such a provision for trial de novo before the circuit court with the benefit of a defendant and therefore could not violate his personal rights. Furthermore, such a provision for trial de novo before the circuit court with the benefit of a defendant and therefore could not violate his personal rights.

The Arkansas Statutes (1947) Annotated, sections 44-115 and 44-116, provide that all trials before the police court and the mayor's court "for violation of the bylaws or ordinances of any city or incorporated town shall be before the mayor [police judge] without the intervention of a jury." These sections also provide that after conviction the defendant may demand and secure a trial de novo before the circuit court with the benefit of a defendant and therefore could not violate his personal rights.

The provisions of the bill with respect to trial de novo, trial court and before a justice of the peace shall be without a jury, and that after conviction the defendant may demand a trial de novo before the circuit court with the benefit of a defendant and therefore could not violate his personal rights. Furthermore, such a provision for trial de novo before the circuit court with the benefit of a defendant and therefore could not violate his personal rights. Furthermore, such a provision for trial de novo before the circuit court with the benefit of a defendant and therefore could not violate his personal rights.

Mr. JOHNSON of Texas. Mr. President, we must have order. We are going to transact a lot of public business before we finish this evening, and if Sena- tors interject into the debate the Senate will remain in order, we will be able to do so.

Mr. MANSFIELD. Mr. President—Mr. JOHNSON of Texas. I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, the vote this evening was epochal in the annals of the Senate and of the country. We have completed legislating on one of the most important bills ever to come before the Senate of the United States. We have acted in a spirit of reason and logic. We have acted without rancor. We have acted with a minimum of emotion. I think the credit for the performance which this body has undertaken in this regard should be given to the distinguished majority leader, the senior Senator from California [Mr. KNOWLAND] a man of great integrity, a fair-minded man, a reasonable man. Also, I shall point out that credit is the distinguished majority leader, the senior Senator from Texas [Mr. JOHNSON] has indicated, if there was ever any doubt in anyone's mind, that he is a political strategist of the highest order. It has been able to bring reason and understanding to divergent groups on this side, just as the minority leader has been able to do the same on the other side. In my opinion, the Senate of the United States and the United States of America can well be proud of the action which was taken in this body this evening; and I sincerely hope that the credit for that is due of the distinguished minority leader and the distinguished majority leader, will be given to them not only in the press of the country today, but in the history books of the country in the future.

Mr. SALTONSTALL. Will the Senator yield?

Mr. MANSFIELD. I yield to the distinguished senior Senator from Massachusetts.

Mr. SALTONSTALL. Mr. President, from this side of the aisle I want to join with the distinguished Senator from Montana. I will try to follow the Senator in characterizing its consideration and with legislative and judicial precedent.

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to be able to see that the legislation was finally consummated.

As a Member of the Senate I have long looked forward to the day when we could say that Congress passed legislation which assures civil rights to all the people of this land. That day has arrived. Twice I have stood in front of friends who were in opposition to the bill that throve of us who supported it admire and respect the temperance and the reasonableness of their arguments. I know of many a Senator who restrained himself, and many a Senator who has literally taken his political life in his hands and placed it in jeopardy. I believe the future will underscore the fact that those Senators did what was right. By their reasonableness, by their good faith, in the days to come they will be enriched in spirit and in political strength because of the manner in which they conducted themselves. The Senate, during the weeks of debate on the bill, has fulfilled the promise of representative government. I am proud to have been a Member of the Senate during this historic period.

ESTABLISHING DATE OF 2D SESSION OF 85TH CONGRESS

Mr. JOHNSON of Texas. Mr. President, I ask the Chair to lay before the Senate House Joint Resolution 453. The VICE PRESIDENT laid before the Senate the joint resolution (H. J. Res. 453) to establish the date of the regular session of the 85th Congress, which was read the first time by its title, and the second time at length, as follows: Resolved, etc. That the 2d regular session of the 85th Congress shall begin at noon on Tuesday, January 7, 1958.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent for the immediate consideration of the joint resolution.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered, ordered to a third reading, read the third time, and passed.

LET US BUILD SCHOOLS

Mr. McNAMARA. Mr. President, I feel it necessary to end this session of Congress as I began it— with a few remarks on the vital need for Federal assistance for school construction.

On January 1, Mr. President, I stood on the floor of the 85th Congress—a bill proposing a $2 billion, 2-year emergency Federal program to assist States to build schools. I said at the time, as I have since, that this all too often aUarged sum of money would not meet the needs. I also said that the program was not a particular formula.

But I was insisting on Congressional action—already far too long delayed—to meet the shocking shortage of classrooms throughout the country.

Today, nearly 8 months later, the 1st session of the 85th Congress is about to end.

But before the final adjournment bell, we will have our usual few hours of self-congratulation over our modest accomplishments—and then we will go home.

But next week, Mr. President, another bell will ring.

That is the bell summoning some 39 million children to the Nation's elementary schools.

Their ranks have been swelled by a million children since the last school year.

What will they find this year, Mr. President, as they embark on another year—on half-day school sessions?

Will they find that during the summer months, the builders have been constructing new monuments to education in the form of modern, uncrowded schoolhouses?

In some areas they will find these new buildings—in areas where the school districts are moderately wealthy or where the light-money market has not yet quite closed its stranglehold on the economy.

But in far too many areas, they will find the same antiquated facilities, firetraps, and outgrown structures where the children are locked like cordwood in the classrooms.

No matter how good the teachers—or how spirited the will to learn—the severe overcrowding of classrooms cannot fail to have a negative effect on the quality of education.

In a great many sections of the country, the children have been—and will be again—on half-day school sessions.

This is a very serious drawback to the quality of education at any school level.

But many of the children just beginning their education next week—in kindergarten and the first few grades—will start out going only half days.

This is the really criminal part of Congress' failure to meet the crisis.

These children just starting school are in the formative years. They are supposed to be learning study and social habits that will stay with them through out their school years and into adult life beyond.

By launching them into education on an abbreviated and crippled schedule we are doing them a tremendous amount of harm that may never be undone.

As we leave for our recess, I hope that the thought of these crowded schools will plague every Member of this Congress—and give him many uneasy moments until we meet here again next year.

A few statistics to keep in mind while they are glad-handing constituents in the coming months ahead are these:

Our refusal to act in the field of Federal aid for school construction meant that the new school year will begin with a shortage of 159,000 classrooms—at the very least.

The school population has grown 5½ million in the past 5 years and it is expected to rise another 6 million in the next 5 years.

At the current rate of building, the school districts have had to construct to at least 179,000 by that time. And this does not include replacing obsolete and destroyed schools.

These are weighty figures to ponder. But high figures are not strangers to the Senate.

Just a few days ago, we voted around $3 billion for mutual security. We voted around $1 billion for national defense and almost $1 billion for public works projects.

These are worthy undertakings. They will help us remain a strong and secure Nation.

Yes, we even voted nearly $100 million so that the United States Information Agency can tell the rest of the world what a great Nation we are.

What will USIA tell the world about America's schools? I don't envy the propagandists the job of answering that question.

If they tell the world that America is the richest nation on earth—yet it is content to let its children learn the three R's in overcrowded, antiquated, and understaffed classrooms?

Will they tell the world that America can pass out $3 billion to other nations—and not spend one dollar to replace the firetraps that too often pass for schools?

Will USIA tell the world that we can spend nearly $54 billion for defense—and not spend a cent on our potentially greatest weapon—the education of our children and proper development of their brainpower?

Will USIA explain our underpaid force of teachers—a force now understaffed by 136,000?

Foreigners often believe that the American mind is a bit odd—and they may be right, at that.

The Senate leaders were content this year—as in 1956—to let the House take the initiative on the school program.

What happened this year in the House? The bill was defeated by a vote of 289 to 203. Just three votes meant the difference between victory for the children and defeat.

I do not intend to pass on the motives of the Members of the House who could easily have salvaged victory from defeat. I can, however, pay tribute to the man who has displayed such a shocking lack of leadership in this field—the man who easily could have provided the necessary votes and more.

That man is the President of the United States.

I think we have all learned a great deal about him this year as a result of his activities on the budget, civil rights—and Federal aid for school construction.

We have learned not to rely on anything he says because when the time comes for action he will say something different—or nothing at all.

But while we are learning some well-earned abuse on the President, we as the Senate cannot ignore our responsibility.

After all, Congress must pass the laws.

Our lack of action should weigh heavily on us.

It is growing late now, Mr. President, but it is not too late for the 85th Congress to meet its responsibility to the children of America.

And it is our responsibility to the children of America.

We have a very short time when we meet here again next January—and I urge my colleagues to think about this during adjournment. We will not long continue to be the most powerful Nation in the world if we continue our neglect of future leaders.
Mr. HAYDEN. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9302) making appropriations for mutual security for the fiscal year ending June 30, 1958, and for other purposes. I seek unanimous consent for the present consideration of the report.

The VICE PRESIDENT. The report will be read for the information of the Senate.

The legislative clerk read the report. (For conference report, see House proceedings of August 30, 1957, p. 16743, CONGRESSIONAL RECORD.)

The VICE PRESIDENT. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. CASES of South Dakota. Mr. President, some weeks ago I watched with some interest the panel discussion by Mrs. Clare Boothe Luce and Edward R. Murrow following Mr. Murrow's television interview with Tito.

Having served in the House of Representatives with Mrs. Luce, I wrote her my opinion of what I thought was a brilliant analysis of the Tito interview. Subsequently she wrote me and enclosed a copy of a letter which she had sent to the New York Times. That letter was published in the New York Times of Sunday, July 28, 1957. It is a very scintillating analysis of the Tito interview. Because of its application to our foreign aid policy and our relations with Yugoslavia, I ask unanimous consent that the letter of Mrs. Luce be printed in the Record at this point as a part of my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Tito's Policies Assessed: Threat to Soviet Empire Seen in Ideological Differences

(Note.—The writer of the following letter, playwright and former Member of Congress, served until 1949 as United States Ambassador to Italy.)

To the Editor of the New York Times:

On June 30 I participated in the panel discussion with Edward R. Murrow's televised interview with Tito.

Since that time a steady stream of letters has crossed my desk, many commending the points I sought to make in the interview, some contending that any optimistic view of Tito's regime or any attempt to justify Tito's first raised it in 1948, when he insisted that he and the leaders he chose would run Yugoslavia and kicked the Russian stooges out of his country. Since that time Tito has been more or less continually raising the question not only of the independence of Yugoslavia but of all the satellites. Speaking of recent events in Poland, Tito said, "I think Poland is striving to go along its own path. I believe that when Gomulka came into power, Poland has succeeded in settling its internal problem * * * [this] has a positive influence on neighboring countries."

Tito then made it clear that what he feared during the Hungarian revolution was not that Hungary should acquire independence, but that the struggle if carried too far too fast (which happened) must result in Soviet domination and isochronism. He repeatedly stressed that, while he was firmly for the independence of all the satellites, they must make haste slowly, since through the process as real as that of the war if complete independence were sought too rapidly, and especially if the independence movement were openly called the aim to get rid of not only the Soviet politicians but of communism as well, which happened in Hungary.

Agreement with Mao's Views

His insistence on his own independence and the eventual independence of his satellite neighbors is the first great heresy of Tito. This heresy threatens Moscow with the breakup of its western empire. Moreover, the interview made it plain that Tito is encouraging and applauding expressions of this same heresy in the Far East. Referring to Mao Tse-tung's recent speech, which struck a distinctly Titoite note or two, I am pleased that our views * * * [this] has a positive influence on neighboring countries.

The second heresy of Tito is the assertion of the theoretical right of an independent Communist nation to create not only its own foreign policies but its own political and economic institutions. This right is, of course, the inescapable corollary of the right to national independence. It is a vital need for the great nation of Yugoslavia to be able to choose its foreign allies and avoid the shackles of Moscow on the grounds of ideological differences. For they are not only differences in politics and economics, but in Communist nations. They are theoretical differences about communism itself.

It also became evident during the interview that Tito himself did not play them down he understands and accepts that if his heresies were to be too openly embraced and too swiftly put into action by the eastern satellites, they might meet with such far-reaching opposition in the Balkans, Yugoslavia, and Hungary as would make an independent Yugoslavia impossible.
Consequently Titoism threatens to disrupt not only the physical control of the Soviet Union over its satellites, but its ideological control over Communist parties within every nation, including the capitalist nations. The Kremlin’s aim is to make it possible for the Kremlin’s authority to teach is, by the standards of all Communists up to now, a heresy of a major order.

The threat is widespread in the long run the most damaging, heresy of Tito is the new emphasis he is giving to the decentralization of economic and political processes within his country.

In the practical application of his theoretical concepts, Tito is striving to create new economic and political institutions unique in the Communist world.

Collectivization of the farms was abandoned some years ago. And, "already a few years ago," said Tito, "we have passed to a wide decentralization of government in the economic as well as the administrative field. One of the most pronounced characteristics of our system is the handing over of the factories to the workers’ self-government. "Then the creation of the commune is a new internal administrative organization."

TENET OF DEMOCRACY

These processes Tito defends as a new form of socialism. But whatever name Tito chooses to give them, the result of decentralization, the Kremlin itself cannot be deceived: decentralization of political and economic power is the major tenet of political and economic democracy in capitalist western countries.

Tito has far to go before he ranks as more than a very lukewarm fellow-traveler of capitalism. He will never, in his own time, willingly become less than a complete dictator.

But the real question decentralization raises is that Tito’s present long-range aim, the diffusion of political power and economic wealth—is in fact if not in theory the very aim of what President Eisenhower called "people’s capitalism."

Both American idealism and American pragmatism should dictate to the United States to be patient with Tito when he insists on describing this New Yugoslav evolution as socialistic. We want to preserve political and economic democracy as communism. A rose by any other name will smell as sweet. I notice from the record, amendment of the report, some ground was held by our colleagues with respect to section 102 of the report, so that Members will know that we will vote on it very shortly. I now ask for the yeas and nays. The yeas and nays were ordered to be printed in the Record.

Mr. HAYDEN. That is correct. The basic law on this subject, known as the Dworshak amendment, was adopted to the Mutual Security Act of 1952.

The conference report which referred to the Dworshak amendment contained a paragraph which I ask unanimous consent to have placed in the Record at this point.

Without objection, the paragraph was ordered to be printed in the Record, as follows:

The committee of conference recognizes that the دولôshak amendment does not prohibit the use of funds for propaganda in support of the mutual security program. At the same time there should not be any interference with the mutuality of funds for propaganda in support of the Congress and to the public concerning the operations of the mutual security program. The committee of conference believes that it is proper to those responsible for the administration of the Mutual Security Act to maintain a balance between propaganda and the supplying of information as to the results attained under the program, as the public and Senate and House should not interfere with the recognized procedures for keeping the public and the Congress informed.

Mr. HAYDEN. The new section 102 underlines the purpose of the Dworshak amendment that shall not be used for propaganda within the United States. It is not intended to prohibit and it does not prohibit the President or the International Cooperation Administration or the Departments of State and Defense from giving the American people information about the operations of those agencies or the uses to which they are putting the money appropriated for the purpose of promoting health, education, and the American people are getting for their money.

Mr. SMATHERS. Mr. President, will the Senator from Texas yield?

Mr. JOHNSON. I yield to the Senator from Texas.

Mr. HAYDEN. The new section 102 is a program that no funds shall be used for propaganda within the United States. It is not intended to prohibit and it does not prohibit the President or the International Cooperation Administration or the Departments of State and Defense from giving the American people information about the operations of those agencies or the uses to which they are putting the money appropriated for the purpose of promoting health, education, and the American people are getting for their money.

Mr. SMATHERS. Mr. President, will the Senator from Texas yield?

Mr. JOHNSON. I yield to the Senator from Massachusetts.

Mr. SALTONSTALL. I wish to ask the Senator from Massachusetts, was it the intention of the Senate to have the appropriation bill referred to section 102 of the bill, having to do with publicity and propaganda under the provision that there was no intent on the part of the conferences to redraft the section to change the basic law concerning publicity and propaganda in the mutual security program. Is that correct?

Mr. HAYDEN. That is correct. The basic law on this subject, known as the Dworshak amendment, was adopted to the Mutual Security Act of 1952.

The conference report which referred to the Dworshak amendment contained a paragraph which I ask unanimous consent to have placed in the Record at this point.

Without objection, the paragraph was ordered to be printed in the Record, as follows:

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Mr. HAYDEN. The new section 102 underlines the purpose of the Dworshak amendment that shall not be used for propaganda within the United States. It is not intended to prohibit and it does not prohibit the President or the International Cooperation Administration or the Departments of State and Defense from giving the American people information about the operations of those agencies or the uses to which they are putting the money appropriated for the purpose of promoting health, education, and the American people are getting for their money.

Mr. SMATHERS. Mr. President, will the Senator from Texas yield?

Mr. JOHNSON. I yield to the Senator from Texas.

Mr. HAYDEN. The new section 102 is a program that no funds shall be used for propaganda within the United States. It is not intended to prohibit and it does not prohibit the President or the International Cooperation Administration or the Departments of State and Defense from giving the American people information about the operations of those agencies or the uses to which they are putting the money appropriated for the purpose of promoting health, education, and the American people are getting for their money.
Mr. HAYDEN. I stated that yesterday. I repeated it this evening. That understanding is correct.

Mr. SMITH of New Jersey. Mr. President, the resolution on the mutual security program, I want to take this opportunity to pay a tribute to my colleagues in the Senate. As my friends know, I have been deeply interested in our foreign policy ever since I came to the Senate 13 years ago and I have been particularly interested in helping as best I could, in the development of our so-called foreign aid program. I was one of those who worked continuously with the study we had made last year of the new approach to the mutual security program and was most hopeful that the reports of the investigators whom we chose from among the most expert in the country would be accepted as a basis for the new approach. The results of these studies and the independent studies that the President had made gave us what might be called a new look on our mutual security program. There was no difference of opinion by any of those who participated in the studies as to the need to cut with the program and especially the need for the support of our military aid and defense assistance for our allies in various parts of the world.

Also it was felt that from the standpoint of the underdeveloped countries we should provide for a long-range revolving loan fund to enable those countries to secure their economic stability and to aid them in developing their own freedom, independence, and self-determination so that they could remain among the nations dedicated to freedom. This is a critical issue of our foreign policy and I believe is the strongest supporting pillar of the President's whole program.

Reviewing the action of the Senate, I call attention to the fact that the President originally asked the $3.8 billion. The Senate reported a bill authorizing $3.6 billion. The Senate vote on this authorization bill was 57 to 25. The Senate brought the House appropriation bill in conference up to $3.3 billion and finally in the Appropriations Committee, the Senate restored $500 million of the House slash of $800 million bringing the appropriation up to $3.825 billion. The Senate vote on this appropriation was 62 to 25. We have now witnessed the most unfortunate development, namely the unwillingness of the House to go above $2.7 billion for the final appropriation for fiscal 1958. This is a devastating defeat not only for the President but for the safety of America. However, I want to take this opportunity to pay a tribute to our Senate leadership—our majority leader, the Honorable Lyndon B. Johnson and our minority leader, the Honorable William F. Knowland. Their work was one of the finest evidences of bipartisan teamwork and last ditch fighting in support of the administration and the security of our country.

The only conclusion I can possibly draw from this development is that there are those in the House and especially on the House Appropriations Committee who are determined to destroy the mutual security program. The matter needs our immediate attention and at the beginning of next year we must press the fight vigorously to present to the American people the issue involved in these unfortunate developments this year.

Mr. HAYDEN. Mr. President, I move that the Senate insist on its amendment number 15.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Arizona.

The motion was agreed to.

Mr. HAYDEN. Mr. President, I ask unanimous consent to have printed in the Record at this point a table which reflects the action of the two Houses on the mutual security appropriation bill, as well as the final amounts agreed to in conference.

There being no objection, the table was ordered to be printed in the Record, as follows:

Mutual security program, fiscal year 1958

<table>
<thead>
<tr>
<th>Appropriation, 1957</th>
<th>1958 authorization</th>
<th>1958 appropriation</th>
<th>Final appropriation compared with</th>
</tr>
</thead>
<tbody>
<tr>
<td>Request</td>
<td>Senate</td>
<td>House</td>
<td>Conference</td>
</tr>
<tr>
<td>------------------</td>
<td>---------</td>
<td>-------</td>
<td>-----------</td>
</tr>
<tr>
<td>Military assistance:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appropriation:</td>
<td>2,017,500</td>
<td>1,900,000</td>
<td>1,180,000</td>
</tr>
<tr>
<td>Unobligated and unreserved balance:</td>
<td>195,500</td>
<td>( )</td>
<td>( )</td>
</tr>
<tr>
<td>Total, military assistance:</td>
<td>2,213,000</td>
<td>1,900,000</td>
<td>1,180,000</td>
</tr>
<tr>
<td>Defense support:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appropriation:</td>
<td>1,161,700</td>
<td>100,000</td>
<td>481,000</td>
</tr>
<tr>
<td>Unobligated and unreserved balance:</td>
<td>195,500</td>
<td>( )</td>
<td>( )</td>
</tr>
<tr>
<td>Total, defense support:</td>
<td>1,356,200</td>
<td>100,000</td>
<td>481,000</td>
</tr>
<tr>
<td>Total, mutual defense assistance:</td>
<td>3,574,200</td>
<td>2,900,000</td>
<td>2,600,000</td>
</tr>
<tr>
<td>Economic and technical cooperation:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development assistance:</td>
<td>250,000</td>
<td>( )</td>
<td>( )</td>
</tr>
<tr>
<td>Unobligated balance:</td>
<td>250,000</td>
<td>( )</td>
<td>( )</td>
</tr>
<tr>
<td>Total, development assistance:</td>
<td>250,000</td>
<td>( )</td>
<td>( )</td>
</tr>
<tr>
<td>Development loan fund:</td>
<td>600,000</td>
<td>( )</td>
<td>( )</td>
</tr>
<tr>
<td>Technical cooperation:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General authorization:</td>
<td>430,000</td>
<td>151,000</td>
<td>151,000</td>
</tr>
<tr>
<td>Unobligated balance:</td>
<td>135,000</td>
<td>151,000</td>
<td>151,000</td>
</tr>
<tr>
<td>Total, general authorization:</td>
<td>565,000</td>
<td>151,000</td>
<td>151,000</td>
</tr>
<tr>
<td>United Nations program:</td>
<td>45,600</td>
<td>15,000</td>
<td>15,000</td>
</tr>
<tr>
<td>Organization of American states:</td>
<td>1,500</td>
<td>1,500</td>
<td>1,500</td>
</tr>
<tr>
<td>Total, technical cooperation:</td>
<td>526,100</td>
<td>168,000</td>
<td>168,000</td>
</tr>
<tr>
<td>Total, economic and technical cooperation:</td>
<td>608,200</td>
<td>686,000</td>
<td>686,000</td>
</tr>
</tbody>
</table>

1 Also authorized $1,500,000,000 for fiscal year 1959.
2 Unobligated balances to be continued available.
3 Also authorized $750,000,000 for fiscal year 1959.
4 Also authorized $750,000,000 for fiscal year 1959.
5 In addition, $50,000,000 authorized in fiscal year 1959 on no-year basis.
6 Authorized to remain available until expended.
Mr. HAYDEN. Mr. President, I ask unanimous consent to have printed in the Record at this point a summary table showing the budget estimates for 1958, the amounts passed by the House, the Senate, and the amount provided by the public law.

The table below shows the budget estimates compared with the amounts passed by the two houses.

<table>
<thead>
<tr>
<th>Table of appropriation bills, 1958—59 Cong., 1st sess.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Budg. estimate</strong></td>
</tr>
<tr>
<td>---------------------</td>
</tr>
<tr>
<td><strong>Agriculture</strong></td>
</tr>
<tr>
<td><strong>Commerce</strong></td>
</tr>
<tr>
<td><strong>Defense</strong></td>
</tr>
<tr>
<td><strong>District of Columbia</strong></td>
</tr>
<tr>
<td><strong>General Government</strong></td>
</tr>
<tr>
<td><strong>Independent Offices</strong></td>
</tr>
<tr>
<td><strong>Interior</strong></td>
</tr>
<tr>
<td><strong>Labor, Health, Education, and Welfare</strong></td>
</tr>
<tr>
<td><strong>Legislature</strong></td>
</tr>
<tr>
<td><strong>Mutual Security</strong></td>
</tr>
<tr>
<td><strong>Public Works</strong></td>
</tr>
<tr>
<td><strong>State, Justice, Judicial Administration</strong></td>
</tr>
<tr>
<td><strong>Treasury-Post Office, and Related Expenses</strong></td>
</tr>
<tr>
<td><strong>Supplemental, 1958</strong></td>
</tr>
<tr>
<td><strong>Atomic Energy Commission</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

NOTE.—Does not include permanent authorizations estimated in budget at $3,000,000.
The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. RUSSELL. Mr. President, the yeas and nays have been ordered.

The VICE PRESIDENT. On the question, the yeas and nays have been ordered, and the Secretary will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from New Mexico [Mr. ANDERSON and Mr. CHAVEZ], the Senator from North Carolina [Mr. ERVIN], the Senator from South Carolina [Mr. JOHNSON], the Senator from Oklahoma [Mr. KEAR], the Senator from Oregon [Mr. MORSE], the Senator from West Virginia [Mr. NEELY], and the Senator from Alabama [Mr. SPARKMAN] are absent on official business.

On the question, if any, the Senator from New Mexico [Mr. CHAVEZ] is paired with the Senator from South Carolina [Mr. JOHNSON]. If present and voting, the Senator from New Mexico would vote "yea" and the Senator from South Carolina would vote "nay."

The Senator from Oklahoma [Mr. KERNAL] is paired with the Senator from Alabama [Mr. SPARKMAN]. If present and voting, the Senator from Oklahoma would vote "yea" and the Senator from Alabama would vote "nay."

Mr. DIREKSEN. I announce that the Senator from New Hampshire [Mr. BRIDGES] and the Senator from Maine [Mr. PAYNE] are absent because of illness.

The Senator from Ohio [Mr. BRICKER], the Senator from Kansas [Mr. CARLSON], and the Senator from Indiana [Mr. JENNER] are necessarily absent.

The Senator from Maryland [Mr. BULVER], the Senator from Indiana [Mr. CAFEHART], and the Senator from Nevada [Mr. MALONE] are absent on official business.

The Senator from Vermont [Mr. FLANDERS] and the Senator from Kentucky [Mr. MORTON] are absent from official business.

If present and voting, the Senator from Vermont [Mr. FLANDERS] and the Senator from Kentucky [Mr. MORTON] would each vote "yea."

On this vote the Senator from Maryland [Mr. BULVER] is paired with the Senator from Ohio [Mr. BRICKER]. If present and voting, the Senator from Maryland would vote "yea" and the Senator from Ohio would vote "nay."

On this vote the Senator from Indiana [Mr. CAFEHART] is paired with the Senator from Nevada [Mr. MALONE]. If present and voting, the Senator from Indiana would vote "yea" and the Senator from Nevada would vote "nay."

Also, on this vote the Senator from Maine [Mr. PAYNE] is paired with the Senator from Indiana [Mr. JENNER]. If present and voting, the Senator from Maine would vote "yea" and the Senator from Indiana would vote "nay."

The result was announced—yeas 59, nays 19, as follows:

<table>
<thead>
<tr>
<th>Yeas-59</th>
<th>Nays-19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barrett</td>
<td>Frear</td>
</tr>
<tr>
<td>Bible</td>
<td>Russell</td>
</tr>
<tr>
<td>Byrd</td>
<td>Brunda</td>
</tr>
<tr>
<td>Curtis</td>
<td>Long</td>
</tr>
<tr>
<td>Drennan</td>
<td>Langer</td>
</tr>
<tr>
<td>Durbin</td>
<td>Lawyer</td>
</tr>
<tr>
<td>Eastland</td>
<td>McClellan</td>
</tr>
<tr>
<td>Elender</td>
<td>Robertson</td>
</tr>
</tbody>
</table>

The motion was agreed to.

Mr. HAYDEN. Mr. President, I move that the Senate insist upon its amendment numbered 15.

The motion was agreed to.

Mr. THYE. Mr. President, this completes the consideration of the appropriation bill, and I should like to recognize in order to pay tribute to the chairman of the Senate from Arizona [Mr. HAYDEN].

The chairman has been present at practically all the committee hearings and committee sessions. It is difficult to understand how he was able to develop so much time and devote so much time and carry through in such a manner as he has during the lengthy hearings which were conducted and which were necessary in the development of the appropriation bills.

I simply want to invite attention of this Senate to the splendid service to his country the Senator from Arizona [Mr. HAYDEN], as chairman of the Appropriations Committee, has rendered.

REDUCTION IN APPROPRIATION BELOW THE BUDGET REQUESTS

Mr. JOHNSON of Texas. Mr. President, now that the Senate has acted upon the last of the appropriation bills, it is possible to get a picture of the accomplishments this year.

All of us, I believe, recall the statement by the Secretary of Treasury concerning the budget. The then Secretary said it would be cut to avoid a hair-cutting depression. I have before me figures which have been prepared by my staff. They show that when all the bills are taken into account, this Congress has reduced the President's budget by $5,827,986,894—9.1 percent. I hope that is enough to avoid having our hair curled by former Secretary Humphrey. But in any event it is gratifying. It represents a substantial saving from the appropriations which were requested.

I seek unanimous consent that the table prepared by my staff be printed in the Record as part of my remarks.

There being no objection, the table was ordered to be printed in the Record as follows:

<table>
<thead>
<tr>
<th>Budget estimates</th>
<th>Norns submitted</th>
<th>$55,946,713,163</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular bills</td>
<td>$56,046,713,463</td>
<td>$1,013,767,827</td>
</tr>
<tr>
<td>Post office</td>
<td>$1,973,767,827</td>
<td>$1,013,767,827</td>
</tr>
<tr>
<td>Supplemental</td>
<td>$0,000,000</td>
<td>$0,000,000</td>
</tr>
<tr>
<td>Atomic energy</td>
<td>$2,691,636,000</td>
<td>$2,691,636,000</td>
</tr>
</tbody>
</table>

Total: $55,946,713,163
THE NEW AIR FORCE ACADEMY CHAPEL

Mr. FLANDERS. I have before me a drawing which shows the new chapel to be built at the Air Force Academy in Colorado Springs, Colo. It is a strange creation. I exhibit it to my colleagues.

I have written a letter to the Secretary of the Air Force on that subject, which I now read:

August 28, 1957.


DEAR MR. SECRETARY: I have been astonished to find that the properly criticized design for the chapel at the Air Force Academy at Colorado Springs has been approved for in the supplement appropriation bill. As a member of the Defense Subcommittee of the Appropriations Committee I have opposed for the design for the Academy 2 years ago and in my judgment they seemed satisfactory for their purposes throughout except the chapel.

A chapel building for the Air Force should inspire reverence and the spirit of worship. There isn't a scintilla of reverence or worship in any of these things it can be. But it doesn't have to be Baroque. It doesn't have to be Renaissance. It does not have to be Baroque. It does not have to be Georgian. It can be as plain and simple as a Quaker meetinghouse. It can be as modern as is the rest of the design of the Academy. And these things it can be. But it cannot be the antithesis of reverence and worship. The proposed structure is a deliberate insult to God Almighty. I hope you will take a look at it yourself and pass judgment upon it. Please stop it.

Sincerely yours,

RALPH E. FLANDERS.

Mr. ALLOTT. I should like to associate myself with the remarks of the Senator from Vermont (Mr. FLANDERS), on his letter to the Secretary of the Air Force respecting the Air Force Academy.

I have written a letter to the Secretary of the Air Force stating the opinions of many Members of Congress, and many, many other people throughout the length and breadth of the United States, 2 years ago with respect to the construction of a chapel at the Air Force Academy. We are now faced with a design of that chapel which, I would say, in even more cryptic language, is more atrocious than the first. I do not know what concept of worship the architects of the structure may have. I know that this chapel design resembles nothing that has ever been seen or dreamed of in the minds of sane men. It is my sincere hope that some day during the way the Secretary of the Air Force, and members of the Armed Services Committee and the Appropriations Committee will see fit to take another look at the designs for the Air Force Academy near Colorado Springs, particularly the so-called chapel bearing in mind the need for an edifice for worship which will more nearly approximate the ideas, the ideals, the concepts and the customs of this country.

Mr. STENNIS, Mr. President, will the Senator yield?

Mr. ALLOTT. I am happy to yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I wish to commend the Senator from Colorado for the commendation and reference to the Air Force Academy chapel which is being constructed in the Senator's home State. This afternoon I saw a representation of what the chapel has been discussed. We now have a report of the Committee on Armed Services which approved the authorization for the chapel. We thought it would be more a cathedral than it would be a chapel, and we were asking $5,000,000 to build it, as I recall.

I was so shocked when I saw the representation this afternoon that I intend to protest to the Air Force. If the Air Force does not withhold action and have the new plans prepared, I shall feel compelled to introduce a resolution to cancel the authorization for the chapel until it can be further considered.

I thank the Senator for the information.

Mr. ALLOTT. I appreciate the remarks of the Senator from Mississippi.

Mr. ROBERTSON. Mr. President, will the Senator yield?

Mr. ALLOTT. I yield to the able Senator from Virginia.

Mr. ROBERTSON. Mr. President, I am quite familiar with the subject which has been discussed. We now have a report of the third Secretary of the Air Force since this project was started.

When the project was begun the first Secretary of the Air Force to consider it assured me the chapel would not be built. We now have a design, although the Senator from Colorado has stated, which is worse than the array of wig-wams, or whatever one might call the design, and it is planned to build the chapel along those lines. It is planned to build it of a combination of glass and aluminum.

As the Senator from Vermont (Mr. FLANDERS) has stated, never in this country or abroad in any civilized land has anybody ever attempted to worship any known God in a building of such a character.

I am sure of all the protests we have made for 3 consecutive years, the Chicago architects have been determined to go ahead with this chapel, and the third Secretary of the Air Force to consider it, we understand, has now O.K.'d the design, although it is going to be the most expensive church in the most expensive school this Nation has ever built.

The entire project is going to cost about twice what we had contemplated, and the initial cost of the project is more than all we have spent in its entire history on the United States Military Academy at West Point.

Mr. O'MAHONEY and Mr. NEUBERGER addressed the chair.

Mr. ALLOTT. I yield first to the Senator from Wyoming.

Mr. O'MAHONEY. Mr. President, I ask the Senator from Colorado to yield to me for the purpose of presenting a correct report.

Mr. ALLOTT. I shall be glad to yield to the Senator from Wyoming, with the understanding that I may retain the floor after the conference report is acted upon.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield to me for a moment?

Mr. ALLOTT. I am happy to yield to the Senator from Texas.

Mr. JOHNSON of Texas. Mr. President, we have an important conference report to consider. We are going to ask for the yeas and nays as soon as the conference report is called. I should like all Senators to be on notice that it is a conference report relating to S. 2377, the bill providing procedures for the production of Government records.

When the conference report is taken up the conference report shall take up S. 2372, the immigration bill which recently passed the Senate, and to which the House has added some amendments. We will wish to have a concurrence in the House amendments.

I hope we will be able to have the yeas and nays as soon as possible, so that the Senate may not be interested in participating in it and the other discussions can answer to their names when the roll is called, and afterward we can have consideration of some noncontroversial bills and discussion of other matters.

Mr. ALLOTT. Mr. President, I desire to conclude in 30 seconds, if I may, and then I shall yield for the presentation of this conference report.

I wish to say that the design of the chapel is offensive to the inherent religious beliefs of the American people. It is my sincere hope that enough pressure will be brought to this whole matter to see that all Americans may then feel that this chapel is really a house of God.

I yield the floor.

Mr. NEUBERGER. Mr. President, will the Senator yield?

Mr. ALLOTT. I have yielded the floor.

PROCEDURES FOR THE PRODUCTION OF GOVERNMENT RECORDS IN CRIMINAL CASES—CONFERENCE REPORT

Mr. O'MAHONEY. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (S. 2377) to amend chapter 223, title 18, United States Code, to provide for the production of statements and reports of witnesses. I ask unanimous consent for the present consideration of the report.

The VICE PRESIDENT. The report will be read for the information of the Senate.
The legislative clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments made to the bill (S. 2377) to amend chapter 223, title 18, United States Code, to provide for the production of statements and reports of witnesses, having made a conference, agreed to recommend and do recommend to their respective Houses as follows:

"That chapter 223 of title 18, United States Code, is amended by adding a new section 3500 which shall read as follows:

"§ 3500. Demands for production of statements and reports of witnesses

"(a) In any criminal prosecution brought by the United States, no statement or report in the possession of the United States which was made by a Government witness or prospective Government witness (other than the defendant) to an agent of the Government shall be the subject of subpena, discovery, or inspection until said witness has testified on direct examination in the trial of the case.

"(b) After a witness called by the United States has testified on direct examination, the court in its discretion may order the United States to produce any statement (as hereinafter defined) of the witness in the possession of the United States which relates to the subject matter as to which the witness has testified. If the entire contents of any such statement relate to the testimony of the witness, the court shall order it to be delivered directly to the defendant for his examination and, if the defendant so requests, to be excised from such statement and presented to the trial judge. Whenever any statement ordered to be produced under this section contains matter which does not relate to the subject matter of the testimony of the witness, the court shall order the United States to deliver such statement for the consideration by the trial judge, who may order in camera inspection of such statement by said witness, or such part thereof as a substantially verbatim recital of an oral statement made by said witness to an agent of the Government and recorded contemporaneously with the making of such oral statement.

"The analysis of such chapter is amended by adding the following:

"§ 3500. Demands for production of statements and reports of witnesses.

And the House agree to the same.

The VICE PRESIDENT. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. O’MAHONEY. Mr. President, the conference report has been unanimously signed. The conferrees of the Senate and of the House all agreed to the report.

The bill is to protect the files of the Government against unauthorized disclosure and at the same time to preserve due process of law for defendants in criminal cases. There was no objection to the present consideration of the conference. We completed the discussion, in less than an hour. I believe this is a very excellent piece of legislation.

Mr. KNOWLAND. Mr. President, I ask for the yeas and nays on agreeing to the conference report.

Mr. JOHNSON of Texas. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. The yeas and nays have been ordered. Is there a sufficient second?

The yeas and nays were ordered.

Mr. REVERCOMB. Mr. President, will the Senator from Wyoming yield for a question?

Mr. O’MAHONEY. I yield.

Mr. REVERCOMB. When the bill was before the Senate, quite a discussion occurred as to the difference between "records" and "recordings." Is the definition which has been read by the Senator from Wyoming sufficiently comprehensive to deal with all the Federal Rules of Criminal Procedure or to the contents of subsection (b), (c), and (d).

Mr. REVERCOMB. Mr. President, with the Senator from Wyoming yield for a question?

Mr. O’MAHONEY. I yield.

Mr. REVERCOMB. When the bill was before the Senate, quite a discussion occurred as to the difference between "records" and "recordings." Is the definition which has been read by the Senator from Wyoming sufficiently comprehensive to deal with the Federal Rules of Criminal Procedure or to the contents of subsection (b), (c), and (d).

Mr. REVERCOMB. Mr. President, with the Senator from Wyoming yield for another question?

Mr. O’MAHONEY. Certain.

Mr. REVERCOMB. Then I gather from the statement the Senator from Wyoming has made that the word "record," as used, means anything which is a verbatim recital of the testimony of the witness.

Mr. O’MAHONEY. The word "record" appears in the title. In the definition we speak of a "stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by said witness to an agent of the Government and recorded contemporaneously with the making of such oral statement.

That is the new language which was added in the definitions for the bill. In subsection (a) there was no reference at all to the Federal Rules of Criminal Procedure or to the contents of subsection (b), (c), and (d).

Mr. REVERCOMB. Mr. President, with the Senator from Wyoming yield for another question?

Mr. O’MAHONEY. I yield.

Mr. REVERCOMB. When the bill was before the Senate, quite a discussion occurred as to the difference between "records" and "recordings." Is the definition which has been read by the Senator from Wyoming sufficiently comprehensive to deal with the records of the General Bureau of Investigation?

Mr. O’MAHONEY. It deals only with those records which relate to the testimony of a Government witness, and when the subject matter is testimony in a particular case in which a motion is made for the production of such records. They must be relevant. They must be competent. If there is any doubt about that on the part of the Government, the Senator may ask that the records be presented to the trial judge, for his examination in chambers.

Mr. REVERCOMB. Will the Senator from Wyoming yield for another question?

Mr. O’MAHONEY. Certainly.

Mr. REVERCOMB. Then I gather from the statement the Senator from Wyoming has made that the word "record," as used, means anything which is a verbatim recital of the testimony of the witness.

Mr. O’MAHONEY. The word "record" appears in the title. In the definition we speak of a "stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by said witness to an agent of the Government and recorded contemporaneously with the making of such oral statement.

...
Instead of the noun "record," we have the verb "record" in the past tense, namely, "recorded," and also in the present tense.

Mr. REVERCOMB. Mr. President, will the Senator from Wyoming yield further to me?

Mr. O'MAHONEY. I yield.

Mr. REVERCOMB. Does the definition of "records" which have been made or which must be produced, include memoranda made by an agent of the Government or any other statement which may have been obtained and signed?

Mr. O'MAHONEY. I think it would include a memorandum made by an agent of the Government of an oral statement made to him by a Government witness, but not by a third party.

Mr. JAVITS. Mr. President, will the Senator from Wyoming yield to me?

Mr. O'MAHONEY. I am happy to yield to the junior Senator from New York.

Mr. O'MAHONEY. As a practical matter, then, what has been done with the so-called records provision is to tie it down to those cases in which the agent actually made the statement and the substantially verbatim recital of an oral statement that the witness has made to him—not the agent's own comments or a recording of his own ideas, but a substantially verbatim recital of an oral statement which the witness has made to him, and as transcribed by him; is that correct?

Mr. O'MAHONEY. Precisely.

Mr. JAVITS. I note from the report that the Federal Rules of Criminal Procedure or the Federal Rules of Criminal Procedure have been eliminated. Does that leave the matter as follows: That when the Government has the document defined as a statement, and when it is in its possession, and has been made by a Government agent, then, no matter how it is produced—whether produced pursuant to the Rules of Criminal Procedure or produced pursuant to the Jencks Act or the Jencks Act in the Jencks case, or for any other reason—if it is that kind of a statement, the court acquires, with respect to that statement, rights which are specified in this line of the bill as to correct?

Mr. O'MAHONEY. So long as it is a relevant and competent statement and deals with the testimony of the Government witness.

Mr. JAVITS. That is to say, in the case of a Government witness who has testified.

Mr. O'MAHONEY. Exactly.

Mr. JAVITS. Then the words, as the Senator from Wyoming has read them, must apply; is that correct?

Mr. O'MAHONEY. Yes; and I think it should be made clear that all the procedure must occur after the Government witness produced by the United States has testified, and not before.

Mr. JAVITS. Yes; but the amendment contains the safeguard provided by the amendment submitted by the Senate conferees on the part of the House, namely, that in the interests of justice, there may be an adjournment.

Mr. O'MAHONEY. I am happy to say that both the amendment proposed by the Senator from Nebraska [Mr. Hruska] on the floor of the Senate—which I accepted during the debate—and the amendment submitted by the junior Senator from New York [Mr. Javits] that I am now considering are retained in the conference report.

Mr. JAVITS. One final question, which I think will button this up: If the Government chooses not to deliver the information then the court has rather complete powers with respect to either declaring a mistrial or striking out the evidence, as the interests of justice may dictate, subject to appeals.

Mr. O'MAHONEY. That is correct.

Mr. JAVITS. All that is retained in the conference report.

Mr. O'MAHONEY. Yes; and all that goes up on appeal, if the defendant asks for it.

Mr. JAVITS. I thank the Senator from Wyoming.

Mr. MUNDT. Mr. President, will the Senate adopt the report?

Mr. O'MAHONEY. I yield.

Mr. MUNDT. Mr. President, will the Senate adopt the report?

Mr. O'MAHONEY. I yield.

Mr. MUNDT. I realize that the conference committee, operating under the pressure of time, has not had time to submit the report in the way in which it normally would be done—namely, by having a statement by the managers on the part of the House, and by having a printed report. I realize that there is a report, but that it was prepared on a duplicating machine.

I wonder whether the Senator from Wyoming intends to incorporate that copy of the report in the Record, preceding the statement of the Senator from Wyoming.

Mr. O'MAHONEY. If I correctly understand the question the Senator from South Dakota asks—and my doubt regarding it arises only because of the difficulty of hearing what the Senator from South Dakota has said, inasmuch as while he has been asking the question, other Senators have been talking—his question can be answered, I believe, by a brief response.

Let it be understood that we are trying to define what is meant by the term "statement" in the body of the measure.

First, it is a written statement made by said witness and signed and approved or by him.

In addition to such statements, we have oral statements; and the type of oral statements referred to is defined in the second clause, which reads as follows:

(2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by said witness to an agent of the Government and recorded contemporaneously with the making of such oral statement.

The VICE PRESIDENT. Will the Senator from South Dakota repeat his inquiry?

Mr. MUNDT. Yes, Mr. President. I do not think the Senator from Wyoming followed my inquiry, although I am grateful for the information provided in his reply.

My question is this: In view of the fact that the conference report has come to us so late, that the statement of the managers on the part of the House, which normally is printed, could not be sent to the Government Printing Office and printed in time for our inspection at this time, I believe the Senator from Wyoming has referred to a duplicated statement of the report, as signed by the conferees.

Mr. O'MAHONEY. The written statement made by the managers on the part of the House was not in my hands. It was not presented to me. It was presented in the House of Representatives. It is not here.

But I am stating to the Senate the understanding of all the conferees, both those of the House and those of the Senate.

Mr. MUNDT. I think a statement by the managers on the part of the House will appear in today's issue of the Congressional Record, as a part of the action taken by the House. Is that correct.

Mr. O'MAHONEY. From Wyoming that is correct.

Mr. MUNDT. I am expecting to have that happen.

Mr. CLARK. As I understand the conference report, as explained to the Senate by the able Senator from Wyoming, who has worked so hard and so long to get a satisfactory report in this situation:

Mr. O'MAHONEY. It was hammered out on the anvil of hard work.

Mr. CLARK. Yes. As I understand, the elimination of the reference to the Federal rules, in the redraft presented by the conference committee, does not indicate, and is not intended in any way to indicate, that this measure is intended to amount to a change in any way of the Federal Rules of Criminal Procedure.

Mr. O'MAHONEY. We are not dealing with the Federal Rules of Criminal Procedure. We are dealing only with procedures to be followed in the production of these reports.

Mr. CLARK. As I understand, the Senate is to vote on the conference report without having the benefit of any managers' written report as to what was decided in the conference. Therefore, I, for one, at least—and I think all my colleagues, too, must do likewise—must vote on this measure without having studied such a conference report. Therefore, the legislative history as regards the vote to be taken in the Senate, when the Senate votes on the report—and let me say that I shall vote for the report—will show that when the Senate votes on it, it will do so without having adopted, approved, or in any way considered the statement of the managers on the part of the House, which will be filed later on.

I should like to state—

Mr. O'MAHONEY. Mr. President, let me say this to the Senator from Pennsylvania in order to keep the record straight: It is not the custom of conferees on the part of the Senate to prepare a written report. It is the custom of the conferees on the part of the House
to file a statement of the views of the House managers.

Mr. CLARK. Will the Senator yield?  
Mr. O'MAHONEY. Yes.

Mr. CLARK. I quite agree with the Senator from Wyoming. My only point is that it is essential that we have the vote for this measure—and I shall vote for it—will vote for it on the understanding of what it contains, as stated by the distinguished Senator from Wyoming. From myself, I have some doubts as to whether this measure is constitutional; but I shall vote for it with the conviction that if it is unconstitutional, if it violates due process, we can leave that to the courts.

Mr. KEFAUVER. Will the Senator yield?

Mr. O'MAHONEY. I yield.

Mr. KEFAUVER. Let me inquire of the chairman of the subcommittee and the chairman of the conference committee whether the word "records" includes photostats of documents and pictures, all of which are very important in the presentation of a criminal case, and just where they fall within this definition?

Mr. O'MAHONEY. We are not dealing with records in the sense of the question asked by the Senator from Tennessee. We are dealing only with records which are included in the definition here, statements by the witness, which have been approved by him or signed by him or certified to by him, and then the oral statements which have been recorded—oral statements made by the witness to an agent of the Government. This is tied directly to statements made by a Government witness to an agent of the Government after the witness has testified, and not to any other records of the FBI or of any other Government bureau.

Mr. KEFAUVER. As I understood one part of Judge Brennan's opinion—and there is some language that might be considered in conflict—could be interpreted as justifying a requirement, for instance, that certain photostats of records and pictures be submitted for examination by the defendant or his counsel. What happened in that regard?

Mr. O'MAHONEY. I do not recall any language in the decision of Justice Brennan that deals with that. If the pictures have anything to do with the statement of the witness—with either the written statement or the oral statement—of course that would be part of it; but whatever is produced must be related to the evidence of the witness who has testified before the court in the criminal case.

Mr. KEFAUVER. I did not mean that his opinion specified pictures or photostats; but I thought that the general, broad statements of his opinion might include that kind of documentary evidence.

Mr. O'MAHONEY. I will say to my friend from Tennessee that the language submitted by the conference report covers every statement that was made in the opinion.

Mr. KEFAUVER. Very well; I think that is sufficient. I thank the Senator from Wyoming.

Mr. DIRKSSEN. Mr. President—
Mr. O'MAHONEY. I yield to the Senator from Illinois, who was one of the conferees.

Mr. DIRKSSEN. Mr. President, I want to be recorded as being in support of the general conclusion of this measure, and the way in which this measure alleviated the anxiety of the Department of Justice concerning it, to state that the revised text has the concurrence of the Department of Justice.

Mr. COOPER. Mr. President—
Mr. O'MAHONEY. I yield to the Senator from Kentucky.

Mr. COOPER. I do not desire to delay the vote on the conference report, but I want to say that the conference report does not say "due process." It will be remembered that when the Senate bill showed two lines of approach, there was a great number of courts to secure clarification. Yet, at the same time we were assured that a bill would be written or passed by the Senate which included "due process."

Mr. O'MAHONEY. Mr. President, I am confident that this bill does not invoke "due process." I would not have signed the bill and I had no conception that it had that effect.

Mr. COOPER. I am certain of that, but I should like to ask a specific question or two with relation to the legislative history of the floor debate on the floor other language was offered which was rejected by the Senate, upon the thesis that it did invade due process. Now there is new language in the bill which will be produced upon the request of a defendant, which differs from the language of the bill which was passed by the Senate. I have read the conference report limits or narrows, as I recall, that statements signed by the witness, and approved and adopted, or approved and adopted, shall be produced, and, second, that stenographic, mechanical, or typewritten.

Mr. O'MAHONEY. Or other recordings.

Mr. COOPER. Of statements made by a witness, which are in essence verbatim statements, and which are made contemporaneously at the time of the oral statement, shall be admitted. I want to ask the distinguished Senator if, in his opinion, the conference report limits or narrows, as I recall, the Jenckes case as to the totality of the statements of a witness which must be produced.

Mr. O'MAHONEY. In that part of the opinion of the majority of four of the Supreme Court in the Jenckes case, which referred to the case of Gordon against the United States, and which defined the purpose of the production of the statements or the records, that part of the decision is completely sustained by this bill.

Mr. COOPER. I say that because I have great respect for the desire of the FBI to protect its records, and I said in the debate on the floor, when the Senate passed this bill, that we all wanted to assist so far as possible in that purpose. But, I say, overriding that aim is the objective and the right of every defendant to have due process. Whether it is the FBI, whether it is any other law agency, we know that due process must be accorded a defendant. I accept the statement of the distinguished Senator that, in his opinion—and I know that he is familiar with the Jenckes case from one end to the other—this conference report does not limit the production of the records in such a way as to invade due process to a defendant.

Mr. O'MAHONEY. I am confident that it does not.

The VICE PRESIDENT. The question is on agreeing to the conference report. The yeas and nays have been ordered, and the Clerk will call the roll.

The Chief Clerk called the roll.

Mr. MANSFIELD. I announce that the Senators from New Mexico [Mr. ANDERSON and Mr. CHAVES], the Senator from North Carolina [Mr. EWING], the Senator from Rhode Island [Mr. GREEN], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Oklahoma [Mr. KERR], the Senator from Montana [Mr. MURRAY], the Senator from West Virginia [Mr. NEELY], and the Senator from Alabama [Mr. SPARKMAN] would vote "yea."

Mr. DIRKSSEN. I announce that the Senator from New Mexico [Mr. BRICKER] and the Senator from Maine [Mr. PAYNE] are absent because of illness.

The Senator from Ohio [Mr. BRICKER], the Senator from Kansas [Mr. CARLETON], and the Senator from Indiana [Mr. JENNETTE] are necessarily absent.

The Senator from Maryland [Mr. BUTLER], the Senator from Indiana [Mr. CAPEHART], and the Senator from Nevada [Mr. MALONE] are absent on official business.

The Senator from Vermont [Mr. FLANDERS] and the Senator from Kentucky [Mr. MARTIN] are absent on official business.

If present and voting, the Senator from Ohio [Mr. BRICKER], the Senator from Maryland [Mr. BUTLER], the Senator from Indiana [Mr. CARLETON], and the Senator from Nevada [Mr. MALONE] would each vote "yea."

The result was announced—yeas 74, nays 2, as follows:

YEAS—74

Allen    Bennett    Bush
Allott    Bentsen    Byrd
Barrett    Bible    Carroll
CONGRESSIONAL RECORD — SENATE

August 29

The Chief Clerk proceeded to read sundry nominations in the Army.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the nomination be considered en bloc. The VICE PRESIDENT. Without objection, the nominations in the Army will be considered en bloc, and, without objection, they are confirmed.

IN THE AIR FORCE

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the nominations in the Air Force be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations in the Air Force will be considered en bloc; and, without objection, they are confirmed.

IN THE AIR FORCE

The Chief Clerk proceeded to read sundry nominations in the Air Force.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the nominations in the Air Force be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations in the Air Force will be considered en bloc, and, without objection, they are confirmed.

NOMINATIONS PLACED ON THE VICE PRESIDENT’S DESK

The Chief Clerk proceeded to read sundry Armed Services nominations placed on the Vice President’s desk.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that these nominations be placed on the table. The motion to lay on the table was agreed to.

EXECUTIVE SESSION

The following nominations, on the recommendation of the Senate Committee on Post Office and Civil Service, were received:

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of executive business, to consider the nominations on the Executive Calendar.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate proceeded to consider executive business.

EXECUTIVE REPORTS OF A COMMITTEE

The following reports of the Committee on Post Office and Civil Service were received:

Mr. MONROE, from the Committee on Post Office and Civil Service:

John W. Loughman, to be postmaster at Belgrade, Mont.; and
R. Bay Heath, to be postmaster at Stillwater, Okla.

The VICE PRESIDENT. If there be no further reports of committees, the nominations on the calendar will be stated.

POSTMASTERS

The Chief Clerk proceeded to read sundry nominations of postmasters.

Mr. JOHNSON of Texas. Mr. President, among the list of postmaster nominations, I ask unanimous consent that the nomination of Martin T. Southard to be postmaster at Stokesdale, N. C., be returned to the Committee on Post Office and Civil Service.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. JOHNSON of Texas. Mr. President, in the case of all the other postmaster nominations, I ask that they be considered en bloc.

The VICE PRESIDENT. Without objection, the remaining postmaster nominations will be considered en bloc, and, without objection, they are confirmed.

IN THE ARMED SERVICES

The Chief Clerk proceeded to read sundry nominations in the Army.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations in the Army will be considered en bloc, and, without objection, they are confirmed.

TRANSPORT OF AMERICAN SHIPPING TO FOREIGN REGISTRY

Mr. WILLIAMS. Mr. President, on March 14, 1957, Congressman Zelenko, of New York, raised a rather interesting question concerning the manner in which the Maritime Administration is permitting ships under American flags to be transferred to foreign registry, thereby resulting in a substantial windfall to the companies which had previously purchased these same ships at a greatly reduced price on the basis that they would be kept under the American flag.

Mr. JOHNSON of Texas. Without objection, the nominations in the Air Force will be considered en bloc, and, without objection, they are confirmed.
There being no objection, the report was ordered to be printed in the Record, as follows:

DEPARTMENT OF COMMERCE

MARCH 30, 1957

WASHINGTON, D. C.

HON. JOHN J. WILLIAMS,

UNITED STATES PETROLEUM CARRERS, INC.

WASHINGTON, D. C.

DEAR SENATOR WILLIAMS: The receipt is acknowledged of your letter of March 25, 1957, requesting information as to the status of an application appearing in the Wilmington Morning News of March 15, 1957, concerning a proposed arrangement whereby the Maritime Admi-

nistration and Mr. Aristoteles Onassis involving the construction of new tankers. In connection therewith you request a complete report on the transaction, with particular reference to certain phases thereof, as listed in your letter.

On December 10, 1956, the Maritime Ad-
mnistrator granted approval in principle, pursuant to sections 9 and 37 of the Ship-

ping Act, 1916, as amended, of the transfer to Panamanian or Liberian ownership and

Panamanian or Liberian registry and flag of 11 United States Liberty and Olympic dry-
cargo ships, in consideration for the construction in the United States, for the Maritime

Carriers, Inc., or any United States af-

fliate or subsidiary thereof, for United States documentation and operation, of 3 new

tankers aggregating not less than 198,-

450 gross tonnage or more, of the type to be

constructed for the United States fleet, as listed in your letter.

The above approval in principle was subject to the terms and conditions set forth in part I, paragraph B and part III, paragraph A of the attachment 2. The Maritime Administration formalized the approval granted in principle on November 5, 1956 (copy attached).

On January 25, 1957, the Maritime Admin-

istration formalized the approval granted in principle on December 10, 1956, of the trade-out-and-build program of Victory Carriers, Inc. with respect to each ship. Attached is copy of exec-

uted contract No. MA-1439 dated January 25, 1957, between the Department of Com-

merce, Maritime Administration, and Victo-

ry Carriers, Inc., with respect to the con-

struction of the three new tankers, namely builder's hulls Nos. 1671 and 1672, and 1

T-2 tanker; Camp Namamu, T-2 tanker; Fort

Bridgeer, T-2 tanker; Lake George, T-2 tanker; Stony Point, T-2 tanker.

The three new vessels will be constructed for the Maritime Administration's foreign trade-out-and-build program. The contract contains the essence of the Maritime Administration's approval of the trade-out-and-build program of Victory Carriers, Inc. Your attention is called to paragraph 4 of said contract, which provides for the payment of liquidated damages to the Maritime Administration, in the event the new ships are not constructed and documented under United States laws within the time limit prescribed.

Listed hereunder are the answers to your specific points of inquiry concerning the subject matter of your letter:

1. The name of the company, a list of the officers or directors, and the amount of actual paid-in capital by the stockholders.

2. The total expected cost of the tankers, broken down per ship:

a. On December 28, 1956, the Maritime Administration agreed to construct the three new vessels for the Maritime Administration, in the event such vessels were not yet being filed with the Maritime Administration for such ship.

b. A. Under foreign registry the estimated valuation on a restricted basis, of the 14 vessels will be: $3,400,000 for each T-2 tanker, and $1,500,000 for each Liberty cargo vessel. However, these ships are not eligible for resale except with prior Maritime Administration approval.

3. If Mr. Onassis is merely transferring the Liberty ships to foreign flag, he would not be subject to the terms and conditions set forth in the contract and would not be required to furnish documentation and operational details concerning the ships.

4. The Maritime Administration has statutory control, under section 37 of the Shipping Act, 1916, as amended, over the vessels involved in the proposed transfer of ownership, as well as the name or names of the Liberian purchasers or transferees, has not yet been filed with the Maritime Administration.
LET THE LADY HOLD UP HER HEAD

Mr. NEUBERGER. Mr. President, on the day that we are scheduled to act on the conference report which reflects the emphasis of the immigration proposals of the junior Senator from Massachusetts [Mr. KENNEDY], I should like to make available to my colleagues an eminent address on our national immigration policies being given by Senator KENNEDY delivered to the Washington chapter of the American Jewish Committee on June 4, 1957. The title of this able essay is "Let the Lady Hold Up Her Head," which symbolizes the desire of the Senator from Massachusetts to bring into living reality the great humanitarian promise inherent in the Statue of Liberty, which commands the entrance to New York Harbor. It is to be a part of the deliberations of the Senate.

I believe that any open-minded citizen reading this address by Senator KENNEDY will come to realize that every one of us has been able-bodied American Indians, or either an immigrant or the descendant of immigrants. Therefore, as the Senator from Massachusetts emphasizes, "our policy should be generous; it should be fair; it should be flexible."

I ask unanimous consent that the address by Senator KENNEDY be printed in the body of the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

LET THE LADY HOLD UP HER HEAD—Reflections on American Immigration Policy

By Senator John F. Kennedy, of Massachusetts

I've heard it said that one of the reasons Queen Isabella of Spain was so eager to support Columbus' voyage was to make certain that the rich inhabitants beyond the horizon were converted to her own religion.

The story has it that Luis Santangel, Chancellor of the Spanish Eschequer, was having much difficulty persuading Ferdinand to finance Columbus' explorations, because the King and Queen had told him no gold would be found beyond the sea. So Santangel decided to appeal to another motive. Within earshot of the Queen, who was a devout Catholic, he asked the King: "Does your Grand-so-pretentious policy of converting the inhabitants beyond the sea of darkness to the true faith?"

"Madre de Dios," exclaimed the Queen. "I had never thought of that. If My Lord, the King, will not give the Italian the money he needs to save those poor lost souls, I will have my jewels and finance him myself."

The King who could not bear the thought of the royal jewels in a pawnshop, quickly agreed to advance the money.

Queen Isabella was实现了 her desire. In the years that followed, Sir Walter Raleigh, and later Governor Winthrop, also wanted these shores kept virgin for their own kind of people. But luckily for all of us, history decided differently. Columbus and the English were followed by waves of Germans, Irish, Italians, Slavs. And far from remaining a nation of one creed, this new land became an amalgamation such as had never before been seen.

Each wave disliked and distrusted the next. The English said the Irish "kept the Sabbath and everything else they could lay their hands on. The Irish disliked the Italians; and the Italians joined their predecessors in disparaging the Slavs. By the time Robert Louis Stevenson made his journey across the new land, he found Americans united in only one thing—their distrust of the heathen Chinnee whom he himself looked upon with wren-nasal envy and else "foreigners." But then he pointed out, "watched the stars before mine had begun to keep pigs."


g E pluribus unum

Fortunately for America, a few pioneers saw the value of accepting all races and faiths. When Roger Williams was expelled from the Puritan colonies, he founded Rhode Island as a polygnot refuge. William Penn made a point of welcoming all comers. In 1694 the first group of Jewish settlers landed in New Amsterdam. The Irish were already celebrating St. Patrick's Day in Boston.

The assimilation of this heterogeneous tide was early as the Presidency of John Adams, the alien and sedition laws were passed. The Know-Nothing Party flourished during the Civil War; and for several generations thereafter the Ku Klux Klan rode furiously in the night. But today the Klan is more laughed at than feared. In 1916, one Madison Grant, official historian of the American Museum of Natural History, wrote a pseudoscientific, violently anti-immigrant book entitled "The Passing of the Great Race." But in 1952, a group of well-known anthropologists reported unanimously to UNESCO that there is no basis for ideas of racial purity or superiority.

Today, some few may try to maintain the fiction that they are of purer stock or superior breed, but their pretense is transparent. The Nation got a hearty chuckle a few years ago when the architects of the American Revolution as "fellow immigrants." And Sinclair Lewis described Martin Arrow's "as a typical purebred Anglo-Saxon American—which means that he was a union of German, French, Scotch-Irish, perhaps a little Spanish, conceivably a little of the straits lumped together as Jewish, and a great deal of English, which is itself a combination of primitive British, Celt, Pheenish, German, Danish, and Swede."

America today is a product of its immigrants—and a product that is the envy of the world. We recognize that the new amalgamated man, a strictly made-in-America product, is the stronger and fresher because he has borrowed the best strains of many lands.

A STEP BACKWARD

But in spite of this knowledge, our Nation's attitude toward immigrants has changed considerably. If Emma Lazarus were writing today, her famous lines "give me your tired, your poor" would have to be amended and read as long as they continue to emanate from Europe, are not too tired or too poor or slightly ill, and can document all their activities for the past 2 years.

Our present immigration laws furnish a quota system of national origins with indefinite overtones of racial preference. The laws impose a quota on each country, the quotas of regulations that lead to what Doweyevsky cunningly described as "administrative ecstasy." Walt Whitman's songs of the open sea are given to preference to the strains of Gian Carlo Menotti's The Consul.

President Truman warned when he vetoed the McCarran Act that "the idea behind the discriminatory policy was to put it baldly, that Americans with English or Irish names were better people and better citizens than Americans with Italian or Greek or Polish names."

Such a concept is utterly unworthy of our traditions and our ideals. And yet, as we well know, despite the veto,
the law went into effect—ironically on Christmas Eve.

The inequities of this legislation have raised a great number of private bills from 100 in the 78th Congress to 2,000 in the 84th. Private immigration bills make up about half of our legislation today.

We have intervened on behalf of innumerable immigrants who bumped their heads against our barrier of regal, non-political study is necessary. Immigrants, with their small children in Massachusetts, could not bring his wife to the United States because of the quota. A Greek from Crete in 1913, and a bundle of sticks for her fire in 1939. It took an act of Congress to reunite this family.

**IMMIGRATION AND FOREIGN POLICY**

As a member of the Foreign Relations Committee I am deeply disturbed by the frustrations and resentments created abroad by our immigration laws. Immigration policy, I maintain, is as integral a part of foreign policy as economic aid or propaganda broadcasting. Nothing is more personal, or related more easily into terms of human understanding or misunderstanding. The alien in the minds of the relative of an American citizen sweating out a quota, the refugee languishing in camp—all believe the picture we create of America. The foreign observer, for whom thinking is likely to tell us that what we do speaks so loudly, he cannot hear what we say.

When the restrictive immigration laws of 1924 were drawn up, with their provisions for an annual limitation of forty-five thousand aliens, our diplomatic ambassador warned they would create resentment in that country. Japanese intellectuals, in particular, were sensitive to the implications of the law, as was their government. I am not unaware that the immigration legislation. Twenty-eight years later, after a brutal, bitter war, a number of experts informed us it was impossible to distinguish in immigration and Naturalization that the exclusion clause had indeed contributed to the growth of anti-American feeling in Japan and helped create the climate leading to Pearl Harbor.

On the other hand, immigration policy can also be used as a positive instrument of foreign policy. The absence of quotas within the Western Hemisphere is an invaluable asset to the good-neighbor policy. When we amend our immigration policy with foreign policy or not, our friends do—those of our own partners in NATO, against whom we are in reality our enemies so identify it also. In 1946 a number of Italian Americans wrote to relatives abroad and pointed out that the Americans were not very willing to share their abundance. In a recent issue of the Washington Post, a writer quoted a highly respected Italian-American who said, "If it is done under the 21st century. These mortgages should be wiped out, and the unused quotas of one country should be available for redistribution to other countries.

With respect to the specific problem of refugees, I would like to mention that we have admitted some 89,000 emergency immigration cases. They include wives and children of refugees already admitted under the Refugee Relief Act of 1953. They include a number of aliens who secured assurances of jobs and homes under that act but were caught in the squeeze when the act expired. There is also provision for 20,000 refugees and escapees from communism now residing in Austria and for 1,000 Jews from Egypt, Greece, and Italy. I do not pose these as the problem of immigration, but only as a quick answer to the most urgent needs. I still hope that Congress in the near future will reexamine our whole immigration law to adapt it to our role of world leadership.

This new policy should not only amend the existing legislation, but it should shape immigration to foreign policy. It should provide, for instance, for some measure of flexibility to take care of sudden developments like the expulsion of Jews from Egypt or the revolt in Hungary. The executive branch, it is true, does have a legal measure of flexibility now in the parole provision; but this was not designed to take care of the kind of emergency situation I have in mind. Moreover, it has been used only in the case of the Hungarian escapes, and the Attorney General has declined to apply it equally to the Middle East.

A new, enlightened policy of immigration need not throw open the floodgates to a wave of immigrants we could not absorb or would not want for some valid reason of national interest. But we must avoid what the Massachusetts poet John Boyle O'Reilly once called, "in the name of a cautious, statistical Christ." Our policy should be generous; it should not be based on facts such as, "If we amend our immigration policy we could take up the other problems of the world with clean hands and a clean conscience." We need a harbor, and one could hold up her head as well as her lamp.

**OREGON ECONOMIC PROBLEMS**

**EDITORIAL BY SENATOR NEUBERGER FROM PORTLAND JOURNAL**

Mr. NEUBERGER. Mr. President, the Oregon Daily Journal in my home city of Portland has been performing a public service in presenting a wide range of economic views, an aim evidenced in the following conclusions as to how the economic difficulties confronting the State of Oregon may best be corrected and resolved.

Many statistics as well as actual experience have demonstrated that Oregon has not been sharing in the so-called nationwide prosperity. For example, average incomes in Oregon were $202 higher than the national average in 1957, but below the national average in 1956.

In keeping with other brief Senate speeches which I have made to call to the attention of my colleagues some of the Federal policies which are urgently needed by our State of Oregon, I ask unanimous consent to have printed in the body of the Record a guest editorial contributed to the Oregon Daily Journal on August 24, 1957, as one of a series, on this vital topic. The title of this guest editorial is "Oregon Must Let Mind Be Bold, Seek Solution to Oregon's Economic Problems." (By RICHARD L. NEUBERGER, U. S. Senator from Oregon)

Every American region heavily reliant on lumber has had to produce some new form of permanent payroll to take up the slack in saw-timber employment. This happened in New England, in the lake States and in the South. It explains why, for the last 4 years, I have been talking and writing about the growing crisis confronting our State. It explains why, in 1951, I introduced legislation to repeal the 3 percent Federal freight tax. We also are seeking some measure of flexibility to take care of the kind of emergency situation I have in mind. Moreover, it has been used only in the case of the Hungarian escapes, and the Attorney General has declined to apply it equally to the Middle East.

A new, enlightened policy of immigration need not throw open the floodgates to a wave of immigrants we could not absorb or would not want for some valid reason of national interest. But we must avoid what the Massachusetts poet John Boyle O'Reilly once called, "in the name of a cautious, statistical Christ." Our policy should be generous; it should not be based on facts such as, "If we amend our immigration policy we could take up the other problems of the world with clean hands and a clean conscience." We need a harbor, and one could hold up her head as well as her lamp.

A new, enlightened policy of immigration need not throw open the floodgates to a wave of immigrants we could not absorb or would not want for some valid reason of national interest. But we must avoid what the Massachusetts poet John Boyle O'Reilly once called, "in the name of a cautious, statistical Christ." Our policy should be generous; it should not be based on facts such as, "If we amend our immigration policy we could take up the other problems of the world with clean hands and a clean conscience." We need a harbor, and one could hold up her head as well as her lamp.
processing of raw materials in the Western States.

Only a small segment of Oregon agriculture qualifies for Federal price-support payments. We have worked for the two-prize plan for wheat, for broadening of Public Law 480 to sell surplus Oregon fruits and grains, for the development of new livestock and dairy products, for additional irrigation projects, and for additional Federal power revenues. This would help to give Oregon farmers a measure of equality with those who raise favored commodities such as corn or cotton.

There are other avenues of encouragement too numerous to cite here. Oregon, I think, must look to the wisdom of Justice Holmes and Brandeis when together they wrote: "If we would guide by the light of reason, we must let the mind be bold."

AMENDMENTS OF IMMIGRATION AND NATIONALITY ACT

Mr. JOHNSON of Texas. Mr. President, I ask that the Chair lay before the Senate the amendments of the House to the bill (S. 2782) to amend the Immigration and Nationality Act, and for other purposes, which were, on page 2, line 10, strike out "years." and insert "years: Provided, That no natural parent of any such adopted child shall thereafter be accorded any such privilege, or status under this act."; on page 3, line 22, strike out "this" and insert "the Immigration and Nationality"; and on page 3, after line 22, insert:

(c) Any visa which has been or shall be issued to an eligible orphan under this section or under any other immigration law to a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces shall thereafter be accorded any such privilege, or status under this act.

(d) Any visa which has been or shall be issued to an eligible alien under this section or under any other immigration law to a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces shall there­after be accorded any such privilege, or status under this act.

Mr. JOHNSON of Texas. Mr. President, this is the immigration bill, which recently was passed by the House. It is an important piece of legislation in which I am deeply interested, and to which I have given much time and attention.

I call the attention of the Senate to the provisions of the bill. It is a resolution to continue the investigation of antitrust and antimonopoly laws and their administration.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the resolution.

Mr. JOHNSON of Texas. Mr. President, I should like to inform the Senate that this is a resolution to continue the investigation of antitrust and antimonopoly laws. The minority leader has approved taking up the resolution by motion. If it is adopted, I will ask that it be referred to a subcommittee of the Senate. The motion was agreed to; and the Senate will adopt it.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution (S. Res. 166) was agreed to, as follows:

Resolved, That Senate Resolution 57, 85th Congress, agreed to January 9, 1958, authorizing an investigation of antitrust and antimonopoly laws and their administration, be hereby amended by striking out "$225,000" and inserting in lieu thereof "$275,000."
county committees elected under the Soil Conservation and Domestic Allotment Act for certain counties.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent to have printed in the Record, as follows:

The Soil Conservation and Domestic Allotment Act provides for the election of one county committee in each county, to be utilized in administering that act and other agricultural programs. For many years, without any apparent authority, two county committees have been elected in each of the four counties named in the bill. Due to geographic location, number of farms, and other factors, other agricultural agencies and the four counties named in the bill, the department has worked out very well. Recently it was brought to the attention of the Department that this method was not on the third reading and passage of the bill. The motion was agreed to; and the Senate proceeded to consider the bill.

The VICE PRESIDENT. The bill is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

**ADDITIONAL OFFICE SPACE IN HOME DISTRICTS FOR CONGRESSMEN, DELEGATES, AND RESIDENT COMMISSIONERS**

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1147.

The VICE PRESIDENT. The bill will state the bill by title.

The LEGISLATIVE CLERK. A bill (H. R. 9282) to provide additional office space in home districts of Congressmen, Delegates, and Resident Commissioners.

The PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

The VICE PRESIDENT. The bill is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

**TELEPHONE AND TELEGRAPH SERVICE FURNISHED MEMBERS OF THE HOUSE OF REPRESENTATIVES**

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1148, H. R. 9406.

The VICE PRESIDENT. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 9406) to amend the act of June 23, 1949, to provide that telephone and telegraph service furnished Members of the House of Representatives shall be computed on a basis other than an annual basis.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

The VICE PRESIDENT. The bill is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

**PRINTING AS HOUSE DOCUMENT MATERIAL RELATING TO CENTRAL VALLEY PROJECT, CALIF.**

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1149, House Concurrent Resolution 176.

The VICE PRESIDENT. The concurrent resolution will be stated.

The LEGISLATIVE CLERK. A concurrent resolution (H. Con. Res. 176) authorizing the printing as a House document of certain material relating to the Central Valley project of California, and providing for additional copies.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the concurrent resolution was considered and agreed to.

**PRINTING OF HOUSE DOCUMENT**

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1150, House Concurrent Resolution 188.

The VICE PRESIDENT. The concurrent resolution will be stated.

The LEGISLATIVE CLERK. A concurrent resolution (H. Con. Res. 188) authorizing the printing of a House document entitled "Congress and the Monopoly Problem: 56 Years of Anti­trust Development, 1900-1956."

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the concurrent resolution was considered and agreed to.

**SURVIVOR ALLOWANCE FOR GRAND AND PETIT JURORS**

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1152, H. R. 3370.

The VICE PRESIDENT. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 3370) to amend section 1871 of title 28, United States Code, to increase the mileage and subsistence allowances of grand and petit jurors.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to, and the Senate proceeded to consider the bill.

The VICE PRESIDENT. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

**TARIFF TREATMENT OF ISTELE OR TAMPICO FIBER**

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 882, H. R. 7096.

The VICE PRESIDENT. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 7096) to amend paragraph 184 of the Tariff Act of 1930 with respect to istle or Tampico fiber.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

Mr. BEALL. Mr. President, I have an amendment.

Mr. CASE of South Dakota. Mr. President, reserving the right to object, may I ask that the amendments be read?

Mr. BEALL. I ask the clerk to read the amendment.

The VICE PRESIDENT. The clerk will state the committee amendments.

Mr. JOHNSON of Texas. Mr. President, may we have order in the Chamber?

The VICE PRESIDENT. The committee amendments will be stated.

Mr. CASE of South Dakota. Mr. President, reserving the right to object to the consideration of the bill, and not knowing what the amendment is.

Mr. JOHNSON of Texas. Mr. President, I ask that the bill go over. I ask the Clerk to call up the bill with the Senator from South Dakota to see if he can clear the bill.

The VICE PRESIDENT. The bill will go over.

Mr. CASE of South Dakota subsequently said: Mr. President, I wish to say I had objected to the consideration of Calendar No. 882 for the reason that it dealt with the tariff. I had heard that there was a possibility that an amendment would be offered to put mias on the free list. I do not know whether that was a committee amendment or not. I understand the amendment proposed to be offered by the Senator from Maryland [Mr. BEALL] referred to putting wool on the free list. I would have objected to the consideration if it meant putting wool on the free list. Therefore, I respectfully request that Order No. 882, dealing with the Tariff Act, not be passed on a consent call.

Mr. JOHNSON of Texas. We are not passing anything on the Consent Calendar. Bills are being called up by motion. The fact that the Senator from South Dakota wants time to study it is sufficient to have the bill go over. I ask that the
The total investment of Texas.

INCREASE the consideration of Calendar No. 1185, is on agreeing to the Atomic Energy Commission, and for salaries of certain executives of the

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1186. H. R. 7936. I announce that this will be the last bill we shall take up tonight.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

CONTINUED RATION PROVISIONS OF TITLE II OF THE FIRST WAR POWERS ACT OF 1941.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1186. H. R. 7936. I announce that this will be the last bill we shall take up tonight.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

CONVEYANCE OF LAKE OR BAYOU TO CITY OF COUNCIL BLUFFS.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of H. R. 8928, and that the Senate proceed to its consideration.

The VICE PRESIDENT. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 8928) to amend the act of June 19, 1880, entitled "An Act to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a lake or bayou situated near said city."

The VICE PRESIDENT. Is there objection to the request of the Senator from Texas?
that this authority shall not be used to the formalization of any informal making of any progress payments, nor for activities as remain must be balanced against certainty.

This authority has been exercised only in a limited number of situations by the Commission because of other special authority available to the Commission. For example, the President may, pursuant to section 162 of the Atomic Energy Act of 1954, exempt the Commission from the provisions of law relating to contracts when he has determined that such action is essential in the interest of the national defense and security.

In addition, authority to make advance payments under many contracts is provided in the Low Bid Act, with an amendment, the Atomic Energy Act of 1954, which has been enacted by the Congress and sent to the President.

In view of the fact that the other authorizations available to the Commission appear adequate for most of the contingencies that may arise, we have no objection to limiting the application of title II of the First War Powers Act as desired by the Senate Committee on the Judiciary.

The Bureau of the Budget has informed us that there is no objection to the submission of these comments.

Sincerely yours,

K. E. Fields,
General Manager.

DEAR SENATOR EASTLAND: This is to advise you in your letter of August 26, 1957, that in the event H. R. 7356, to extend the authority of title II of the First War Powers Act, is not enacted at the end of the Congressional session as provided for in title II, the Tennessee Valley Authority will use the authority granted thereunder only with respect to contracts entered into on or before December 30, 1957.

Sincerely yours,

Herbert D. Vogel,
Chairman of the Board.

DEAR SENATOR EASTLAND: This is in reference to your letter of August 26, 1957, regarding H. R. 7356, a bill to extend the authority of title II of the First War Powers Act and the committee's agreement to report this bill upon the express condition that the principal departments and agencies to whom this authority has been delegated agree in writing to apply such authority only to contracts entered into on or before June 30, 1957.

This Department agrees to apply the authority of title II of the First War Powers Act only to contracts entered into on or before June 30, 1957.

Sincerely yours,

E. T. Benson, Secretary.
the authority for contracting after June 30, 1957.

Very truly yours,

RAYMOND BLATTENBERGER,
Public Printer.

GENERAL COUNSEL,
DEPARTMENT OF DEFENSE,
August 27, 1957.

Hon. JAMES O. EASTLAND,
Senate Office Building,
Washington, D. C.

DEAR SENATOR EASTLAND: This letter is written in reply to your letter of August 25, 1957, with respect to H. R. 7836, in which you stated that your committee at its meeting August 26 passed the bill, subject to report favorably H. R. 7836 upon certain conditions.

The Secretary of Defense has requested that I advise you that the Department of Defense undertakes that the military departments will not use title II of the First War Powers Act, if extended by H. R. 7836, as the authority for any of the following actions:

1. For negotiation of contracts without formalization of formal advertising requirements in connection with the letting of contracts;
2. For payment, performance, or other bonds where exigencies of time make formalization at the time impracticable.
3. For authorizing the making of any progress payment;
4. For increasing (in case after rejection of all competitive bids a contract has been entered into), the amount of the contract price in such a case to a figure higher than the lowest competitive bid among those rejected;
5. For the formalization of informal commitments made hereafter, except in case where exigencies of time requirements make formalization at the time impracticable.

I am sure you understand that in making the above I do not mean to indicate that the Department of Defense has in fact been following these practices, but we understand the desire of your committee to have these positive assurances.

We greatly appreciate the willingness of your committee to consider this means of meeting the situation created by the immi­

The order to adjourn to 9 A.M. TOMORROW

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate adjourn tomorrow morning.

Mr. WATKINS. Mr. President, reserving the right to object

Mr. JOHNSON of Texas. I am not making that order. I am asking that the order be entered.

Mr. WATKINS. I hope the Senator will, because I would like to get home and get cleaned up. Why not make the hour 10?

Mr. JOHNSON of Texas. I may say to the Senator from Utah that when the Senate convenes at 9 o'clock, there will be a morning hour, and he may come in at his convenience.

Mr. WATKINS. There is certain proposed legislation in which I am interested, and which I should like to have taken care of.

Mr. JOHNSON of Texas. The Senator from Utah always takes care of legislation he is interested in. I do not know of any Senator who does a better job in the Senate in doing that. When the Senator from Utah gets up to ask a question, then there will be a morning hour. The Senator from Utah rarely occupies much of the Senate's time in the morning hour. There will be a number of insertions in the Record, a number of brief speeches, some for world consumption, some for national consumption, and some for home consumption. By the time that is completed, the Senator from Utah may get here and join us, so we may complete our business and go home.

Mr. President, I will revise my request. The Senator from Utah has made a good suggestion. I ask unanimous consent that when the Senate adjourns today, it adjourn to convene at 9 o'clock today.

[Laughter.]

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

CONVEYANCE OF CERTAIN LAND BY THE SECRETARY OF THE ARMY TO THE COUNTY OF LOS ANGELES, CALIF.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to consider the conveyance of Calendar No. 1135, H. R. 230. This is a very important bill and it concerns the State of California, from which the Vice President and the minority leader come, and I am vitally interested in it myself. I should like to have the minority leader give a brief explanation of the bill.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 230) to require the Secretary of the Army to convey to the county of Los Angeles, portions of a tract of land heretofore conditionally conveyed to such county.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. KNOWLAND. Mr. President, this bill was unanimously reported from the Committee on Interior and Insular Affairs. The purpose of the bill is to require the Secretary of the Army to convey to the county of Los Angeles, Calif., all right, title, and interest of the United States in certain portions of a tract of land heretofore conditionally conveyed to such county. This is one of a series of relinquishments of residual rights of the United States in portions of this property.

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. KNOWLAND. Mr. President, I move that the bill be passed be reconsidered.

Mr. WATKINS. I move to lay that motion on the table.

The VICE PRESIDENT. The question is on appeal to the motion of the Senator from Utah to lay on the table the motion of the Senator from California.

The motion to lay on the table was agreed to.

CHEAPEAKE AND OHIO CANAL NA­
TIONAL HISTORICAL PARK.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to consider the bill on page 3, line 3, after the word "title," and the bill on page 4, line 9, after the word "general."
the word "thereof," to insert a colon and "And provided further, That designation of lands for Chesapeake and Ohio Canal National Historical Park purposes shall not be limited to Federal lands; and it shall be the duty of Congress, in such cases as it may in the future authorize for improvement and extension of navigation, or for flood control, or irrigation, or drainage, or for the development of hydroelectric power or other purposes."

So as to make the bill read:

Be it enacted, etc. That (a) there is hereby established the Chesapeake and Ohio Canal National Historical Park for the purpose of preserving and interpreting certain property in the State of Maryland for the benefit and inspiration of the people. The park, as initially established, shall comprise that particular property in Federal ownership containing not to exceed 4,800 acres, and situated along the line of the Chesapeake and Ohio Canal between the terminus of the George Washington Memorial Parkway, above the Great Falls of the Potomac River, within or in the vicinity of the city of Cumberland, Md., as may be determined by the Secretary of the Interior; and lands and interests in lands in the State of Maryland, including land already in Federal ownership, shall not exceed 15,000 acres.

(b) The Secretary of the Interior is hereby authorized, in such manner as he may consider to be in the public interest, to acquire such lands and interests in lands in the State of Maryland, and Federal lands within the boundaries of the park and parkway as depicted on said map, by purchase, donation, or such other means as may be administered under the general laws and requirements governing lands for the purpose of preserving and interpreting certain property of national historical, scientific, and educational value that are authorized by this act to be acquired and conveyed for such purpose.

(c) Subject to the purposes and general requirements of this act, the Secretary of the Interior is authorized, to the extent of such funds as may be appropriated for the purposes of this act, to acquire lands and interests in lands in the State of Maryland, and Federal lands within the boundaries of the park and parkway, for the purpose of preserving and interpreting certain property of national historical, scientific, and educational value that are authorized by this act to be acquired and conveyed for such purpose, and to prescribe the manner and method of acquiring such property, including land already in Federal ownership, in accordance with the desires of the Department of Interior.

(d) As provided in the act of September 22, 1930 (64 Stat. 906), to effect land exchanges for the purposes of the proposed Chesapeake and Ohio Canal Parkway and the George Washington Memorial Parkway, and to carry out the provisions of the act of August 27, 1938 (67 Stat. 359), to grant easements for rights-of-way through, over, or under lands along the proposed Chesapeake and Ohio Canal, the Secretary of the Interior may, for the purpose of carrying out the purposes of this act, acquire lands and interests therein of approximately equal value that are authorized by this act to be acquired and conveyed for such purposes.

Notwithstanding section 1 (a) of the act of May 29, 1930 (46 Stat. 482, 488), that portion of the Chesapeake and Ohio Canal between the terminus of the George Washington Memorial Parkway above Great Falls and Point of Rocks, in the State of Maryland, shall be included in the George Washington Memorial Parkway and the Chesapeake and Ohio Canal National Historical Park.

(e) Any funds that may be available for purposes of this act, including any funds under the Chesapeake and Ohio Canal property above the Great Falls terminus of the George Washington Memorial Parkway may hereafter be used for the construction of the Chesapeake and Ohio Canal National Historical Park.

Sect. 2. (a) In accordance with the purposes of this act and to facilitate access to such lands by the public, the Secretary of the Interior shall file with the National Archives a map showing the lands within the boundaries of the park and parkway, and shall provide for the proper monitoring of such lands and interests in lands in the State of Maryland and the Federal lands within the boundaries of the park and parkway as depicted on said map, by purchase, donation, or such other means as may be administered under the general laws and requirements governing areas of the national park system in such manner as to preserve the valuable scenic, historical, scientific, and educational values and features thereof: And provided further, That designation of lands for the purpose of preserving and interpreting certain property of national historical, scientific, and educational value that are authorized by this act to be acquired and conveyed for such purpose shall not be debarred or limited, or a part of such lands and interests therein of approximately equal value that are authorized by this act to be acquired and conveyed for such purpose by agreements of leases for terms not to exceed 50 years, as will further the objectives for the park and parkway.

(b) The enactment of this act shall not affect adversely any valid rights hereof or appurtenant thereto existing within the areas hereby established as the Chesapeake and Ohio Canal National Historical Park and Parkway.

The amendments were agreed to.

The bill was ordered to be engrossed for the third reading, read the third time, and passed.

STATEMENT BY SENATOR RUSSELL

Mr. RUSSELL. Mr. President, sometimes I make mistakes of which I never have knowledge, but when I do make them I have then called to my attention. I am always glad to correct them.

On Tuesday, August 27, I made a lapsus lingua which caused me to be rather critical of my distinguished friend from Illinois. I found I was entirely at fault. I arose for the purpose of correcting my mistake and apologizing to the Senator from Illinois.

In undertaking to withdraw a quorum from the Chamber for the purpose of leaving the Senate, I inadvertently asked to withdraw the call for the yeas and nays. It was a purely a slip of the tongue. I was not undertaking to withdraw the yeas and nays but to withdraw the Senator from California and sufficiently seconded. If I had been aware of the fact that I had made the error, I certainly should not have spoken in the same sharpness to my distinguished friend from Illinois.

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield.

Mr. DIRKSEN. The statement of the Senator is only further testimony of the graciousness, spirit of fairness, and the unmixed courtesy of my distinguished friend from Georgia. I am deeply grateful to him.

Mr. RUSSELL. I do not deserve the compliment.

MARTIN WUNDERLICH CO.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1187, H. R. 2654, a bill for the relief of the Martin Wunderlich Co.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent to have printed in the Record a statement of purpose of the bill.

The Vice President having no objection, the statement was ordered to be printed in the Record, as follows:

The purpose of the proposed legislation is to pay the Martin Wunderlich Co., a partnership, of Omaha, Neb., the sum of $111,589.50 in full settlement of all claims against the United States arising out of the company's contract with the Bureau of Reclamation for the construction of the Vallecito Dam on the Pine River in Colorado.

It is understood that this sum is not to have been paid to the company under the contract, but in accordance with the desires of the Department of Interior.

The Martin Wunderlich Co., a partnership, entered into a contract with the Bureau of Reclamation on March 14, 1938, for the construction of the Vallecito Dam on the Pine River in Colorado, and completed this work to the satisfaction of the Bureau in 1941.

During performance various disputes arose, the principal one concerning the amount of equitable adjustment due on account of a change under the contract known as change order No. 3. The contracting officer and, on appeal, the head of the Department, allowed an increase of $44,208.85 on account of the said change.

The contract contained an article which provided that all disputes involving questions of fact were to be decided by the contracting officer, and that the head of the Department whose decision was stated to be final and conclusive upon the parties. The language of that article was as follows:

"Article 15. Disputes: Except as otherwise specifically provided in this contract, all disputes arising under this contract shall be decided by the contracting officer subject to written appeal by the contractor within 30 days to the head of the Department concerned or his duly authorized representative, whose decision shall be final and conclusive upon the parties thereto."

In the meantime the contractor shall diligently proceed with the work as directed."
The company would not accept this amount because it would not reimburse the company for its costs. (Ultimately the claimant recovered only "any suit now filed or to be filed.")

It is noted that inasmuch as the language of Public Law 366 reads exactly upon the decision of the Court of Claims, in the Wunderlich case, the claimant's problem falls squarely within that area of difficulty which the said public law sought to remedy.

In the aforementioned House report on S. 24, the House committee states: "The committee believes that in the Wunderlich case, in which present disputes were being entered into prior to the time that the Wunderlich case was decided, it would be unfair to the taxpayers involved therein to understand that judicial review was available to them on a less restricted basis than that of fraud. Specifically, one of the attorneys testified that he was aware that the proposed legislation would not apply to the Wunderlich case, and stated "I think possibly Mr. Wunderlich should ask for specific relief later." The committee notes that in the legislative history of S. 24, the House committee struck all after the enacting clause and rewrote the bill. The reasons were: "any suit now filed or to be filed." The committee further notes that the House Judiciary Committee, in this session of Congress, approved this area and other bills directly relating to the circumstances disclosed in the Wunderlich decision, and two other bills for correction legislation which would not apply to the Wunderlich case. The committee draws the following conclusions from this situation: (1) that although the House committee originally insisted upon a specific proviso in Public Law 356, that the House committee now feels that the equities involved in these cases are sufficient to warrant private relief; (2) that passage of S. 24 with a retroactive provision would bring about a large number of cases that, because of the limited number of private claim bills of this type filed in this and the preceding Congresses.

The Department of the Interior is opposed to the enactment of this bill unless the Congress decides first that the standards laid down by Public Law 366 shall be applied in a case which had been finally adjudicated before it became law, and, secondly, that congress is not yet ready to have this bill the subject of a retroactive provision. The Department of the Interior feels that passage of S. 24 with a retroactive provision would bring about a large number of cases that, because of the limited number of private claim bills of this type filed in this and the preceding Congresses.

The Department of Justice is opposed to the enactment of this bill.

The amount of this claim is for the moneys determined by the Court of Claims to be due the claimant less the moneys which the claimant has already received from the Government.

After careful consideration of the foregoing facts, particularly in view of the fact that the Court of Claims found the moneys to be due the claimant on the precise grounds set out in Public Law 356, and further in view of the obvious inequity of this situation with respect to Congress, the committee recommends that this bill be favorably considered.
in value. Today many of them are finding it difficult to even exist due to the high cost of living. They were the victims of galloping inflation, and continue to be the victims of creeping inflation. Now, in their advanced years, many of them are sick and disabled and look to the Government which they have served well to render justice in the twilight years of their lives.

The difficult task in which many of these retirees now find themselves is a desperate one. It is one which we in the Congress cannot and should not ignore. I am hopeful, therefore, that there is yet time to work out the parliamentary situation so that this Congress can adjourn sine die with a feeling of satisfaction and comfort that justice has been done to this deserving class of our citizens.

SUMMARY OF PROGRESS MADE IN HEARINGS BY SUBCOMMITTEE ON ANTITRUST AND MONOPOLY

Mr. KEFAUVER. Mr. President, I wish to make at this time a limited summary of the progress made in the hearings which have been conducted by the Subcommittee on Antitrust and Monopoly. At the very outset I wish to make it clear that what I have to say here represents my own personal interpretation and is not in the nature of a committee report, which will come later when the hearings on the steel industry in protecting the interests of consumers, it has been our intention to resume the hearings some time early in October. Following the completion of our hearings on the steel industry it is our intention to make an inquiry into the farm machinery industry.

In our hearings on the steel industry we have been concerned with three principal issues. What is the cost of the recent price increases? Second. Have these price increases exceeded the wage increase? Third. How effective is competition in the steel industry in protecting the public interest?

As to the first, it is important to distinguish between the cost of the price increases to the steel-consuming industries and the ultimate cost to the consumer. The representative of the United Steelworkers Union pointed out that by the time an increase in the price of the steel product arrives at the consumer, any number of consumer goods, it has been pyramided by the markups of successive manufacturers and distributors so that the ultimate cost to the consumer is substantially greater than the immediate cost to steel buyers. But leaving this consideration aside, we have made a detailed, product-by-product, market-by-market tabulation of just the cost of the price increase to direct buyers of steel. To put it another way, this represents the increased gross revenue received by the steel industry as a result of the price increase. Our estimate of the annual cost of the $6-a-ton increase in the price of carbon steel on July 1 of this year is $460 million. This is an underestimate, however, since it does not include alloy steel—which was also increased in price—or tinplate—which had its price increased 2 months earlier. When allowance is made for these increases, the total is increased too.

But this estimate is limited to the price increase occurring last month. There have been other price increases in the steel industry in recent months. In August 1956, following the strike, the price was increased by $9.50 a ton. Then throughout the year there has been a series of increases in the same period. These increases are charges for particular specifications as to size, dimensions, quality, and so forth. In its issue of July 5 of this year, the trade journal, Steel, estimated that the cost of these increases during the period December 1956 to March 1957, together with a few increases in base prices amounting to an average of $8 a ton. Thus, if we add to the $6 increase of last July, the $8.50 increase, and this $9.50 increase in extras, we arrive at a total average increase in the price of steel during the last 12 months of $19.50 a ton. A $6-a-ton increase represented by the union—that is, by the steel buyers of around $500 million, a price increase of $19.50 means a total increased cost of $1.6 billion. Inasmuch as the independent iron and steel producers account for approximately 30 percent of the industry, its increased revenues as a result of these price increases should be in the neighborhood of $500 million per year.

The arithmetic employed by both the United States Steel Corp. and the United Steelworkers Union is extremely simple. What is involved is a multiplication of the number of units sold by the difference between the price and the cost of output. The calculations used by the union are based upon the figures issued by the American Iron and Steel Institute—or supplied by the corporation itself. However, there is substantial disagreement on the other factor, the amount of wage increase. United States Steel holds that the figure is 21 cents; the union that it is only 16.4 cents. When each is multiplied by the factor of 15.5 man-hours per ton of finished steel, the difference in costs ranges from $3.25 per ton—according to the company's wage estimate—to $2.84 per ton—according to the union's estimate.

Second. Have these price increases exceeded the wage increase? United States Steel contends that in addition to the wage increase, increases in prices were also necessitated by increases in materials, equipment and services which it has to purchase. This the union disputes, pointing to the recent decreases in the price of steel scrap and other materials used by the steel industry.

This whole matter of costs and prices requires further investigation. But at this point I wish to make it clear that the evidence which the subcommittee will be able to get at the facts is limited by the refusal of the United States Steel Corp. to provide the subcommittee with data with respect to the costs and prices of materials, labor and the other principal elements of costs. Even though the subcommittee offered to combine these figures with those of other firms so that there would be no disclosure of any single firm, United States Steel persisted in its refusal.

The conclusion that the price increase of July 1957 is substantially in excess of the wage increase is supported by an analysis of what happened after the price increase of last year, as reflected in profit rates for the first half of this year. Charts were put into the record which indicate that the rate of profit on stockholders' investments, after taxes, for the first 6 months of 1957 was substantially above the levels that would have been anticipated to the normal relationship between percent of capacity operated and rate of profit. This was true of both the industry as a whole and United States Steel Corporation alone. These showings strongly suggest that the increase in price following the wage settlement in August 1956 was substantially greater than the increase in costs.
States Steel on July 1, 1957, were, with few exceptions, exactly the same as the increase by United States Steel.

In addition, the record includes instances of identical bidding in which United States Steel and one or more of the other major steel producer quoted prices to a Government purchasing agency which were precisely identical. For example, on November 19, 1954, the Springfield Armory at Springfield, Mass., opened bids on alloy steel bars, general purpose. One of the items for which bids were requested bore these specifications: alloy steel bars, FS-8296, HR, as rolled 7/16-inch, 0.09305, .035-.050, size 5-8ASTM, shall cold shear without cracking, in 10-12-foot lengths. Pricing on a delivered basis, that is, all transportation charges prepaid to destination—Springfield Armory—the bid of United States Steel was $0.09305 cent per pound. The bid of Bethlehem Steel was $0.09305 per pound.

When asked to explain how the identical bidding was accomplished, Mr. H. Blough, chairman of the board of United States Steel, replied:

My concept is that a price that matches another price is a competitive price. If you don’t do it, your customers, of course, you don’t accept it. In the steel industry we know it is so.

Referring to a city where the price of a certain steel product was $5 a ton higher than that of United States Steel, Mr. Blough stated:

I would say that the buyer * * * in that situation has this choice. He chooses to buy from one company at $5 higher. He chooses to buy from our company at $5 lower. Now if you call that competition and a desirable form of competition, you may have it your way. I say that the buyer has more choice when the other’s fellow’s price matches our price" (tr., p. 778).

On this question of competition in the steel industry, the central fact is that when United States Steel raises its price, it does so in coordination with other large producers. Under such circumstances, it is reasonable to assume that the other producers would not follow. And, if so, how much is it? How high can United States Steel raise its price and be reasonably certain that the other producers will follow along with identical increases?

During the investigation of the steel industry conduced by the Temporary National Economic Committee under the chairmanship of the Senator from Wyoming (Mr. O’Mahoney), Mr. Eugene Grace, the longtime president of the Bethlehem Steel Corp, was asked, "Do you remember any instances where you didn’t follow them—United States Steel—up?" Mr. Grace’s answer was "No"—hearings before the TNEC, 76th Congress, 2nd session, page 10603.

The record shows leadership by United States Steel to which the subcommittee will devote its principal attention when hearings are resumed in October. In the meantime the first witness will be the Bethlehem Steel Corp.

In closing, I want to say that the hearings have thus far evoked a widespread response from people throughout the country. Letters have been received from persons in all walks of life—housewives, farmers, small businessmen, lawyers, members of the clergy, doctors, professors, schoolteachers, and others. They represent a virtual cross-section of the American population at the grassroots level.

The majority of these letters are handwritten, and range from angry denunciations and refutations of its principal arguments. Many contain a moral overtone to the effect that it is simply not right for the managers of big business to raise their prices when by so doing they work such hardship on so many people. There is displayed here a mood and a sense of injustice which corporate managers will do well not to ignore when they are considering the extent of their next price increase.

With the thought that the views which they express might be of general interest to the various committees of Congress which will deal with this problem of inflation, I now ask unanimous consent to have printed in the Record excerpts from a more or less representative group of these letters.

There being no objection, the excerpts from the letters were ordered to be printed in the Record, as follows:

From Mr. John S. Campbell, Slater, Mo.:

"Chairman Blough says that you do not understand competitive enterprise and it must be a deep dark mystery. Ask him if he understands why United States Steel stocks are selling for 10 times the 1947 price, while No. 2 corn in Chicago is selling for two-thirds of the 1947 price. Ask him why farmers who produce 60 percent of the Nation’s raw material are receiving less than 4 percent of the national income. Ask him what part of the remaining 40 percent is pig iron, steel, or steel products. Is it any wonder that competitive enterprise that the American consumer cannot understand?"

From Mr. Fred Sondheim, Forest Hills, Long Island:United States Steel has split 6 for 1 in the last 10 years. The steel prices, which used to sell at 100 is equal to $20 at present price of 70. The per share earnings which were $6.50 per share on the old stock, are now at the rate of $40 to $45 per share on the old basis. In view of this terrific success, why must United States Steel raise prices continually? Surely they have beat the inflation, better than most of us."

From Dr. Arthur A. Calix, Decatur, Ala.:

"Thank you for having us present an investigation of the new price hike in steel prices. We cannot stand any more shrinkage of our dollar."

From Mr. I. Kremen, Palo Alto, Calif.:

"I applaud the intention of the Senate Anti-Monopoly Subcommittee to investigate the steel industry, but I question the methods by which the steel industry. I feel this investigation might also well be extended to other industries where competition is being approached monopoly exist. These lead to suppression of competition and unwarranted and successive Federal spending (3) annual wage demands by labor."

"I feel the dangers of inflation are reaching the critical point and are a serious menace to our country. It seems to me that the cause of inflation is threatend; (1) excessive pricing by some business (2) excessive Federal spending (3) annual wage demands by labor."

"I wish your committee goodspeed and good luck in your endeavors."

From Dean Fred J. Holly, department of economics, University of Tennessee, Knoxville, Tenn.:

"I hope that you will give some emphasis in your investigation of the steel industry to making the industry less of a 'ploow-back' economy. As you know, the steel industry uses ploow-backs to the almost complete exclusion of external capital sources. Thus, the industry stresses the need for price increases to permit further increases in earnings for ploow-back and plow-back companies. The fear cry from the theoretical workings of a private enterprise economy. It should be a fruitful field for investigation."

From Mr. H. McIntyre, Billings, Mont.:

"Just a word to thank you for the excellent work you are doing in your investigation in connection with the terrible inflation we are all experiencing."

"I firmly believe in this highly mechanized age where we are all dependent on the products of steel, that the price of steel alone can materially affect the cost of nearly everything that we use. If this industry is able to work to its advantage, the last 25 years has shown to show exactly where they are rigging prices, and such prices could be adjusted properly, which would all get away from the price of steel, we could have a far better control of the theoretical workings of a private enterprise economy. It should be a fruitful field for investigation."

"No"—hearings before the TNEC, 76th Congress, 2nd session, page 10603.

"I am just a dirt farmer. I have been in the real estate business all my life. I have been in the real estate business all these 25 years. Even now we can stand the low prices we get for our products. But we cannot stand these spiraling costs together with low prices. In this respect conditions are worsening rather than improving. What is happening to the farmer most surely will happen to every segment of our economy as the catastrophic consequences most certainly precipitated. By accepting a huge salary for himself * * * for his many fellow executives he has inspired and encouraged the union to come and get ‘its take.’ I am toughly committed to free enterprise but when management of any sort whatsoever uses free enterprise as a license to injure and jeopardize one’s own country something very decisive needs to be done."

"Mr. KEPNER, I am just a dirt farmer. I hope you all realize what is happening to the farmer most surely will happen to every segment of our economy as the catastrophic consequences most certainly precipitated. By accepting a huge salary for himself * * * for his many fellow executives he has inspired and encouraged the union to come and get ‘its take.’ I am toughly committed to free enterprise but when management of any sort whatsoever uses free enterprise as a license to injure and jeopardize one’s own country something very decisive needs to be done."

"Me. LOMAX, I stand by my statement where they may and give them hell. The steel industry deserves a good investigation as they are flagrantly disregarding the public
good and feeding the fires of inflation. This last 86 ton raise was unnecessary. I hope you recommend wage and price controls.

Let us return to the question of controlling these price increases. The rates that have been called for by the steel companies (not the union members) are being viciously squeezed between higher prices and higher taxes. I hope you have the heavy industries and labor to bear the controls for a period of time until we can stabilize inflation.

From Mr. Joseph A. Koudash, Madison, N.J.

"It was with great interest * * * to discover that the United Steel Car cartel that through secret agreements set prices that robbed the people. This is just what the antitrust laws are designed to prevent. Some of these companies are doing to the Nation today. I am convinced that in collusion and secretly in many instances they are violating the antitrust laws."

"These companies have defied the Government, as witness a short time ago when the Government would not allow a quick writeoff we will raise the price of steel. They which they did."

"So there is a collusion between these companies and labor. Labor has defied the antitrust laws."

From Mr. Wayne Ulbrecht, Rockford, Ill.

"Read where you are checking price fixing and see who is buying at those prices. Someone started checking these companies to protect the buying public."

"Price fixing is all over. Just get someone to start enforcing the law."

From Miss Agnes Morris, Portland, Oreg.

"Ladies and gentlemen, you are the chairman of the committee to investigate means of halting this inflation. It is heartening that, at least, there is a beginning to attack this destroyer of our economic status."

"Here is the personal angle which we are facing, namely the pensioners and fixed income groups. We are getting panicly when we shop for food. Here in a Nation where we should have enough of proper foods to eat. For no reason at all, except greed, prices rise from anywhere from a cent to 5 and 10 cents on an article. Is this reasonable and patriotic?"

"Please do something."

From Mr. Harold Krumm, Vienna, Va.

"I notice that you intend to look into the operation of the steel mill. It is a disease, and price raising is a disease. Everyone knows it."

"I am grateful for this promised investigation of capital goods, new plants, etc., in every economics course higher than grammar."

"From the Reverend Hinson V. Howlett, South Dartmouth, Mass.

"I was interested to hear the Chairman of the committee to investigate the problem of capital goods, new plants, etc., in every economics course higher than grammar."

"I see that you are going to look into the operation of the steel mill. It is a disease, and price raising is a disease. Everyone knows it."

"I am grateful for this promised investigation of capital goods, new plants, etc., in every economics course higher than grammar."

"It has been stated that the steel industry would use 46,000,000 tons of scrap in 1957. Of this amount, the steel industry itself would profit to the tune of $500,000,000. The rest would go to the economy. It is in this profit of $500,000,000 that the government would get a profit of $5,000,000."

"In addition the steel process uses large amounts of copper and aluminum. This is a large profit that the government would get."

"I am sure that your committee can produce excellent results in proving that the steel companies contribute immensely to the inflation through their terrible profits."

From Miss Mary Boyd Ayer, Coronado, Calif.

"Finally, prices increased immediately after it was announced that the price of steel was going to increase; no one waits until after the price of steel increases to raise prices."

"The steel industry operates as if it were the Russian Federation. I know what steel is being done to inflation and have been personally affected by it since the early 1940's and steel prices have increased twice my annual income. Naturally the steel representatives would seek to justify his prices.

"I know that we have another round of inflation ever time there is an increase in steel prices; the steel representatives don't care."
At this point the distinguished chairman of the Finance Committee, the Senator from Virginia [Mr. Byrn], observed:

You have just made one of the wisest statements I have ever heard.

Mr. President, I am in complete agreement with the statement of Mr. Martin and would like to have the Senator from Virginia [Mr. Byrn] also with me.

Excessive debt is one of the great dangers confronting our Nation, whether contracted by individuals, corporations, or Governments. The problem is particularly damaging to Government. Money borrowed by individuals or corporations for investment in the expansion of productive capacity under private enterprise can earn money, but borrowing to support government spending is lost, so far as earning power is concerned. In addition, governmental debt increases the inflationary pressures, which threaten our economic stability.

We are all aware that inflation is sweeping the world. It is stimulated when people feel that their medium of exchange will be lower in value in the future than at present, and that they had better convert their money into articles they can use.

A table prepared by U.S. News & World Report shows the drop in purchasing power of money from 1947 to 1957, in various countries of the world. I ask unanimous consent that it be printed, at this point, as a part of my remarks.

There being no objection, the table was ordered to be printed in the Record, as follows:

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Mr. MARTIN of Pennsylvania. Mr. President, right now we should be using everything within our means to check the inflationary spiral. Inflation can destroy the strongest government. It hits, severe hardship upon everyone who has savings or a fixed income.

In a recent issue of my hometown newspaper, the Washington, Pa., Observer, there was published a fine editorial entitled "Only This Nation Can End Inflation." I ask unanimous consent that this article be printed in the body of the Record at this point in my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

Only This Nation Can End Inflation

The drain over inflation grows with every rise in the price of products. Just now officials of big steel companies are defending their price increases as necessary and compelled by wage increases. Labor and some other agencies dispute the claim, saying that the raises are not justified to their full extent by increased costs due to wage increases, or that they are not justified for the reason that the increased wages are balanced against increased prices.

Robert C. Tyson, chairman of the finance committee of United States Steel, rejects arguments that the company's profits are big enough to cover the costs of increased labor rates. He says:

"The records of United States Steel cumulatively and convincingly show that as long as national wage increases are below rates exceeding the increases in productivity, price inflation will be compelled."

The public should be sure whether price inflation is justified by wage inflation as in the fact that we have inflation and that it has reached the point where it compels raise above of wages and salaries. Americans want to find a way to keep up with inflation.

They do not object to such forms of inflation as raise the cost of living if their incomes are raised to balance inflationary increases in costs. In other words, if benefits are greater than the cost, inflation will not hurt.

But American inflation, as reflected in wages, is far for much as has reached the point where it does not bring proportionately increased buying income. Where it will go from there is something a bit uncertain, but all economists fear that it will lead to sudden deflation. Even Russia is in danger from inflation, but she could control inflation because of her people.

The situation is not peculiar to the United States, but the dangers here are made worse by what is happening in other countries. Virtually all nations are in the throes of over-inflation. France has had to devalue her franc again. American money is less inflated than that of other countries.

And the world economic situation is such that a breakdown in the economy of any of a half dozen or more nations could bring a breakdown the world over.

Perhaps the cure for inflation is to be found in other parts of the world. Perhaps if the economy of France, or Britain, or Italy, or Peru, or Argentina, or any of several others, could be straightened out it would help our and that of the rest of the world.

But this Nation is still the world's economic leader. Other nations base their economy on our dollar, and it is only the price of the dollar in relation to other. We have it in our power to destroy almost any government in the world by manipulations of its monetary value.

Inflationary evils serious enough to wreck the world may come elsewhere, but it would seem that only the United States has the power to end that inflation. That is, if we do have it.

And this Nation does not have that power unless labor and capital can come to some kind of agreement to end the wage-price increase spiral which is steadily lifting inflation to the point that each increase in wages and each boost in prices simply adds danger.

This Nation has to find the cure for the cause, and thus end the inflation spiral. Otherwise the entire world may feel the effects of deflation someday.

PANAMA CANAL: TERMINAL LAKE MODERNIZATION PROGRAM DERIVED FROM WORLD WAR II EXPERIENCE

Mr. MARTIN of Iowa. Mr. President, I present, for appropriate reference, and preliminary naval studies, a special report of the General Board of the Navy to the Secretary of the Navy dated September 30, 1943, which summarizes preliminary naval studies on the terminal lake-third locks plan for the major operational improvement of the Panama Canal and gives its recommendation, together with a preliminary statement of my own.

The VICE PRESIDENT. Without objection, the statement and the report will be appropriately referred and printed in the Record.

There being no objection, both the statement and the report were referred to the Committee on Interstate and Foreign Commerce, and ordered to be printed in the Record, as follows:

Preliminary Statement by Senator Martin of Iowa

In my statement to the Senate in the Congress of the United States, on June 30, 1956, I quoted a previously classified preliminary report prepared at the request of the Secretary of War by Gov. Glen E. Edgerton of the
Panama Canal dated January 17, 1944, relative to proposals for the elimination of the Pedro Miguel locks, which report was supplied at meeting held by the Assistant Secretary of the Army, Hon. George H. Roderick. The report of Governor Edgerton approved in principle and recommended by the Secretary of War for thorough investigation a proposal for the major operational improvement of the Panama Canal was the terminal lake-third locks plan, which had been developed during 1942 and 1943 in the Department of the Navy, participated in the naval review. The 1944 Edgerton report lists some of the key documents concerning the conception and study of the plan in the canal organization and its review in the Department of the Navy.

The hearings prior to the enactment of the terminal lake-third locks proposal were one of the great constructive projects to grow out of World War II. Its story forms an important part of the history of the Panama Canal and emphasizes further that questions of major interoceanic canal policy are not proper for executive control by ex parte or routine administration, but that in the normal course of events, would expect to benefit from their own recommendations. The Panama Canal, a state project, has been organized to meet the future. The Department of the Navy, through the Panama Canal officials, through the Navy's special interest in the project, have had unqualified support in the past of the General Board is not only functional to the program might be discussed jointly and the practicability and advisability of the terminal lake and the sea-level advocates would oppose unconditionally any proposal which would result in a change of plans on the grounds that it would deter the time when conversion of the existing canal to a sea-level waterway might otherwise be authorized. Moreover, it revealed that the terminal-lake proposal had been transmitted to the Secretary of War by the Secretary of the Navy on September 7, 1943, with a request for study of the subject so that the practicability and advisability of the terminal lake proposal developed as the result of the President advised in the premises. The Secretary of the Navy at the same time submitted the President's recommendations to the General Board, in its report to the Department of the Navy on July 3, 1943, transmitted to me copies of the principal 1943-44 terminal lake report and proposal, which had their security classification removed.

The terminal lake proposals start with the Merchant Marine and Fisheries, November 15, 1945, p. 36. The hearings prior to the enactment of the terminal lake-third locks project, as proposed thereto.

The hearings prior to the enactment of Public Law 200, 79th Congress, were held on November 15, 1945, in executive session; and maritime interests, including the Navy, were represented. The only witness was the Governor of the Panama Canal (J. C. MeHaffey), who, it was noted, did not inform the Senate Committee on Merchant Marine and Fisheries about the official views of the Navy.

When questioned by a member of the committee as to whether he approved the terminal lake proposal in principle, Governor MeHaffey stated: "In general, yes; if the terminal lake project was constructed. I believe we would recommend a modification of the original project to include the terminal lake." See Executive Hearings on Panama Canal Facilities before Committee on Merchant Marine and Fisheries, November 15, 1945, p. 354. The terminal lake project was approved in principle by a Governor of the Panama Canal for the major modification of the existing waterway. Under an extreme interpretation of the security and national defense factors of the statute as paramount and controlling, the Navigation Act of 1914, which delegates the President the determination of the terminal lake project, was transmitted to the Congress on December 1, 1947, and significantly, without Presi­ dent's endorsement. The report of the President's terminal lake project, advocated only the sea-level project for major construction at Panama.

Report of General Board contains the following concurrence in the main premises of the report, security and national defense, that may have been made by certain executive agencies, the executive agencies and other vitally important phases of the canal program since its submission to the Congress and the subsequent tremendous advances in the destructive powers of modern weapons culminating in the H-bomb, have, in the judgments of the field, naval and other independent physicists, nuclear warfare engineering, and other experts, served to restore the terminal lake-third locks project, as proposed in 1945, when the terminal lake-third locks plan, developed as the result of war experience, was first supported in principle by both Panama Canal and naval officials, participated in the naval review. The indicated documents start with the conclusion that at Gatun in the Atlantic end. The 1944 edgerton report lists some of the key documents concerning the conception and study of the plan in the canal organization and its review in the Department of the Navy. The hearings prior to the enactment of the terminal lake-third locks project were one of the great constructive projects to grow out of World War II. Its story forms an important part of the history of the Panama Canal and emphasizes further that questions of major interoceanic canal policy are not proper for executive control by ex parte or routine administration, but that in the normal course of events, would expect to benefit from their own recommendations. The Panama Canal, a state project, has been organized to meet the future. The Department of the Navy, through the Panama Canal officials, through the Navy's special interest in the project, have had unqualified support in the past of the General Board is not only functional to the program might be discussed jointly and the practicability and advisability of the terminal lake proposal developed as the result of the

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of projects deemed more essential to the successful prosecution of the war.

3. The controlling feature of the subject plan is the creation of a safe summit-level anchorage in Miraflores Lake in order to provide a traffic expansion chamber at the Pacific terminal. The Panamanian principles of the Pedro Miguel locks which now constitute the bottleneck of the canal. The purpose of the plan is to improve marine operating conditions, reduce accidents, reduce the time cipline, an acceptance of the present arrange-

safe summit level anchorages for vessels as of Panama. anchorage in Miraflores Lake in order to presented, supported as they are by expert­

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transit of the cut becomes independent of which has to do with the Pacific terminal threaten, the third-lock program is, in prin­

personnel. Essential to its accomplishment gram the new and larger locks would be

Pacific entrance to the canal. attack. There would be 1 new triple-lift lock

triple-lift locks on the general

rather, an old one backed by the force of op- and a new single-lift lock at

Gatun only. Colonel Sibert, the builder of Gatun locks, wanted to place all Pacific locks in one structure. He felt that the locks had already been started and the change would have involved a delay in the opening of the canal. The President decided against the proposal. This decision in place was, it is believed, one of the principal causes of the absence of expert­

French Engineer de Lepinay had proposed the creation of a large artificial summit-level sea-level canal, as evidence of the weakness of which amounts to 47.17'), and its inter­

project plan does not, therefore, call for the

lock program establishes the distance be­

eliminates all lockage surges from cut as a

of the other

This cut already excavated under the third­lock program establishes the distance be­

all sets, even though widely

defended, all sets, even though widely

imposed by the size and topography of the

Cook and the 15th Naval District all favorably disposed, the project

to detect, either in any correspondence, or

Marine advantages claimed for the subject plan, regardless of the particu­lar scheme adopted for its accomplishment.

All of these advantages will accrue to the Navy in moving its ships quickly and in large numbers from one ocean to the other as strategic and tactical considerations may dictate. The General Board, itself strongly in favor of the basic idea, is anxious to have the matter strongly endorsed by the services. The marine advantages claimed for the subject plan include

1. Eliminates Pedro Miguel Locks as the bott­neck of the canal.


4. Reduces time of transit.

5. Increases safety of transit.


7. Eliminates lockage surges from cut as a

navigational hazard.

8. Increases usable dry season storage in sum­mit level.
CIVIL RIGHTS

Mr. CLARK. Mr. President, now that the civil rights bill has been passed and is on its way to the President, some of us are concerned as to how the Commission and the additional Assistant Attorney General will be financed.

I wonder if the distinguished minority leader would be able to give us some assurance that appropriation will be available from which the Commission, as well as the Assistant Attorney General, can be adequately financed, so that we can go home with a conviction that the hearings will be carried on and not held up? I hope, in the same spirit with the most recent developments.

Mr. KNOWLAND. Mr. President, I will say to the Senator from Pennsylvania that I cannot give a complete and categorical answer to his inquiry. I believe, however, that there are sufficient funds in the President's special emergency funds at least to get the Commission started on its work.

Mr. CLARK. I thank the Senator from California.

Mr. JAVITS. Mr. President, will the Senator tell us as to whether he thinks the work will be impeded by the need for getting confirmation of the Director of the Commission?

Mr. KNOWLAND. I believe the Senate will say to the Senator that I would not want to give a categorical answer to the Senator in that regard, but I hope, in the same spirit that the legislation was passed, that when the names are sent to the Senate and have been confirmed, there will be no unnecessary delay in having confirmation of the nominations.

Mr. JAVITS. Does the Senator believe these positions are subject to recess appointments?

Mr. KNOWLAND. I believe they are. Mr. JAVITS. I thank the Senator.

ADDRESS BY LEWIS A. LAPHAM, PRESIDENT OF GRACE LINE, INC.

Mr. BEALL. Mr. President, in connection with the most recent developments in our maritime history, Mr. Lewis A. Lapham, president of Grace Line, Inc., delivered a constructive and interesting address which justifies the attention and reading of Members of the Congress and of the public in general. The speech was delivered at the christening of the steamship Santa Rosa, on August 28, when interested supporters of the American merchant marine journeyed to Newport News to see the delivery of the new ship and to press her into the service of the Government. Mrs. Lapham, whose firm, the Grace Line, has undertaken its hundredth building program, will speak better than words to the importance of the maritime tradition, past, present and future, in our maritime history, Mr. Lewis A. Lapham, President, Grace Line, Inc.

It goes without saying that this day is a peculiarly pleasant and memorable one for me, for the Grace Line. Traditionally, I suspect, I should speak about the new ship, the new Santa Rosa is one of the most famous names in United States shipping history and was the name originally given to the vessel by Mr. William Francis Gibbs, who designed this ship, and to Newport News, who built it. The superb talents of the industry and the Government, planned to provide an ocean-going transport service for the overseas trade and support of a nation that demands and should have, the best.

All these things can be planned, of course, and talked about, but someone has to transmit the plans through the proper channels and that just doesn't happen either. And I go no further with these remarks before expressing the Grace Line's warm and deep appreciation to Mr. William Francis Gibbs, who designed this ship, and to Newport News, who built it. The superb talents of the industry and the Government, planned to provide an ocean-going transport service for the overseas trade and support of a nation that demands and should have, the best.

As for our sponsor today, she bears the most famous name in United States shipping history and was the name originally given to the vessel by Mr. William Francis Gibbs, who designed this ship, and to Newport News, who built it. The superb talents of the industry and the Government, planned to provide an ocean-going transport service for the overseas trade and support of a nation that demands and should have, the best.

The line has a host of other friends here, from the Federal Maritime Administration and other Government agencies, from the shipping world and its related industries, and to them all I say, many, many thanks. We are complimented by your presence and are happy to have you with us, I promise you.

But perhaps nothing more significantly emphasizes the program I have been talking about, of this lengthy maritime tradition, past, present and future, than the presence out there in the James River of the old Santa Rosa. She has lasted a long, peaceful and in war, under her country's flag. And this occasion, unique, I suspect in seagoing history, is a fine climax for her honorable career.

REPORT ON 85TH CONGRESS, 1ST SESSION

Mr. JAVITS. Mr. President, under the heading of "85th Congress, 1st session, Final Report," I ask unanimous consent to have printed in the Record a report of the happenings of this session of the Congress.

There being no objection, the report was ordered to be printed in the Record, and will appear hereafter.

DEATH OF PETER K. MORSE, DEPUTY GENERAL COUNSEL, INTERNATIONAL COOPERATION ADMINISTRATION

Mr. MANSFIELD. Mr. President, it was with profound regret that I learned of the untimely death of Peter K. Morse, Deputy General Counsel of the International Cooperation Administration. Mr. Morse was killed in an automobile accident on Monday near Sharon, Mass. Mr. Morse was well and favorably known to many members of the Committee on Foreign Relations because of his work during the past several years in the presentation of the executive branch position on the foreign-aid programs.

Mr. Morse, who was 58 years of age at the time of his death, was born in Detroit, Mich. He had served in the United States Navy from 1942 to 1946. He was a graduate of the University of Michigan and the Harvard Law School, where he was case editor of the Harvard Law Review. After having been associated for 3 years with a New York law firm he joined the legal staff of the Economic Cooperation Administration in 1949. He was progressively increasing responsibility in the administration of the mutual-security program in the 8 years since that time. He became Deputy General Counsel of ICA in 1956 and had been serving as Acting General Counsel during the past 6 months.

The Government of the United States has lost a devoted public servant. It is to be hoped that Peter Morse's family and friends can take comfort from the widespread appreciation of this fact.

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

RESOLUTIONS OF AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the Record three resolutions adopted by the delegates to the convention of the American Federation of Government Employees at the Hotel Statler, Boston,
Mass., August 5-9, 1957, concerning Federal employees and employment conditions. There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

**RESOLUTION 15. INCREASED BENEFITS FOR FEDERAL EMPLOYEES IN HAZARDOUS OCCUPATIONS**

Whereas employees of United States naval and military and United States penal and mental institutions are engaged in hazardous work; and

Whereas Federal benefits are inadequate for these employees; and

Whereas determination by Federal administrative officials is overly restrictive in allowing recognition of hazardous-type employment; Therefore be it

Resolved, That the Massachusetts State Federation of Labor urge the Congress of the United States to increase the compensation and retirement benefits of these Federal employees and provide for a more liberal interpretation of hazardous-type determinations.

Submitted by delegate John S. Gannon, lodge 1088, American Federation of Government Employees, Boston Naval Shipyard.

Resolution 15 adopted by delegates in convention at Hotel Statler, Boston, Mass., August 5 to 9, 1957.

**RESOLUTION 16. MAINTAINING WATERTOWN AND SPRINGFIELD ARSENALS**

Whereas the Watertown Arsenal and the Springfield Armory are Federal field establishments; and

Whereas the Federal government has contributed the defense needs of the nation and the prosperity of the Commonwealth over the past century; and

Whereas both these traditional defense activities have been subjected to a series of adverse administrative actions which have curtailed their scope of operations; and

Whereas such curtailment of operations has unduly hurt the economic well-being of the Commonwealth and the defense readiness of the United States. Therefore be it

Resolved, That the Massachusetts State Federation of Labor urge the Congress of the United States of America to increase the compensation and retirement benefits of these Federal employees and provide for a more liberal interpretation of hazardous-type determinations.

Submitted by delegate John S. Gannon, lodge 1088, American Federation of Government Employees, Boston Naval Shipyard.

Resolution 15 adopted by delegates in convention at Hotel Statler, Boston, Mass., August 5 to 9, 1957.

**REPORT ENTITLED "OPERATION OF ARTICLE VII, NATO STATUS OF FORCES TREATY" (S. REP. NO. 1162)**

Mr. FLANDERS. Mr. President, the Federal Coordinating and Armed Services on August 22 approved the report of the Armed Services Subcommittee on the Operation of Article VII of the NATO Status of Forces Treaty and other jurisdictional arrangements. This legislation covers a review of these arrangements from December 1, 1955, through November 30, 1956. Separate comment is also made on the Girard case.

Mr. President, I submit this report from the Committee on Armed Services and request unanimous consent that it be printed, with illustrations.

The VICE PRESIDENT. The report will be received and printed, as request by the Senator from Vermont.

**STATEHOOD FOR ALASKA AND HAWAII—REPORTS OF A COMMITTEE—MINORITY VIEWS (S. REPTS. NO. 1163 and 1164)**

Mr. JACKSON. Mr. President, by direction of the Committee on Interior and Insular Affairs, I submit a report on the bill (S. 49) to provide for the admission of the State of Alaska into the Union, and also the bill (S. 50) to provide for the admission of the State of Hawaii into the Union. I ask unanimous consent that the minority may file a report during the present session of the Congress or during the adjournment of the Congress.

The VICE PRESIDENT. The reports will be received, and the bills will be placed on the calendar; and, without objection, the reports will be printed, and the request of the Senator from Washington is granted.

**ADDITIONAL BILLS INTRODUCED**

By unanimous consent, Mr. YARBOROUGH introduced the following bills, which were read twice by their titles and referred as indicated:

S. 2886. A bill to authorize continuing studies of the biology, propagation, catch, and abundance of species of fish and shrimp that are of interest to sport and commercial fishermen in waters adjacent to certain areas in the State of Texas so that appropriate measures for protecting the environment and increasing the abundance of such species of fish and shrimp may be taken; to protect the spawning and nursery grounds upon which it is dependent by the establishment of a wildlife sanctuary in the State of Texas, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. YARBOROUGH (for himself and Mr. Byrnes):

S. 2887. A bill to provide for the admission of the State (of) Texas into the Union, so that the Congress may consider and act on the question of statehood for Texas, and for other purposes; to the Committee on Public Works.

**CONSERVATION OF FISH AND WILDLIFE IN THE STATE OF TEXAS**

Mr. YARBOROUGH. Mr. President, there is a great need in the State of Texas and in the country to enlarge our program of fish and wildlife conservation. The extinction of the passenger pigeon, heath hen, Labrador duck, and numerous other American native birds and mammals is pointed out as a sign of our program of Statesmanship. We have laid waste to our natural resources in the past and we need for conservation now. The land is filling up with people and there is less and less habitat and unpolluted waters for our native animals and birds to rest upon, feed in, and drink.

We must move fast if we are to save many species of our beautiful wildlife. Many are threatened with extinction.

The fishermen of the gulf coast are interested in a program which will preserve and propagate the marine life that contribute to their livelihood. All Americans and all Canadians have followed with close interest as the whooping crane population of the world dwindled. Only a handful of these beautiful birds are now living. Unless further steps are taken to preserve and protect this species of fowl, we are likely soon to be without these fine and lovely creatures. They are the tallest wild birds in America today.

Mr. President, we also need additional study of the fish and marine life resources of this country.

Mr. President, I introduce for appropriate reference, a bill that would not only provide for protecting the environment and increasing the abundance of marine life, but would also establish a wildlife sanctuary in the State of Texas for whooping cranes and other wildlife.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 2886) to authorize continuing studies of the biology, propagation, catch, and abundance of species of fish and shrimp that are of interest to sport and commercial fishermen in waters adjacent to certain areas in the State of Texas so that appropriate measures for protecting the environment and increasing the abundance of such species of fish and shrimp may be taken; to protect the spawning and nursery grounds upon which it is dependent by the establishment of a wildlife sanctuary in the State of Texas, and for other purposes; to the Committee on Interstate and Foreign Commerce.

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sanctuary in the State of Texas, and for other purposes, introduced by the Senator from Texas [Mr. YARBOURGH] was received, read twice by its title, and referred to the Committee on Interstate and Foreign Commerce.

PRESERVATION OF CERTAIN LANDS OF NATIONAL HISTORICAL INTEREST

Mr. YARBOURGH. Mr. President, under the Federal interstate road program, certain historic shrines and monuments are in grave danger of being destroyed by the routing of Federal highways, and doubtless in the future many other shrines of great cultural and historic value to our people will be destroyed unless laws are enacted to preserve them.

One such historic shrine which has been placed in jeopardy by the recently announced routing of an interstate highway in New Jersey is the Morristown National Historical Park and the Revolutionary War headquarters of Gen. George Washington. The National Park Service has protested the proposed new route for the highway.

In 1926 the Congress chartered the National Trust for Historic Preservation to further the national policy of preserving cultural or historic monuments and shrines, set forth in the Historic Sites Act of 1933, which act was sponsored by the Senator from Virginia [Mr. BYRD] and Representative Maury Maverick. The Senator from Virginia [Mr. Byrd] has joined me in sponsoring a bill to amend the Federal Highway Act of 1956, to provide that the Secretary of the Interior shall give his written opinion that land sought for a highway right-of-way and paid for with Federal funds, will not adversely affect the national policy of preserving for public use historic sites, buildings, and objects of national significance for the inspiration and education of the people of the United States, before the land can be bought.

Therefore, on behalf of myself, and the Senator from Virginia [Mr. Byrd], I introduce, for appropriate reference, a bill to amend title I of the Federal-Aid Highway Act of 1956 to provide that the Secretary of the Interior shall approve the acquisition of certain lands of national historical significance, or objects therein, for highway purposes, and ask that it be appropriately referred.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The VICE PRESIDENT. The bill was received, read twice by its title, and referred to the Committee on Public Works.

CREATION OF A COAL RESEARCH AND DEVELOPMENT COMMISSION—ADDITIONAL COSPONSOR OF BILL

Mr. MARTIN of Pennsylvania. Mr. President, I ask unanimous consent that the name of the Senator from Kentucky [Mr. Cooper] may be added as a co-sponsor of the bill (S. 2877) to encourage and stimulate the production and conservation of coal in the United States through research and development by creating a Coal Research and Development Commission and for other purposes, introduced by me, for myself and my colleague, the junior Senator from Pennsylvania [Mr. CLARK].

The VICE PRESIDENT. Without objection, it is so ordered.

TRIAL OF MEMBERS OF THE ARMED FORCES FOR CRIMINAL OFFENSES COMMITTED IN FOREIGN COUNTRIES—ADDITIONAL COSPONSORS OF RESOLUTION

Mr. SMATHERS. Mr. President, I wish to announce that Senators BIBLE, BRIDGES, BUTLER, CURTIS, EASTLAND, GOLDWATER, HOLLAND, JOHNSTON OF SOUTH CAROLINA, MALONE, McCLELLAN, MUNDY, POTTER, ROBERTSON, STEENIS, TALMADGE, YOUNG, and myself, have indicated our desire to join me as cosponsors of the resolution (S. Res. 163) favoring trial by the United States, where primary jurisdiction is conferred upon it by treaty, of members of the Armed Forces for criminal offenses committed in foreign countries, submitted by me on July 15, 1957. I ask unanimous consent that their names be added as cosponsors of the resolution the next time it is printed.

The VICE PRESIDENT. Without objection, it is so ordered.

ADJOURNMENT TO 9 A.M. TODAY

Mr. MANSFIELD. Mr. President, in accordance with the order previously entered, I now move that the Senate be in adjournment until 9 o’clock this morning.

The motion was agreed to; and at 12 o’clock and 59 minutes a.m. on Friday, August 30 the Senate adjourned, the adjournment being, under the order previously entered, until 9 o’clock a.m. the same day.

A NOMINATION

Executive nomination received by the Senate August 29, 1957:

UNITED STATES MARSHAL

Edward L. McCarthy, of Rhode Island, to be United States marshal for a term of 4 years for the district of Rhode Island, vice Howard S. Proctor, retired.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 29, 1957:

IN THE ARMY

The following-named officers for temporary appointment in the Army of the United States to the grades indicated under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major generals
<table>
<thead>
<tr>
<th>CONNECTICUT</th>
<th>MINNESOTA</th>
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<tbody>
<tr>
<td>Raffaella A. DePanfilis, South Norwalk.</td>
<td>Raymond O. Halvorson, Ceylon.</td>
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<tr>
<td>Helen L. Clough, Tolland.</td>
<td>William A. Larson, Crookston.</td>
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<td>Dorothy B. Tuller, West Simsbury.</td>
<td>Bertha H. Simonson, Dawson.</td>
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<th>FLORIDA</th>
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<td>Charles Wyland, Fort Myers Beach.</td>
<td>Henry W. Jones, Brandon.</td>
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<tr>
<td>Virginia Weaver, Valdosta.</td>
<td>Emma J. Cunningham, Phuba.</td>
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<td>Carl David Lippincott, Jr., Zephyrhills.</td>
<td>Harvey C. Mitchell, Jr., Plantersville.</td>
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<th>GEORGIA</th>
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<td>Mitte F. Jones, Lavonia.</td>
<td>L. J. Howard, Detroit.</td>
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<th>ILLINOIS</th>
<th>MISSOURI</th>
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<tr>
<td>Mary M. Pitts, Rabun Gap.</td>
<td>Julia V. Datum, Hoffman.</td>
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<td>Edward J. Snow, Sr., Rebecca.</td>
<td>Miles O. Olsen, Idle.</td>
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<th>OHIO</th>
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<td>Kenneth W. Fosom, Columbia Station.</td>
<td>Samuel K. Bartlett, Bogard.</td>
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<th>OKLAHOMA</th>
<th>NEW HAMPSHIRE</th>
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<tr>
<td>Frances L. McFadden, Adnarko.</td>
<td>Warren F. Metealf, Tilton.</td>
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<td>Martin M. Casity, Ardmore.</td>
<td>Albie T. Luce, Nashua.</td>
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<tr>
<td>Hobart F. R. Higdon, Avant.</td>
<td>Dr. F. W. Dill, Plainsboro.</td>
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<td>Thornton J. Luce, Blanchard.</td>
<td>Charles A. Smith, Madison.</td>
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<th>PENNSYLVANIA</th>
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<tr>
<td>Daniel E. Porter, Adams.</td>
<td>Alice M. Dwyer, Hopatcong.</td>
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<td>Dale L. Marion, Blountville.</td>
<td>George O. Durr, Westville.</td>
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<td>Dan L. Clapp, Corryton.</td>
<td>William E. Miller, Chadds Ford.</td>
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<td>Jim N. Bone, Cumberland Furnace.</td>
<td>Francisco J. Berrios, Hazleton.</td>
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<td>Ralph B. Gilliland, Harrison.</td>
<td>Thomas E. Johannsen, Mandan.</td>
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<td>Milton E. Kower, Marcus Hook.</td>
<td>David A. Weaver, Persia.</td>
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<th>SOUTH CAROLINA</th>
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<td>Linder Lee Bay, St. Matthews.</td>
<td>Alton G. Snyder, Atlanta.</td>
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<th>SOUTH DAKOTA</th>
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<td>Kenneth W. Fosom, Columbia Station.</td>
<td>Alta P. Johnson, Blue Mounain Lake.</td>
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<th>TEXAS</th>
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<td>Birdie L. Lindsay, Simms.</td>
<td>Raymond J. Csorba, West Columbia.</td>
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<th>UTAH</th>
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<th>VERMONT</th>
<th>NORTH CAROLINA</th>
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<td>Howard W. Grending, Benton City.</td>
<td>Calvin Turner, Jackson.</td>
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<td>Mary Elizabeth Morrow, Lacey.</td>
<td>Lila A. Woody, Saxapahaw.</td>
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<td>Theodore H. Bierman, Lind.</td>
<td>Alice H. Graves, Seagrove.</td>
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<tr>
<td>Arthur J. Freeborn, Moses Lake.</td>
<td>NORTH DAKOTA</td>
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<tr>
<td>Homer A. Smithson, Jr., Peshastin.</td>
<td>Gertrude E. Anderson, Epping.</td>
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<td>Paul E. McManus, Randol.</td>
<td>Charles A. Fenning, Finley.</td>
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<td>Chauncey F. Morse, Silverdale.</td>
<td>Donald C. Hawley, Hope.</td>
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<tr>
<td>Eleanor G. Monson, Silvana.</td>
<td>Myron Halstenberg, Niagara.</td>
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<tr>
<td>Emil E. Bruno, South Cle Elum.</td>
<td>Mons K. Ohnstad, Jr., Sharon.</td>
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| Harlan M. Shepardson, Toledo. | }
MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the House by Mr. Ratchford, one of his secretaries, informing the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

- On August 21, 1957:
  - H. R. 1672. An act for the relief of the legal guardian of Frederick Redmond;
  - H. R. 1681. An act for the relief of George W. Armstrong;
  - H. R. 2045. An act for the relief of Robert D. Miller, of Juneau, Alaska;
  - H. R. 2284. An act for the relief of Donald P. Thompson;
  - H. R. 2460. An act to improve the career opportunities of nurses and medical specialists of the Army, Navy, and Air Force;
  - H. R. 2674. An act for the relief of Morris Mann;
  - H. R. 2740. An act for the relief of Mrs. Harriet Sakayo Hamamoto Dewa;
  - H. R. 2886. An act for the relief of Alton B. York;
  - H. R. 3440. An act for the relief of Mr. and Mrs. Allan Scheelbogen;
  - H. R. 3482. An act to authorize and direct the Secretary of the Interior to sell certain public lands in the State of California;
  - H. R. 4892. An act to authorize revision of the tribal roll of the Eastern Band of Cherokee Indians, North Carolina, and for other purposes;
  - H. R. 5892. An act to amend the act of August 31, 1924 (48 Stat. 1044) to extend the time during which the Secretary of the Interior may replace a federal water contract under the Federal Reclamation laws, and for other purposes;
  - H. R. 6842. An act to authorize amendment of the irrigation repayment contract of December 30, 1956, between the United States and the Mirage Flats Irrigation District, Nebr.;
  - H. R. 6851. An act to provide for the retirement of officers and members of the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, the White House Police force, and of certain officers and members of the United States Secret Service, and for other purposes;
  - H. R. 8998. An act to authorize appropriations for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes; and
  - H. R. 9691. An act to amend Public Law 815, 81st Congress, relating to school construction in federally owned public lands in the State of William P. Durham;

- On August 22, 1957:
  - H. R. 1058. An act to preserve the key deer and other wildlife resources in the Florida Keys by the establishment of a National Key Deer Refuge in the State of Florida;
  - H. R. 1460. An act for the relief of Tom R. Pickman and others;
  - H. R. 1658. An act for the relief of Edward J. Moak and others;
  - H. R. 1804. An act for the relief of Mrs. Liddle Kauamau;
  - H. R. 2049. An act for the relief of Mrs. Blanche Houser;
  - H. R. 2697. An act for the relief of Clarence L. Harris;
  - H. R. 4023. An act for the relief of Oswald N. Smith;
  - H. R. 5627. An act for the relief of Mrs. Emma Habelt; and

- On August 23, 1957:
  - H. R. 1475. An act for the relief of Richardson Corp.

- On August 26, 1957:
  - H. R. 222. An act to amend the Internal Revenue Code of 1954 with respect to the readjustment of tax in the case of certain amounts received for breach of contract, and to restrict the issuance of certificates for rapid amortization of emergency facilities;
  - H. R. 2598. An act for the relief of Harry and Sada Sailer;
  - H. R. 3281. An act for the relief of Howard S. Gay;
  - H. R. 4154. An act for the relief of the legal guardian of Thomas Brainard, a minor;
  - H. R. 4520. An act to amend section 401 (e) of the Civil Aeronautics Act of 1938 in order to authorize permanent certification for certain air carriers operating between the United States and Alaska;
  - H. R. 8000. An act making appropriations for civil functions administered by the Department of the Army and certain agencies of the Department of the Interior, for the fiscal year ending June 30, 1958, and for other purposes;
  - H. R. 1375. An act to authorize the Department of the Navy to enter into amendatory repayment agreements with the Army and the Department of the Interior, and for other purposes;
  - H. R. 1478. An act to authorize and direct the Administrator of Veterans' Affairs to convey certain lands of the United States to the Department of the Army and certain agencies of the Department of the Interior, for the fiscal year ending June 30, 1958, and for other purposes.

- On August 27, 1957:
  - H. R. 52. An act to provide increases in service-connected compensation and to increase dependency allowances;

- On August 28, 1957:
  - H. R. 797. An act to authorize the exchange of certain lands between the United States of America and the State of California;
  - H. R. 993. An act to provide for the conveyance of certain land by the United States to the Cape Flattery School District in the State of Washington;
  - H. R. 1259. An act to clear the title to certain lands in the State of Washington;
  - H. R. 1817. An act to authorize the sale of certain lands of the United States in Wyoming to Bud E. Burnaugh.

- On August 29, 1957:
  - H. R. 3653. An act to provide that checks for benefits provided by laws administered by the Administrator of Veterans' Affairs may be forwarded to the addressee in certain cases;